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JICOR TITLE INSURANCE CO.

Recording requested by, and
when recorded mail to:

BEACHWALK,
a limited partnership
c/o Raznick & Sons, Inc.
5525 Oakdale Avenue
Woodland Hills, California 91364

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

THIS DECLARATION is made as of the date set forth below
by the undersigned Declarant (defined hereinbelow).

R E C I T A L S:

A. Declarant is fee owner of certain real property located in the City of Carpinteria, County of Santa Barbara (hereinafter referred to as "said County"), State of California, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, which real property shall be the initial Covered Property under this Declaration and which real property Declarant has improved or intends to improve in the manner described in Exhibit "B" attached hereto and incorporated herein by this reference.

B. Pursuant to this Declaration, certain additional real property may from time to time be annexed and become part of the Covered Property.

C. Declarant has deemed it desirable to establish covenants, conditions, restrictions and easements applicable to the Covered Property as hereinafter set forth which will constitute a General Plan of Condominium Ownership for the management of the Covered Property and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting its value, desirability and attractiveness and the quality of life therein.

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D. It is desirable for the efficient management of the Covered Property to create a corporation to which should be delegated and assigned the powers of managing the Covered Property, maintaining and administering the Common Area, administering and enforcing the covenants, conditions, restrictions and easements hereinafter set forth, collecting and disbursing funds pursuant to the assessments and charges hereinafter set forth and performing such other acts as shall generally benefit the Covered Property.

E. The Association (defined hereinbelow), a nonprofit mutual benefit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions as aforesaid.

F. All purchasers of Condominiums within the initial Covered Property which shall be designated as the first Project in Exhibit "B" to this Declaration shall be Owners as defined herein and shall thereby automatically become Members of the Association and shall be subject to its powers and jurisdiction. In addition, all purchasers of Condominiums within all or any portion of the Covered Property which has been annexed pursuant to this Declaration and which has been designated as a Project in the Supplementary Declaration applicable to such annexation or elsewhere shall be Owners as defined herein and shall thereby automatically become Members of the Association and shall be subject to its powers and jurisdiction. The Covered Property shall consist of the real property designated as the first Project in Exhibit "B" to this Declaration and other Projects within real property annexed pursuant to this Declaration. Owners of Condominiums within each Project shall share ownership of that Project. Except as otherwise expressly provided in this Declaration, the rights, duties and obligations of all Members of the Association must be determined with regard to the entire membership of the Association and not just with regard to those.

Members who are Owners in any particular Project. The foregoing shall not require Declarant to annex any real property pursuant to this Declaration.

G. Declarant will hereafter hold and convey title to all of the Covered Property subject to certain protective covenants, conditions, restrictions and easements hereinafter set forth.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of its interests as the same may from time to time appear in the Covered Property shall be held and conveyed subject to the covenants, conditions, restrictions and easements hereinafter set forth which are hereby declared to be for the benefit of said interests and for the benefit of all Owners of interests and their respective successors and assigns. Said covenants, conditions, restrictions and easements shall run with said interests and shall be binding upon all parties having or acquiring any right or title therein and shall inure to the benefit of each Owner thereof. Said covenants, conditions, restrictions and easements are hereby imposed upon each of said interests, and all rights and titles therein, as a servitude in favor of each and all other said interests as the dominant tenement or tenements.

DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

Section 1. "Architectural Committee" shall mean and refer to the committee provided for in the Article hereof entitled "Architectural Control."

Section 2. "Articles" and "Bylaws" shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended.

Section 3. "Assessments" shall mean and refer to any or all of the following:

"Regular Assessment" shall mean the amount which is to be paid by each Member to the Association for Common Expenses.

"Special Assessment" shall mean a charge against a particular Owner and his Condominium, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and his Condominium into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules, together with attorneys' fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon and other fees and costs as provided for in this Declaration.

"Reconstruction Assessment" shall mean a charge against each Owner and his Condominium representing a portion of the cost to the Association for reconstruction of any portion or portions of the Common Area pursuant to the provisions of this Declaration.

"Capital Improvement Assessment" shall mean a charge against each Owner and his Condominium representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common Area which the

Association may from time to time authorize pursuant to the provisions of this Declaration.

Section 4. "Association" shall mean and refer to BEACHWALK/CARPINTERIA OWNERS ASSOCIATION, a nonprofit mutual benefit corporation, incorporated under the laws of the State of California, its successors and assigns.

Section 5. "Association Rules" shall mean and refer to rules adopted by the Association pursuant to the Article hereof entitled "Duties and Powers of the Association."

Section 6. "Board" shall mean and refer to the Board of Directors of the Association.

Section 7. "Common Area" shall mean and refer to all portions of the Projects except the Units.

Section 8. "Common Expenses" shall mean and refer to the actual and estimated costs of:

(a) maintenance, management, operation, repair and replacement of the Common Area and all other areas on the Covered Property which are maintained by the Association (unless repair and replacement is otherwise provided for elsewhere in this Declaration, including the Articles hereof entitled "Destruction of Improvements" and "Eminent Domain");

(b) unpaid Assessments;

(c) maintenance by the Association of areas not within the Covered Property if provided for in this Declaration or pursuant to one or more separate agreements;

(d) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(e) utilities, trash pickup and disposal, gardening and other services not separately billed to Condominiums which generally benefit and enhance the value and desirability of the Covered Property;

(f) fire, casualty, liability, workers'

compensation and other insurance covering the Common Area;

(g) any other insurance obtained by the Association;

(h) reasonable reserves as deemed appropriate by the Board;

(i) bonding of the members of the Board, any professional managing agent or any other person handling the funds of the Association;

(j) taxes paid by the Association;

(k) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Area;

(l) obligations incurred by committees established by the Board; and

(m) other expenses incurred by the Association for any reason whatsoever in connection with the Common Area, or any other item or items designated by this Declaration, the Articles, Bylaws or Association Rules or incurred in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

Section 9. "Condominium" shall mean and refer to a fractional undivided interest in common with the other Owners within a Project in the Common Area of such Project, together with a separate interest in a Unit and all easements and other interests appurtenant to said fractional undivided interest and/or appurtenant to said Unit. Such fractional undivided interest in common of each Owner is described in Exhibit "B" hereto as to the Project within the initial Covered Property and will be described in a Supplementary Declaration recorded pursuant to the Article hereof entitled "Integrated Nature of the Covered Property" for any Project within an annexed area, if any. Such fractional undivided interest shall not be changed except as provided in the Section entitled "Amendment of Condominium Plan" of the Article hereof entitled "Destruction of Improvements" and the Section entitled "Change of Condominium Interest" of the Article hereof

entitled "Eminent Domain."

Section 10. "Condominium Building" shall mean and refer to a separate building containing one or more Units or elements of Units.

Section 11. "Condominium Plan" shall mean and refer to each of those certain condominium plans recorded or to be recorded in the Office of the County Recorder of said County for each Project, and any amendments thereto.

Section 12. "Covered Property" shall mean and refer to all the real property described in Exhibit "A" and, subsequent to the annexation thereof pursuant to the Article hereof entitled "Integrated Nature of the Covered Property," any additional real property which shall become subject to this Declaration.

Section 13. "Declarant" shall mean and refer to BEACHWALK, a limited partnership (in this Section referred to as "Original Declarant"), and such of Original Declarant's successors in title to all or a portion of the remainder of the Covered Property as may be designated a "Declarant" in a recorded instrument executed by Original Declarant.

Section 14. "Exhibit" shall mean and refer to those documents so designated herein and attached hereto, and each such Exhibit is by this reference incorporated into this Declaration. As additional property is annexed pursuant to the Article entitled "Integrated Nature of the Covered Property" of this Declaration, Exhibits similar to the Exhibits attached to this Declaration may be attached to such Supplementary Declarations pertaining to the annexed property, and each of such Exhibits shall thereby be incorporated into such Supplementary Declaration.

Section 15. "Final Subdivision Public Report" shall mean and refer to a final report issued by the Department of Real Estate of the State of California pursuant to Section 11018.2 of the California Business and Professions Code or any similar

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statute then in effect.

Section 16. "First Mortgage" shall mean and refer to a Mortgage which has priority over any other Mortgage encumbering a specific Condominium.

Section 17. "First Mortgagee" shall mean and refer to a Mortgagee under a First Mortgage.

Section 18. "Individual Owner" shall mean and refer to an Owner other than a person or entity defined herein as a "Declarant."

Section 19. "Member" shall mean and refer to every person or entity who qualifies for membership pursuant to the Article hereof entitled "Membership," including Declarant so long as Declarant qualifies for membership pursuant to said Article.

Section 20. "Mortgage" shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Condominium.

Section 21. "Mortgagee" shall mean and refer to the mortgagee or beneficiary under any Mortgage, or assignee thereof.

Section 22. "Owner" shall mean and refer to one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Condominium, including Declarant, or the vendee of a Condominium under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation.

Section 23. "Project" shall mean and refer to each portion of the Covered Property for which Declarant records a separate Condominium Plan in the office of the County Recorder of said County and which Declarant designates or describes as a Project in this Declaration or in a Supplementary Declaration.

Section 24. "Supplementary Declaration" shall mean and refer to each of those certain declarations of covenants, conditions and restrictions or similar instruments annexing additional property and extending the plan of this Declaration to such additional property as provided in the Article hereof

entitled "Integrated Nature of the Covered Property."

Section 25. "Trustee" shall mean and refer to the insurance trustee as more fully described in the Article hereof entitled "Insurance."

Section 26. "Unit" shall mean and refer to the elements of a Condominium not owned in common with the Owners of other Condominiums in a Project. There are two styles of Units. An "apartment style" Units shall mean and refer to a one-story Unit. A "townhouse style" Unit shall mean and refer to a Unit containing more than one story. Each Unit shall be defined, identified and designated in the Condominium Plan. In interpreting recorded instruments, including deeds, declarations and plans, the existing physical boundaries of a Unit constructed in substantial accordance with the Condominium Plan of its Project shall be conclusively presumed to be its boundaries rather than the description expressed in any such recorded instrument, regardless of settling or lateral movement of its Condominium Building and regardless of minor variances between boundaries as shown on any such recorded instrument and those of its Condominium Building as constructed. For purposes of this Declaration, any appurtenant exclusive easements forming a portion of a Condominium shall be treated as if same were part of the Unit of such Condominium except as otherwise expressly provided in this Declaration.

ARTICLE II

MEMBERSHIPSection 1 - Membership. Every Owner shall be a Member.

The terms and provisions set forth in this Declaration which are binding upon all Owners are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws and Association Rules to the extent the provisions thereof are not in conflict with this Declaration. The membership of an Owner shall be appurtenant to and may not be separated from the interest of such Owner in any Condominium. Ownership of a Condominium shall be the sole qualification for membership; provided, however, a Member's voting rights may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules.

Section 2 - Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred to the transferee of the interest of an Owner required for membership. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner.

Section 3 - Voting Rights. Upon the first conveyance by Declarant of a Condominium to an Individual Owner, the Association shall assume control of the Covered Property and commence to perform its obligations hereunder at which time voting rights shall commence as to all Condominiums within the Covered Property. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules.

Section 4 - Classes of Voting Membership. The Association shall have two (2) classes of voting membership.

exception of Declarant. Class A Members shall be entitled to one (1) vote for each Condominium in which they hold the interest required for membership (except in the case of cumulative voting as provided in the Bylaws). When more than one person owns a portion of the interest in a Condominium required for membership, each such person shall be a Member and the vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium (except in the case of cumulative voting as provided in the Bylaws). The Association shall not be required to recognize the vote or written assent of any such co-Owner except the vote or written assent of the co-Owner designated in a writing executed by all of such co-Owners and delivered to the Association.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Condominium in which it holds the interest required for membership (except in the case of cumulative voting as provided in the Bylaws); provided that the Class B membership shall cease and be converted into Class A membership on the happening of whichever of the following is first in time:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) on the second anniversary of the original issuance of the most recently issued Final Subdivision Public Report covering a portion of the Covered Property; or

(c) on the fourth anniversary of the original issuance of the Final Subdivision Public Report covering the initial Covered Property.

Section 5 - Special Voting Rights. Notwithstanding the provisions of this Article, so long as there are two (2) classes of membership or Declarant holds or controls at least fifty-one percent (51%) of the total voting power of the Association, then

Members other than Declarant shall, by majority vote, among themselves, elect one (1) of the directors. Said director so elected may only be removed by majority vote of Members other than Declarant.

Section 6 - Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration or the Bylaws, any provision of this Declaration or the Bylaws which requires the vote or written assent of a specified majority of the voting power of the Association or any class or classes of membership shall be deemed satisfied by the following:

- (a) The vote of the specified percentage at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members, and such percentage must include the specified number of all Members entitled to vote at such meeting, and not merely such a percentage of those Members present; or
- (b) A writing or writings signed by the specified percentage; and
- (c) In any matter requiring the consent of the Members, but not specifically provided for in this Declaration or the Articles, Bylaws or any contract executed by the Association, a simple majority of the voting power of Members entitled to vote on such matters shall suffice except as otherwise provided in the Section of this Article entitled "When Approval of Classes and Categories of Members Required."

Section 7 - When Approval of Classes and Categories of Members Required. Association approval required by any of the following provisions of this Declaration shall require (i) approval of a majority of the total voting power of the Association and (ii) approval of a majority of the total voting power of the Association residing in Members other than Declarant: the Section entitled "Regular Assessments" of the Article hereof entitled "Covenant for Assessments," the Section

entitled "Capital Improvement Assessments" of the Article hereof entitled "Covenant for Assessments," and the Section entitled "General Limitations and Restrictions on the Powers of the Board" of the Article hereof entitled "Duties and Powers of the Association"; provided, however, as long as there is a Class B membership, Association approval required by any of said provisions shall instead require approval of a majority of the total voting power held by the Class A Members and approval of a majority of the total voting power held by the Class B Member.

ARTICLE III

COVENANT FOR ASSESSMENTS

Section 1 - Creation of Lien and Personal Obligation for Assessments. Each Owner, including Declarant to the extent Declarant is an Owner as defined herein, of any Condominium, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments and Reconstruction Assessments, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection as hereinafter provided, shall, upon recordation of a notice of claim of lien or copy thereof in the office of the County Recorder of said County as described in the Section entitled "Notice of Lien" of the Article hereof entitled "Nonpayment of Assessments," become a lien upon, the Condominium against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Condominium at the time the Assessment becomes due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

Section 2 - Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the Members, the management, maintenance, care, preservation, protection and architectural control of the Covered Property, enhancing the quality of life in the Covered Property and the value of the Covered Property including, without limitation, the improvement and maintenance of the properties, services and

facilities devoted to this purpose and related to the use and enjoyment of the Common Area, or in furtherance of any other duty or power of the Association.

Section 3 - Regular Assessments. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board shall distribute to each Member a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Board shall at that time determine the amount of the Regular Assessment to be paid by each Member. Each Member shall thereafter pay to the Association his Regular Assessment in installments as established by the Board. Each such installment shall be due and payable on a date established by the Board in the written notice sent to Members. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of the Regular Assessment against each Member, and the date or dates when due. After the Association's first fiscal year of operation, the Board shall not impose a Regular Assessment which is increased by more than twenty percent (20%) over the amount of the Regular Assessment for the immediately preceding fiscal year without the approval of a majority of the voting power of the Association.

Section 4 - Capital Improvement Assessments. In addition to Regular Assessments, the Association may levy in any fiscal year a Capital Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, to the extent the same is not covered by the provisions imposing

Reconstruction Assessments of the Article hereof entitled "Destruction of Improvements." The Association shall not impose Capital Improvement Assessments in any fiscal year which in the aggregate exceed five percent (5%) of the estimated Common Expenses for that fiscal year, as set forth in the Section of this Article entitled "Regular Assessments," without the approval of a majority of the voting power of the Association. Any reserves forming a part of Common Expenses and collected by the Association for the future maintenance and repair of the Common Area, or any portion thereof, shall not be included in determining said limitation. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

Section 5 - Uniform Assessments. Regular and Capital Improvement Assessments shall be fixed at an equal amount for each Condominium and may be collected at intervals selected by the Board.

Section 6 - Copies of Documents; Statement of Delinquencies. Upon the written request of an Owner, the Board shall, within ten (10) days of the mailing or delivery to it of such request, provide such Owner with (i) copies of this Declaration, the Articles, Bylaws and Association Rules, as the same may have been amended and/or supplemented as of the date of such request, and (ii) a true statement in writing signed by an officer or agent of the Association setting forth as of the date of such request for the Condominium of such Owner the amounts of any delinquent Assessments, penalties, attorneys' fees and other charges provided for in this Declaration, the Articles, Bylaws and Association Rules, as the same may have been amended and/or

supplemented as of the date of such request. The Board may impose a fee for providing such copies and preparing such statement which shall not exceed the reasonable cost to reproduce such copies and prepare such statement. Each statement furnished pursuant to this Section entitled "Copies of Documents; Statement of Delinquencies" shall be *prima facie* evidence of the facts therein set forth.

Section 7 - Exempt Property. All properties dedicated to and accepted by a public authority which are subject to this Declaration shall be exempt from Assessments. Notwithstanding the foregoing, no real property or improvements subject to this Declaration and devoted to residential dwelling use shall be exempt from Assessments; provided, however, that nothing herein shall be construed as accelerating the date on which the payment of Assessments commence as specified in the Section entitled "Date of Commencement of Assessments" of this Article.

Section 8 - Special Assessments. Special Assessments shall be levied by the Board against a Condominium and its Owner to reimburse the Association for:

(a) costs incurred in bringing an Owner and his Condominium into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules;

(b) any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules; and

(c) attorneys' fees, interest and other charges relating thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Units and which can be accepted or not by Individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be a Special Assessment.

Section 9 - Date of Commencement of Assessments. Regular and other Assessments as to Condominiums within the initial

Covered Property shall commence as to all such Condominiums on the first day of the month following the conveyance of the first Condominium therein by Declarant to an Individual Owner. Regular and other Assessments as to Condominiums in each annexed area, if any, shall commence as to all Condominiums within each such annexed area on the first day of the month following the conveyance of the first Condominium therein by Declarant to an Individual Owner.

Section 10 - Reduction or Abatement of Regular Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the Regular Assessments or may abate collection of Regular Assessments as it deems appropriate. Nothing in this Section shall require the Board either to abate or reduce Regular Assessments. Notwithstanding the foregoing, neither an abatement nor a reduction in Regular Assessments shall be permitted so long as Declarant is possessed with or controls a majority of the voting power of the Association or the Board.

Section 11 - No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, (i) a claim that the Association is not properly exercising its duties and powers as provided in this Declaration; (ii) a Member has made or elects to make no use of the Common Area, including any facilities thereof; or (iii) any construction or maintenance performed pursuant to the Section entitled "Assumption of Maintenance Obligations" of the Article entitled "Repair and Maintenance" of this Declaration shall in any way postpone Assessments or entitle a Member to claim any such offset or reduction.

Section 12 - Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens

created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of California now in effect, or in effect from time to time hereafter.

Section 13 - Reserves. Regular Assessments shall include reasonable amounts collected as reserves for the future periodic maintenance, repair or replacement of the Common Area, or for any other purpose as determined by the Board. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account or accounts to be held in trust for the respective purposes for which they are collected. Said amounts must be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members.

Section 14 - Capital Fund. Prior to the closing of the first Condominium sale to an Individual Owner in the initial Covered Property, Declarant shall deposit to the account of the Association a total amount equal to Two Hundred Fifty Dollars (\$250.00) for each Condominium therein, and each initial Individual Owner acquiring title to a Condominium therein from Declarant shall reimburse Declarant therefor through and at the close of his escrow. Prior to the closing of the first Condominium sale to an Individual Owner in each annexed area, Declarant shall deposit to the account of the Association a total amount equal to Two Hundred Fifty Dollars (\$250.00) for each Condominium therein, and each initial Individual Owner acquiring title to a Condominium therein from Declarant shall reimburse Declarant therefor through and at the close of his escrow. In addition, concurrently with the closing of each "resale" of a Condominium, the new Owner thereof shall pay to the Association through and at the close of his escrow an amount equal to Two Hundred Fifty Dollars (\$250.00) (for purposes hereof, a "resale"

of a Condominium shall specifically exclude (i) the sale of a Condominium at a trustee's sale or a foreclosure sale held in connection with the non-judicial or judicial foreclosure of a Mortgage, (ii) the sale of a Condominium at a judicial or non-judicial sale held in connection with the non-judicial or judicial foreclosure of any lien created pursuant to this Declaration, or (iii) the delivery and acceptance of a deed in lieu of the foreclosure of a Mortgage). Amounts paid by initial Individual Owners to reimburse Declarant pursuant hereto and amounts paid by new Owners in connection with resales pursuant hereto shall not be considered prepayments of Regular or other Assessments, but shall be deemed to be amounts contributed by Owners to the capital of the Association. Said amounts so contributed to the Association shall be and remain the sole property of the Association and shall be subject to the Section entitled "Use of Funds Collected by the Association" of the Article hereof entitled "General Provisions."

Section 15 - Subsidy Agreement. In the event Declarant has entered into a Subsidy Agreement with the Association; and in the further event that the California Department of Real Estate has not disapproved such Subsidy Agreement, then certain of the obligations under this Declaration may be varied to the extent set forth in such Subsidy Agreement, if any.

ARTICLE IV

NONPAYMENT OF ASSESSMENTS

Section 1 - Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said date (the "delinquency date"). If any such Assessment is not paid within thirty (30) days after the delinquency date, a late charge of Ten Dollars (\$10.00) shall be levied and the Assessment shall bear interest from the delinquency date at the rate of ten percent (10%) per annum. The Association may, at its option, and without waiving the right to judicially foreclose its lien against the Condominium, pursue any available remedies, including, without limitation, the bringing of an action at law against the Member personally obligated to pay the same and/or upon compliance with the notice provisions set forth in the Section entitled "Notice of Lien" of this Article, foreclose the lien against the Condominium; provided, however, that with respect to the collection of Special Assessments levied for the purpose of bringing an Owner and his Condominium into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules, the only remedies available to the Association shall either be to judicially foreclose its lien therefor against the Owner and his Condominium or, without waiving its right to judicially foreclose, to bring an action against the Member personally obligated to pay the same as aforesaid. If an action at law is commenced, there shall be added to the amount of such Assessment the late charge, interest, costs of such action, costs of collection, and attorneys' fees incurred in connection with such action; and, in the event a judgment is obtained, such judgment shall include said late charge, interest and attorneys' fees, together with such costs. Each Member vests in the Board, acting on behalf of the Association or its assigns, the exclusive right and power to bring all actions at law or lien foreclosures against such Member for the collection of such delinquent Assessments.

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Section 2 - Notice of Lien. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Condominium, and a copy thereof is recorded by the Association in the office of the County Recorder of said County; said notice of claim of lien must recite a good and sufficient legal description of such Condominium, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment at the rate of ten percent (10%) per annum from the delinquency date, a late charge of Ten Dollars (\$10.00), plus attorneys' fees and costs of collection incurred in connection with the debt secured by said lien) and the name and address of the claimant.

Section 3 - Foreclosure Sale. Said Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized by the Board to make the sale, after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above is to be conducted in accordance with the provisions of Sections 2924, 2924a, 2924b, 2924c, 2924f, 2924g and 2924h of the Civil Code of the State of California, as said sections may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through the Board or through the Association's duly authorized agents, shall have the power to bid on the Condominium at the sale using Association funds or funds borrowed for such purpose, and to acquire and hold, lease, mortgage and convey the same.

Section 4 - Curing of Default. Upon the timely payment or other satisfaction of: (i) all delinquent Assessments specified in the notice of claim of lien, (ii) all other

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Assessments which have become due and payable with respect to the Condominium as to which such notice of claim of lien was recorded and (iii) interest, late charges, attorneys' fees and other costs pursuant to this Declaration and the notice of claim of lien which have accrued, the officers of the Association or any other persons designated by Board are hereby authorized to file or record, as the case may be, in the office of the County Recorder of said County an appropriate release of such notice. Each defaulting Owner shall pay to the Association a fee, to be determined by the Board, but not to exceed Twenty-five Dollars (\$25.00), to cover the costs of preparing and filing or recording such release. If such fee is not timely paid, the same may be collected by Special Assessment or in any other manner permitted by law or hereunder.

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ARTICLE V

ARCHITECTURAL CONTROL

Section 1 - Architectural Approval. No building, fence, wall or other structure shall be commenced or maintained upon the Covered Property, nor shall any exterior addition to, change or alteration in or painting or landscaping of any ground, surface or structure upon the Covered Property be made until plans and specifications shall have been submitted to and approved in writing by an Architectural Committee, initially to be appointed by Declarant. The Architectural Committee shall consist of three (3) persons. All such plans and specifications shall be submitted in writing over the signature of the Owner or such Owner's authorized agent. Approval shall be based, among other things, upon conformity of external design, conformity with such rules and regulations as may be adopted by the Architectural Committee in accordance with this Article and conformity of the plans and specifications to the purpose, general plan and intent of this Declaration.

Section 2 - Exclusive Appointment Period. During the period of time ending on the first anniversary of the date of original issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the initial Covered Property (the "Exclusive Appointment Period"), Declarant shall have the exclusive right to appoint members to, remove members and their successors from, and fill vacancies on, the Architectural Committee. In furtherance thereof, Declarant hereby appoints the following persons to the Architectural Committee during the Exclusive Appointment Period:

AARON RAZNICK

WAYNE COLMER

ROB RAZNICK

Section 3 - Non-Exclusive Appointment Period. During the period commencing with the expiration of the Exclusive Appointment

Period and ending upon the happening of whichever of the following is first in time (the "Non-Exclusive Appointment Period"): (i) when sales of ninety percent (90%) of the Condominiums within the Covered Property have been closed, or (ii) on the fifth anniversary of the date of original issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the initial Covered Property, or (iii) upon recordation by Declarant in the office of the County Recorder of said County of an instrument relinquishing its rights of appointment during the Non-Exclusive Appointment Period, Declarant shall have the right to appoint two (2) members to, remove said two (2) members and their successors from, and fill vacancies created by said two (2) members and their successors on, the Architectural Committee. In furtherance thereof, Declarant hereby appoints the following persons to the Architectural Committee during the Non-Exclusive Appointment Period:

AARON RAZNICK

WAYNE COLMER

The third member of the Architectural Committee who shall serve during the Non-Exclusive Appointment Period shall be appointed by the Board.

Section 4 - Expiration of Non-Exclusive Appointment Period. Upon expiration or termination of the Non-Exclusive Appointment Period, the Board shall appoint all three (3) members of the Architectural Committee.

Section 5 - Membership. Persons appointed to the Architectural Committee by Declarant need not be Members or possess any other particular qualifications, but persons appointed to the Architectural Committee by the Board must be Members or persons authorized in writing by Declarant to serve on the Architectural Committee.

Section 6 - Appointment and Resignation. No appointment to or resignation from the Architectural Committee shall become

effective until an instrument evidencing same has been recorded in the office of the County Recorder of said County; provided, however, the third above named appointee of Declarant during the Exclusive Appointment Period, or his successor appointed by Declarant, shall automatically cease to be a member of the Architectural Committee upon expiration of the Exclusive Appointment Period; and provided, further, all appointees of Declarant during the Non-Exclusive Appointment Period shall automatically cease to be members of the Architectural Committee upon expiration or termination of the Non-Exclusive Appointment Period.

*Arch
30 days*

Section 7 - Failure to Approve or Disapprove Plans and Specifications. In the event the Architectural Committee, or its representatives designated in accordance with Section entitled "Appointment and Delegation" of this Article, fails either to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, it shall be conclusively presumed that the Architectural Committee has approved such plans and specifications. All improvement work approved or deemed approved by the Architectural Committee shall be diligently completed and constructed in accordance with the approved plans and specifications.

Section 8 - No Liability. Neither Declarant, the Association, the Board, the Architectural Committee nor the members or designated representatives thereof shall be liable in damages or otherwise to anyone submitting plans and specifications to them for approval, or to any Owner affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans and specifications or for any defect in any improvements constructed from such plans and specifications. Such plans and specifications are not approved for engineering design. Every person who submits

plans and specifications to the Architectural Committee for approval agrees, by submission of such plans and specifications, and every Owner agrees, that he will not bring any action or suit against Declarant, the Association, the Architectural Committee or any of the members or designated representatives thereof to recover any such damages.

Section 9 - Notice of Noncompliance or Noncompletion.

Notwithstanding anything to the contrary contained herein, after the expiration of the later of: (i) one (1) year from the date of issuance of any required building permit by any municipal or other governmental authority for any improvements, or (ii) one (1) year from the date of the taking of any action which might not otherwise be in compliance with the requirements of this Article entitled "Architectural Control," said improvements or such action shall, in favor of purchasers and encumbrancers in good faith and for value, be deemed to be in compliance with all provisions of this Article, unless actual notice of such noncompliance or noncompletion, executed by the Architectural Committee or its designated representatives, shall appear of record in the office of the County Recorder of said County, or unless legal proceedings shall have been instituted to enforce compliance or completion.

Section 10 - Rules and Regulations. The Architectural Committee may from time to time, in its sole discretion, adopt, amend and repeal reasonable rules and regulations interpreting and implementing the provisions hereof and establishing reasonable architectural standards for the Covered Property.

Section 11 - Variances. Where circumstances such as topography, location, property lines or other matters require, the Architectural Committee may allow reasonable variances as to any of the covenants, conditions or restrictions contained in this Declaration under the jurisdiction of such Committee on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the

improvement of the Covered Property.

Section 12 - Appointment and Delegation. The Architectural Committee may from time to time delegate any of its rights or responsibilities hereunder to one or more duly licensed architects who shall have full authority to act on behalf of the Architectural Committee in all matters delegated.

Section 13 - Review Fee and Address. All plans and specifications required by the Section entitled "Architectural Approval" of this Article shall be submitted in writing for approval together with a reasonable processing fee not to exceed One Hundred Dollars (\$100.00). The address of the Architectural Committee is as follows:

5525 Oakdale Avenue, Suite 200

Woodland Hills, California 91364

or such other place as may from time to time be designated by the Architectural Committee by a written instrument recorded in the office of the County Recorder of said County; and the last instrument so recorded shall be deemed the Architectural Committee's proper address. Such address shall be the place for the submittal of plans and specifications and the place where the current rules and regulations, if any, of the Architectural Committee shall be kept.

Section 14 - Inspection. Any member or agent of the Architectural Committee may from time to time at any reasonable hour or hours and upon reasonable notice enter and inspect any property subject to the jurisdiction of the Architectural Committee as to its improvement or maintenance in compliance with the provisions hereof, and no person gaining entry pursuant hereto shall be deemed guilty of trespass by reason thereof.

Section 15 - Action. All action by the Architectural Committee may be taken upon the vote or written consent of a majority of the members thereof; provided, the Architectural Committee may act through a licensed architect appointed pursuant

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to the Section of this Article entitled "Appointment and
Delegation."

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ARTICLE VI

DUTIES AND POWERS OF THE ASSOCIATION

Section 1 - General Duties and Powers. In addition to the duties and powers enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

Section 2 - General Duties of the Association. The Association through the Board shall have the duty and obligation:

(a) to enforce the provisions of this Declaration, the Articles, Bylaws and Association Rules by appropriate means and carry out the obligations of the Association hereunder and thereunder, including collection of Assessments and foreclosure of the liens therefor;

(b) to maintain and otherwise manage the following:

(i) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association; and

(ii) all property, real or personal, which the Association is obligated to repair or maintain pursuant to this Declaration, including, without limitation, the Article hereof entitled "Repair and Maintenance";

(c) to pay any real and personal property taxes and other charges assessed to or payable by the Association;

(d) to obtain and pay for the benefit of the Common Area, and for the benefit of Condominiums when they are not separately billed therefor, water, gas, electricity and other utilities and services;

(e) to establish and maintain working capital and contingency funds and asset replacement accounts; and

(f) to manage all of the Projects.

Section 3 - General Powers of the Association. The

Association through the Board shall have the power but not the obligation:

- (a) to employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments similar to the Covered Property to perform all or any part of the duties and responsibilities of the Association;
- (b) to acquire interests in real or personal property that may be necessary or convenient for the management of the Covered Property, the administration of the affairs of the Association or for the benefit of the Members;
- (c) to borrow money as may be needed in connection with the discharge by the Association of its powers and duties;
- (d) to establish in cooperation with any governmental entity a special tax assessment district for the performance of all or a portion of the maintenance or other functions now within the responsibility of the Association;
- (e) unless otherwise provided by a governmental entity, to provide trash pickup and disposal service for the benefit of the Owners and their Condominiums;
- (f) to negotiate and enter into such contracts with First Mortgagees and Mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by Mortgages within the Covered Property;
- (g) to cause such Board resolutions to be adopted as may be required in connection with financing pursuant to "Cal Vet Contracts" in order to reflect the fact that such contracts are superior in right to the liens for Assessments created by this Declaration to the same extent as First Mortgages are superior thereto (for purposes hereof, a "Cal Vet Contract" shall mean and refer to an installment sales contract as to a Condominium entered into under and pursuant to Article 3, Chapter 6, Division 4 of the California Military and Veterans Code whereunder the Department of

Veterans Affairs of the State of California is Seller); and

(h) to assign, rent or license any unassigned parking and storage spaces, if any, upon such terms as it deems appropriate.

Section 4 - General Limitations and Restrictions on the Powers of the Board. In addition to the limitations and restrictions enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Board shall be prohibited from taking any of the following actions without the approval of a majority of the voting power of the Association:

(a) entering into contracts for materials or services which have a term in excess of one (1) year, with the following exceptions:

(i) a contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(ii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years in duration, provided that the applicable policy permits short rate cancellation by the insured; and

(iii) a lease arrangement for any common laundry fixtures and equipment, if any, of not to exceed five (5) years in duration; provided, however, that the lessor under any such agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(b) incurring aggregate expenditures for capital improvements to the Covered Property in any fiscal year in excess of five percent (5%) of the estimated Common Expenses for that

fiscal year as set forth in the Article hereof entitled "Covenant for Assessments."

(c) selling any real or personal property of the Association in any fiscal year with a fair market value which in the aggregate exceeds five percent (5%) of said estimated Common Expenses for that fiscal year.

(d) paying compensation to directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses.

(e) exercising the power of attorney granted to the Association pursuant to the Section entitled "Power of Attorney" of the Article hereof entitled "Limitations Upon the Right to Partition and Severence."

Section 5 - Association Rules. The Board shall also have the power to adopt, amend and repeal such rules and regulations as it deems reasonable (the "Association Rules") which may include the establishment of a system of fines and penalties enforceable as Special Assessments, all as provided in the Bylaws. The Association Rules shall govern matters in furtherance of the purposes of the Association and other matters specified in this Declaration, including, without limitation, the conduct of persons within the Covered Property and the use of the Common Area and facilities thereof; provided, however, that the Association Rules may not discriminate among Owners (except that special Association Rules may be adopted with respect to children), and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be delivered to each Owner in the same manner established in this Declaration for the delivery of notices. Upon compliance with such notice requirements, the

Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding upon the Owners and their successors in interest whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and First Mortgagee upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such conflict.

Section 6 - Delegation of Powers. The Board and the Association shall have the right to delegate to committees, officers, employees or agents any of their duties and powers under this Declaration, the Articles and Bylaws; provided, however, no such delegation to a professional management agent or to committees other than the Architectural Committee shall relieve the Board or Association of its obligation to perform such delegated duty.

Section 7 - Pledge of Assessment Rights. The Association shall have the power to pledge the right to exercise its Assessment powers in connection with the obtaining of funds to repay a debt of the Association; provided, however, any such pledge shall require the prior approval of not less than seventy-five percent (75%) of the voting power of the Association. Said power shall include, but not be limited to, the ability to make an assignment of Assessments which are then payable to or will become payable to the Association, which assignment may be then presently effective but shall allow said Assessments to continue to be paid to and used by the Association as set forth in this Declaration unless and until the Association shall default in the repayment of the debt which is secured by

said assignment. The Board may levy a Special Assessment against the Members to obtain such funds. Upon the failure of any Member to pay said Special Assessment within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments." Notwithstanding the foregoing, any pledge of Assessments shall require the prior written approval of seventy-five percent (75%) of the First Mortgagees based on one (1) vote for each First Mortgage held.

Section 8 - Emergency Powers. The Board or any person authorized by the Board may enter any Unit in the event of an emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association unless covered by insurance carried by the Owner.

ARTICLE VII

REPAIR AND MAINTENANCESection 1 - Repair and Maintenance by Association.

Except to the extent that an Owner may be obligated to maintain and repair as hereinafter provided in this Article, and without limiting the generality of the statement of duties and powers contained in this Declaration, the Articles, Bylaws or Association Rules, the Association shall have the duty to accomplish the following upon the Covered Property or other land in such manner and at such times as the Board shall prescribe:

- (a) maintain, repair, restore, replace and make necessary improvements to the Common Area so that the same is at all times in a first-class condition and good state of repair, including, without limitation, the exterior surfaces of all Condominium Buildings, to include the painting thereof;
- (b) maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote or written consent of two-thirds (2/3) of the voting power of the Members; and
- (c) pay, out of the general funds of the Association, the costs of any such maintenance and repair pursuant to this Section, except as otherwise in this Declaration specified as payable by the particular Owners.

Section 2 - Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain, repair, replace and restore as may be provided in other Articles of this Declaration, every Owner shall at his sole cost and expense:

- (a) maintain, repair, replace and restore all portions of his Unit, including, without limitation, the interior walls, ceilings, floors and doors in a clean, sanitary and attractive condition;
- (b) repair and replace all window glass for his own Unit, and Owners shall be responsible for the interior and

exterior cleaning of such window glass;

(c) maintain in an open and unobstructed condition all sewer and drainage pipes and lines serving his own Unit between the points at which same enter said Unit and the points at which same join other sewer and drainage pipes and lines serving other Units;

(d) maintain, replace, repair and restore the water heating, air-conditioning and heating equipment serving only his Unit; and

(e) maintain surface areas (other than exterior building walls) bounding all elements of his Unit, the foregoing to include maintenance, repair and painting of any building walls bounding patios enclosed by four (4) walls and also to include any landscaping within all patios, if any.

Section 3 - Damage from Within a Unit. Except to the extent covered by insurance carried by the Association, in the event the Board shall determine that the walls, ceilings, floors, doors, or windows or any other portion of the Common Area forming the boundaries of a Unit have been damaged from within the Unit, notwithstanding that such damage may be to the Common Area, the Owner of the Unit shall be responsible for repairing such damage in a timely manner and in accordance with such rules as the Board or Architectural Committee shall from time to time adopt.

Section 4 - Right of Association to Maintain and Install. In the event that an Owner fails to accomplish any maintenance or installation required by this Article, the Association or its agents may, but shall not be obligated, to cause such maintenance or installation to be accomplished as hereinafter set forth:

(a) Upon a finding by the Board of a deficiency in such maintenance or installation, the Board shall give notice of such deficiency to the Owner which shall briefly describe the deficiency to the Owner and which shall set a date for a hearing

before the Board or a committee selected by the Board for such purpose. The Board may delegate its powers under this Subsection to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to such Owner. If the Board or any such committee renders a decision against the Owner, it shall further set a date by which the deficiency is to be corrected by the Owner. A decision of such committee may be appealed to the Board within ten (10) days after the rendering thereof, but a decision of the Board shall be final.

(d) If the deficiency continues to exist after the time limitation imposed by a final decision of the Board or any such committee, the Board or such committee may cause such maintenance or installation to be accomplished.

(e) In the event the Board or such committee elects to cause such maintenance or installation to be accomplished, the following shall apply:

(i) the Owner shall have no more than ten (10) days following the receipt of written notice of such election from the Board or such committee to select a day or days upon which such maintenance or installation work shall be accomplished;

(ii) the date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period;

(iii) if said Owner does not select such day or days within said ten (10) day period, the Board or such

committee may select a day or days upon which such work may be accomplished which shall be not less than twenty-five (25) days nor more than fifty-five (55) days from the last day of said ten (10) day period; and

(iv) unless the Owner and the Board otherwise agree, such maintenance or installation shall take place only during daylight hours on any day Monday through Friday, excluding holidays.

(f) If the Association pays for all or any portion of such maintenance or installation, such amount shall be a Special Assessment to the affected Owner and Condominium. Upon the failure of any Owner to pay said Special Assessment within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 5 - Right of Entry. The Association shall have the right to enter any Unit in connection with any maintenance, repair or construction in the exercise of the powers and duties of the Association. In addition, in the case of an emergency threatening damage to persons or property, the Association and Owners shall have the right to enter any Unit in order to abate such condition. No person entering a Unit pursuant to this Section shall be deemed guilty of a trespass thereby.

Section 6 - Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace or restore facilities of public utilities which are located within easements in the Common Area owned by such public utilities. However, the Board shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 7 - Assumption of Maintenance Obligations.

Declarant and its subcontractors, and the agents and employees of

the same, shall have the right to come upon the Common Area to complete the construction or installation of any landscaping or other improvements to be installed thereupon. In the event that any of Declarant's subcontractors are contractually obligated to maintain the landscaping and/or other improvements upon any portion of the Common Area, such maintenance shall not be assumed by the Association until the termination of such contractual obligation. If any excess of Assessments collected over actual Common Expenses incurred by the Association is caused by reason of construction or maintenance pursuant to this Section, or otherwise, such excess shall be placed in reserve to offset the future expenses of the Association in any manner designated by the Board.

Section 8 - Owner's Responsibility for Damage to Common Area. Except to the extent the Association may carry insurance to cover such risks, every Owner upon demand of the Board shall reimburse the Association for all costs incurred resulting from any damage to the Common Area caused by his negligence or willful misconduct or the negligence or willful misconduct of occupants of his Condominium or his guests or invitees. If such Owner shall fail or refuse to pay such amount to the Association within thirty (30) days after such demand for payment from the Board, the Board, acting on behalf of the Association, may resort to all remedies herein or by law provided for the collection of said amount, including the levying of a Special Assessment therefor against such Owner and his Condominium in accordance with the provisions of the Article hereof entitled "Nonpayment of Assessments."

Section 9 - Maintenance of Exclusive Easements. Each Owner shall maintain all improvements subject to appurtenant exclusive easements forming a part of his Condominium to the same extent as if such improvements were a component element of the Unit of his Condominium.

ARTICLE VIII

INSURANCE

Section 1 - Types. The Association shall obtain and maintain in effect the following types of insurance:

(a) A Comprehensive Public Liability insurance policy insuring the Association, the Declarant and the agents and employees of each and the Owners and the respective family members, guests and invitees of the Owners against any liability incident to the ownership or use of the Common Area, and including, if reasonably obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such comprehensive liability insurance policy may be obtained as a separate policy or in combination with the insurance described in (b), next. In either case, the limits of such liability insurance shall not be less than One Million Dollars (\$1,000,000.00) under a combined single limit for each occurrence applicable both to death or injury involving one or more persons and to property damage. Such liability insurance shall also contain the broadest extensions of liability coverages reasonably available, but not excluding personal injury liability, blanket contractual liability, host liquor liability and non-owned automobile liability provisions.

(b) A master or blanket policy of insurance for the full replacement value, without deduction for depreciation, of all of the improvements of the Covered Property. Such policy shall be issued upon an "All Risk" basis excluding earthquake and flood perils with respect to building(s) and improvements and shall also contain "Replacement Cost," "Stipulated Amount" and "automatic increase (Inflationary Guard)" endorsements. Such policy may, if reasonably available, also contain a determinable cash adjustment provision, or equivalent endorsement, to permit a cash settlement covering the full value of the improvements in the event of the destruction of improvements and a decision not to rebuild pursuant to the Article hereof entitled "Destruction of Improvements."

Subject to compliance with the foregoing, and the requirements of the First Mortgagees, such policy shall be in such amounts as shall be determined by the Board pursuant to the Section of this Article entitled "Annual Insurance Review" and shall name as insureds the Association and Declarant, so long as Declarant is an Owner. Other Owners shall either be specifically named as insureds or included as such within the definition of an "insured" under such policy. All Mortgagees shall also be covered as their respective interests may appear. Such policy shall also contain a loss payable provision in favor of the Trustee (hereinafter described) or the Board, as applicable.

(c) Fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible for handling the funds of the Association, and such fidelity bonds shall name the Association as obligee, shall be written in an amount of not less than one hundred fifty percent (150%) of the estimated annual Common Expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation or from any definition of "employee" or similar expression.

Section 2 - Waiver by Members. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association, the Owners and the Mortgagees as their respective interests may appear. As to each of said policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Association, the Board, other Owners, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 3 - Other Insurance. The Board shall purchase and

maintain in effect workers' compensation insurance to the extent required by law for all employees of the Association. The Board shall also purchase and maintain in effect insurance on personal property owned by the Association. The Board may, and if required by any First Mortgagee shall, purchase and maintain in effect earthquake insurance, blanket flood insurance, plate glass insurance, officers and directors liability (errors and omissions) insurance and/or demolition insurance (in an adequate amount to cover demolition in the event of a total or partial destruction and a decision not to rebuild), as well as any other insurance as the Board deems necessary or as is required by any First Mortgagee. Whenever in this Article insurance coverage is to be obtained if reasonably available, the Board shall make such determination as to reasonable availability.

Section 4 - Premiums, Proceeds and Settlement. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance carried by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Casualty insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in the Article hereof entitled "Destruction of Improvements." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the Members.

Section 5 - Annual Insurance Review. The Board shall annually review all insurance policies described in this Article with respect to the adequacy, type and quality of insurance coverages in force, as well as the quality and financial stability of the insurance carriers providing the coverages, and shall either

amend existing insurance policies or shall purchase such other or additional insurance as it deems necessary or appropriate to protect the interests of the Owners, the Mortgagees and the Association. In making such determination, due consideration should be given by the Board to fluctuations in construction costs during inflationary periods and to any new risks or exposures which affect the interests of the Owners, the Mortgagees and the Association.

Section 6 - Trustee. Except as provided below, all insurance proceeds payable under Subsection (b) of the Section entitled "Types" of this Article shall be paid to a Trustee. The Trustee shall hold, distribute and expend such proceeds for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear, pursuant to the provisions of the Article hereof entitled "Destruction of Improvements." The Trustee shall be appointed by the Board and shall be a commercial bank, or branch thereof, or a trust company in said County which has agreed in writing to accept such trust. When proceeds from a single claim do not exceed Ten Thousand Dollars (\$10,000.00), such proceeds shall be paid to the Association to be used as provided in the Article hereon entitled "Destruction of Improvements." The foregoing notwithstanding, in the event the Board fails to appoint a Trustee or determines that the use of a Trustee is not practical, then all proceeds shall be paid to the Board and the members thereof shall collectively act in the place and stead of such Trustee.

Section 7 - Individual Casualty Insurance Prohibited.

Except as expressly provided in the Section of this Article entitled "Rights of Owners to Insure," no Owner shall separately insure his Condominium or any part thereof against loss by fire or other casualty covered by any insurance carried under Subsection (b) of the Section entitled "Types" of this Article. Should any Owner violate this provision, and should any loss intended to be covered by insurance carried by the Association occur, and the proceeds payable thereunder be reduced by reason of insurance carried by any

Owner, such Owner shall pay the amount of such reduction to the Trustee or Board, as applicable, for application by the Trustee or Board, as applicable, to the same purposes as the reduced proceeds are to be applied. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Trustee or Board, the Board may levy a Special Assessment against such Owner and his Condominium for such amount. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 8 - Rights of Owners to Insure. Notwithstanding any other provisions of this Article, an Owner shall be permitted to insure his personal property against loss by fire or other casualty and may carry public liability insurance covering his individual liability for damage to persons or property occurring inside his Unit. In addition, any improvements made by an Owner to his Unit may be separately insured by such Owner provided such insurance shall be limited to the type and nature of coverage commonly known as "tenant's improvements" coverage. All such policies as may be carried by an Owner shall contain waivers of subrogation of claims against the Association, the Board, other Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only; provided, however, such other policies shall not adversely affect or diminish any liability under any insurance obtained by the Association, and provided, further, duplicate copies or certificates of such other policies shall be deposited with the Board.

Section 9 - Required Waiver. All policies of physical damage insurance shall provide for waiver of the following rights to the extent such waivers are obtainable from the respective insurers:

(a) subrogation of claims against the Board, Declarant, the Owners, tenants of the Owners, and the employees of each of the foregoing;

(b) any defense based on co-insurance;

(c) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;

(d) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner or arising from any act, neglect or omission of any named insured or the respective agents, contractors and employees of any insured;

(e) any right of the insurer to repair, rebuild or replace and, in the event a structure is not repaired, rebuilt or replaced following loss, any right to pay under the insurance the lesser of the replacement value of the improvements insured or the fair market value thereof;

(f) notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium; and

(g) any right to require any assignment of any Mortgage to the insurer.

Section 10 - Overriding Insurance Requirements.

Notwithstanding any other provision of this Article, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity requirements for condominium projects established by the Federal National Mortgage Association ("FNMA") and the Government is a Mortgagee or Owner of a Condominium within the Covered Property, except to the extent such coverage is not available or has been waived in writing by the FNMA or the Government National Mortgage Association.

EX-11640

ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

Section 1 - Automatic Reconstruction. In the event of partial or total destruction of a Condominium Building or Buildings within the same Project, the Board shall promptly take the following action:

(a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain a performance bond if the Board deems the same to be necessary or appropriate, and by obtaining one (1) or more independent appraisals if the Board deems such appraisal or appraisals to be necessary or desirable.

(b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said Condominium Building or Buildings.

(c) The Board shall meet and determine whether the insurance proceeds, if any, will cover eighty-five percent (85%) or more of the estimated cost of reconstruction as determined pursuant to Subsection (a) of this Section, or whether the portion of the estimated cost not covered by insurance is less than One Hundred Fifty Dollars (\$150.00) per Condominium within the Project in which such Condominium Building or Buildings are located. Such percentage covered by insurance or such cost shall hereinafter be referred to as the "Acceptable Range of Reconstruction Cost." If the Board finds that a bid obtained under this Section is within the Acceptable Range of Reconstruction Cost, the Board shall cause a notice to be sent to all Owners of Condominiums in the Project within which the partially or totally destroyed Condominium Building or Buildings are located (hereinafter in this Article the "affected Owners") and to the First Mortgagees of Mortgages encumbering Condominiums

in said Condominium Building or Buildings setting forth such findings and informing said affected Owners and said First Mortgagees that the Board intends to commence reconstruction pursuant to this Declaration. In the event that at least twenty percent (20%) of the affected Owners, based on one (1) vote for each Condominium, and all First Mortgagees of Mortgages encumbering Condominiums in said Condominium Building or Buildings object in writing to such reconstruction as indicated in such notice, the Board shall call a meeting of the affected Owners and all First Mortgagees pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article. In the event that the foregoing requirements are satisfied and the requisite number of affected Owners and all First Mortgagees of Mortgages encumbering Condominiums in said Condominium Building or Buildings do not object in writing to such reconstruction, (i) the Trustee, if the Board is not acting in its place and stead, shall pay such insurance proceeds as are available to the Board and the Board shall cause reconstruction to take place as promptly as practicable thereafter, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall cause reconstruction to take place as promptly as practicable thereafter. Proceeds paid by the Trustee to the Board shall be disbursed from time to time by the Trustee to the Board against receipt by the Trustee of such evidence as it shall reasonably require that persons or entities who are entitled to assert mechanics lien claims in connection with such reconstruction will have delivered adequate lien and payment releases upon payment to them by the Board. In connection with such reconstruction, the Board shall levy a Reconstruction Assessment against each affected Owner based upon the ratio of the square footage of the interior dwelling area of the Unit of such Owner's Condominium to the total square footage of the interior dwelling areas of all Units of all Condominiums of all such affected Owners at such time and in such amount as the Board shall

determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

(d) If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days of the date of such destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected Owners and all First Mortgagees pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article.

(e) If the Board determines that any Unit has become uninhabitable by reason of its total or partial destruction, Regular Assessments shall abate against the Owner thereof until the Board determines that the reconstruction of the Unit has restored its habitability. However, if the Board determines that such abatement would adversely and substantially affect the management, maintenance and operation of the Covered Property, it may elect to disallow such abatement.

Section 2 - Reconstruction Pursuant to Meeting. If reconstruction is not to take place pursuant to the Section entitled "Automatic Reconstruction" of this Article, as soon as practicable after same has been determined the Board shall call a meeting of the affected Owners and all First Mortgagees by mailing a notice of such meeting to each such affected Owner and each such First Mortgagee. Such meeting shall be held not less than fourteen (14) days and not more than twenty-one (21) days after the date of such notice. The affected Owners may, by a vote at such meeting or by the written consent of not less than sixty-six and two-thirds percent (66-2/3%) of the affected Owners based on

one (1) vote for each Condominium, determine to proceed with such reconstruction; provided, however, reconstruction must take place unless a determination is made not to proceed therewith by seventy-five percent (75%) of all First Mortgagees under First Mortgages encumbering condominiums in all Projects in the Covered Property based upon one (1) vote for each First Mortgage held thereby.

Section 3 - Decision to Reconstruct; Procedure After Meeting. In the event that the Association undertakes reconstruction pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, the following shall apply:

(a) Immediately after such meeting, the Board shall send a notice to each First Mortgagee of a Condominium in a totally or partially destroyed Condominium Building or Buildings, which notice shall advise of the decision to undertake reconstruction. The Board shall also send a true copy of each such notice to the Trustee unless the Board is acting in the place and stead of the Trustee.

(b) As to all insurance proceeds received, (i) the Trustee, if the Board is not acting in its place and stead, shall pay same to the Board, and the Board shall apply same to reconstruction undertaken by the Association pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall apply same to reconstruction undertaken by the Association pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article. Proceeds paid by the Trustee to the Board shall be disbursed from time to time by the Trustee to the Board against receipt by the Trustee of such evidence as it shall reasonably require that persons or entities who are entitled to assert mechanics lien claims in connection with such reconstruction will have delivered adequate lien and payment releases upon payment to them by the Board.

(c) In connection with such reconstruction, the Board shall levy a Reconstruction Assessment against each affected Owner based upon the ratio of the square footage of the interior dwelling area of the Unit of such affected Owner's Condominium to the total square footage of the interior dwelling areas of all Units of all Condominiums of all such affected Owners at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

Section 4 - Decision Not to Reconstruct; Procedure After Meeting. In the event a decision is made not to reconstruct at the meeting called pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, the Trustee or Board, as applicable, shall apply the insurance proceeds as follows:

(a) The insurance proceeds shall first be applied to the reduction or elimination, as the case may be, of all outstanding Mortgages encumbering Condominiums for which insurance proceeds have been paid by reason of the casualty; provided, however, as to any Condominium, the Trustee or Board, as applicable, shall not pay insurance proceeds to Mortgagees thereof in an amount greater than (i) the outstanding indebtednesses secured by Mortgages encumbering said Condominium, or (ii) the insurance proceeds allocable to said Condominium, whichever of (i) or (ii) is the lesser.

(b) All insurance proceeds allocable to a Condominium remaining after payments to Mortgagees thereof pursuant to Subsection (a) of this Section shall be distributed by the Trustee or Board, as applicable, to the Owner of each such Condominium after deduction of an amount determined pursuant to Subsection (c) of this Section.

(c) The Board shall levy a Reconstruction Assessment against each affected Owner based upon the ratio of the square footage of the interior dwelling area of the Unit of such

Owner's Condominium to the total square footage of the interior dwelling areas of all Units of all Condominiums of all such affected Owners in such amount as the Board shall determine is necessary to cover the costs of clearing the debris of the totally or partially destroyed Condominium Building or Buildings and clearing the area in excess of insurance proceeds. The Reconstruction Assessment of the Owner of each partially or totally destroyed Condominium shall be paid out of the insurance proceeds allocable to the respective Condominium of such Owner prior to the distribution of such proceeds pursuant to Subsection (b) of this Section. In the event that the allocable insurance proceeds, after deduction of proceeds paid to Mortgagees, is not sufficient to pay the entire Reconstruction Assessment levied against such Owner, such Owner shall not be relieved of his obligation to pay any such excess.

(d) For the purposes of this Article, the amount of insurance proceeds "allocable" to a Condominium shall be determined pursuant to this Subsection (d). Such allocation shall be made by the insurance carrier or by the Board in accordance with the following procedure and shall be final and binding on the Owners, the Mortgagees, the Association and the Trustee: the insurance carrier or the Board shall allocate a fractional portion of such proceeds among each of the Condominiums in the Project within which the partially or totally destroyed Condominium Building or Buildings are located the numerator of which fractional portion is the decrease in value of the Unit of each such Condominium (as determined by appraisals obtained by the insurance carrier or Board, as applicable, made by independent MAI appraiser as of a time before and as of a time after the occurrence of such destruction and, if made by the Board, paid for out of, or charged against, such proceeds) and the denominator of which fractional portion is the total decrease in value of all Units of all such Condominiums in such Project (as determined by reference

to all of said appraisals so made). Such allocation made by the insurance carrier or Board shall be final and binding on the Owners, the Mortgagees, the Association and the Trustee.

Section 5 - Certificate of Intention to Reconstruct.

In the event the Association undertakes reconstruction pursuant to this Article, the Board shall, not later than two hundred ten (210) days from the date of destruction, execute, acknowledge and record in the Office of the County Recorder of said County a certificate declaring the intention of the Association to rebuild. If no such certificate of reconstruction is so recorded within said two hundred ten (210) day period, it shall be conclusively presumed that the Association has determined not to undertake reconstruction pursuant to this Article.

Section 6 - Partition. In the event that a certificate described in the Section entitled "Certificate of Intention to Reconstruct" of this Article is not recorded within the two hundred ten (210) day period provided therein, the right of any Owner to partition the Project in which his Condominium is located through legal action as described in the Article hereof entitled "Limitations Upon the Right to Partition and Severance" shall forthwith revive.

Section 7 - Compliance with Condominium Plan. Any reconstruction undertaken pursuant to this Article shall substantially conform to the Condominium Plan for the Project in which such destruction occurred, as amended pursuant to the Section entitled "Amendment of Condominium Plan" of this Article, or otherwise, if appropriate.

Section 8 - Negotiations with Insurer. The Board shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed Condominium Building or any other portion of the Common Area, and to make settlements with the insurer for less than full insurance coverage on the damage to such Condominium Building or

any other portion of the Common Area. Any settlement made by the Board in good faith shall be binding upon all Owners and Mortgagees.

Section 9 - Repair of Units. Except to the extent covered by insurance carried by the Association, installation of improvements to, and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner.

Section 10 - Amendment of Condominium Plan. In the event reconstruction is to take place pursuant to this Article, the Board shall have the power to record an amendment to the Condominium Plan for the Project in which such destruction occurred so that such Condominium Plan conforms to the Condominium Building or Buildings as designed to be reconstructed; provided, however, the Board shall not record an amendment to such Condominium Plan without the prior authorization of each Mortgagee of a Mortgage encumbering a Condominium the plan of which is to be altered by such amendment. In the event the Board, together with said Mortgagees, if appropriate, decide to record such amendment to such Condominium Plan, all Owners within the affected Project and the record holders of all security interests in said Project shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and record holders of security interests shall also execute such other documents or take such other actions as may be required to make such amendment effective. The Board shall cause a notice of change in the Condominium Plan to be sent to each Owner and Mortgagee in such Project within ten (10) days of the recording of such amendment in the office of the County Recorder of said County.

Section 11 - Destruction in Several Projects. In the event Condominium Buildings are totally or partially destroyed in more than one (1) Project, the Board shall separately follow the procedures set forth in this Article as to each Project so affected.

Section 12 - Reconstruction of Common Area. If improvements to the Common Area other than a Condominium Building are totally or partially destroyed, the Board shall cause reconstruction to commence by the earlier of (i) thirty (30) days after the Association's receipt of the insurance proceeds payable by reason of such destruction, or (ii) ninety (90) days after such destruction, such reconstruction thereafter to be diligently and continuously prosecuted to completion within a reasonable period of time. The Trustee, if the Board is not serving in its place and stead, shall pay to the Board all insurance proceeds payable by reason of such destruction and the Board shall apply such proceeds to the costs of reconstruction; otherwise, the Board shall apply such proceeds to the costs of reconstruction. Proceeds paid by the Trustee to the Board shall be disbursed from time to time by the Trustee to the Board against receipt by the Trustee of such evidence as it shall reasonably require that persons or entities who are entitled to assert mechanics lien claims in connection with such reconstruction will have delivered adequate lien and payment releases upon payment to them by the Board. In the event that the insurance proceeds are not sufficient to pay the costs of reconstruction of such improvements to the Common Area, the Board shall levy a uniform Reconstruction Assessment against all Owners in the Project which suffered such damage to its Common Area in a total amount equal to such difference. If the insurance proceeds exceed the cost of reconstruction, the Board shall distribute the excess in equal shares to each Owner in such Project or to their respective Mortgagees as their interests may appear.

Section 13 - Availability of Labor and Material. In determining whether the plans for a reconstructed Condominium Building are in substantial conformance with the Condominium Plan, the Board may take into consideration the availability and expense of the labor and materials in the original construction of the Project. If such labor or materials is not available or is prohibitively expensive at the time of reconstruction, the Board may permit the substitution of such other labor or materials as it deems proper.

Section 14 - Contracting for Reconstruction. In the event repair or reconstruction is undertaken pursuant to this Article, other than the Section entitled "Repair of Units" hereof, the Board or its delegates shall have the sole authority to contract for such work as may be necessary for said repair or reconstruction.

Section 15 - Seventy-Five Percent (75%) Vote Required. All insurance proceeds available from any total or partial destruction shall be applied as set forth in this Article, except upon the vote or written assent of not less than seventy-five percent (75%) of the First Mortgagees of all Condominiums in all Projects based on one (1) vote for each First Mortgage held thereby.

Section 16 - Costs of Collecting Insurance Proceeds. If it should become necessary in the judgment of the Board to incur costs for appraisals, legal fees, court costs and similar expenses in order to determine or collect insurance proceeds, such costs shall be first deducted before distribution or application of insurance proceeds as provided in this Article.

Section 17 - Priority. Nothing contained in this Article shall entitle an Owner to priority over any Mortgagee under a Mortgage encumbering his Condominium as to any portion of insurance proceeds allocated to such Condominium.

ARTICLE X

EMINENT DOMAIN

Section 1 - Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Covered Property.

Section 2 - Representation by Board in Condemnation

Proceeding. In the event of a taking, the Board shall, subject to the right of all Mortgagees who have made a request to join the Board in the proceedings, represent all of the Members in an action to recover all awards. No Member shall challenge the good faith exercise of the discretion of the Board in fulfilling its duties under this Article. The Board is further empowered, subject to the limitations hereof, to act as the sole representative of the Members in all aspects of the condemnation proceedings, and the award or proceeds of settlement (herein both of which are referred to as the "award") shall be payable to the Association.

Section 3 - Procedure on Taking. In the event of a taking of Condominiums, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this Section after deducting therefrom fees and expenses related to the condemnation proceedings including, without limitation, fees for attorneys and appraisers and court costs. In the event the taking is by judgment of condemnation and said judgment apportions the award among the Owners and their respective Mortgagees, the Board shall distribute the amount remaining after such deductions among such Owners and Mortgagees on the basis of the apportionment set forth in such judgment. In the event the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the Board shall allocate and distribute a fractional portion of the award to each of the Owners in the Project in which the taking

occurs and their respective Mortgagees determined as follows: the Board shall allocate (and thereafter distribute) a fractional portion of the award among such Condominiums the numerator of which fractional portion is the decrease in value of the Unit of each such Condominium (as determined by appraisals obtained by the Board made by an independent MAI appraiser as of a time before and as of a time after the taking and paid for out of, or charged against, the award) and the denominator of which fractional portion is the total decrease in value of all Units of all Codominiums in such Project (as determined by reference to all of said appraisals so made). Such allocation and distribution made by the Board shall be final and binding on the Owners and the Mortgagees. In no event shall any portion of such award be distributed by the Board to an Owner and/or the Mortgagees of his Condominium in a total amount greater than the portion allocated hereunder to such Condominium.

Section 4 - Inverse Condemnation. The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

Section 5 - Revival of Right to Partition. Upon a taking which renders the Units of more than fifty percent (50%) of the Condominiums in any Project incapable of being restored to at least ninety-five percent (95%) of their floor area and substantially their condition prior to the taking, the right of any Owner within such Project to partition through legal action as described in the Article hereof entitled "Limitations Upon the Right to Partition and Severance" shall forthwith revive. The determination as to whether the Units of Condominiums partially taken are capable of being so restored shall be made by the Board, whose decision shall be final and binding on all Owners and Mortgagees.

Section 6 - Awards for Members' Personal Property and Relocation Allowances. Where all or part of the Covered Property

is taken, each Member shall have the exclusive right to claim all of the award made for his personal property, and any relocation expense, moving expense or other allowance of a similar nature designed to facilitate relocation. Notwithstanding the foregoing provisions, the Board shall represent each Member in an action to recover all awards with respect to such portion, if any, of Members' personal property as is at the time of any taking, as a matter of law, part of the real estate comprising any Condominium, and shall allocate to such Member so much of any award as is attributable in the taking proceedings, or failing such attribution, attributable by the Board to such portion of Members' personal property.

Section 7 - Notice to Members. The Board, immediately upon having knowledge of any taking or threat thereof with respect to the Covered Property, or any portion thereof, shall promptly notify all Members.

Section 8 - Change of Condominium Interest. In the event of a taking, the Board shall have the power to record an amendment to any Condominium Plan to reflect the change in the Project affected by such taking; provided, however, the Board shall not record an amendment to such Condominium Plan without the prior authorization of each Mortgagee of a Mortgage encumbering a Condominium the plan of which is to be altered by such amendment. In the event the Board, together with said Mortgagees, if appropriate, decide to record such amendment to a Condominium Plan, all Owners within the Project covered thereby and the record holders of all security interests in said Project shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and record holders of security interests shall also execute such other documents or take such other actions as may be required to make such amendment effective. The Board shall cause a notice of change in the Condominium Plan to be sent

to each Owner and Mortgagee in such Project within ten (10) days of the recording of such amendment in the office of the County Recorder of said County.

Section 9 - Award for Common Area. Any awards received on account of the taking of a Project which does not affect Units of Condominiums shall be distributed by the Association to each Owner and his Mortgagee within such Project pro rata in proportion to the value of each such Owner's Condominium as determined by an MAI appraisal obtained by the Board and paid for out of such proceeds and made as of a time immediately prior to the time such taking occurs. The rights of an Owner and the Mortgagee of his Condominium as to such pro rata distribution shall be governed by any applicable provisions of the Mortgage encumbering such Condominium.

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ARTICLE XI

USE RESTRICTIONS

Section 1 - Limitations Upon All Use Restrictions. Each and all of the provisions of this Article shall be subject to the rights of, and shall in no way limit the rights of, Declarant as set forth in the Subsection entitled "Construction and Sales" of the Section entitled "Certain Rights and Easements Reserved to Declarant" of the Article hereof entitled "Easements" and as set forth in the Section entitled "Construction by Declarant" of the Article hereof entitled "General Provisions." This Section may not be modified or eliminated without the prior written approval of Declarant.

Section 2 - Commercial Use. Unless otherwise approved by the Board, no portion of the Covered Property, including Units, shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, to be used for any business, commercial, manufacturing, mercantile, storing, vending, or any nonresidential purposes; provided, however, (i) nothing herein shall be construed as prohibiting oil drilling, oil development operations, oil refining, quarrying or mining operations, or related activities, so long as the same are conducted in accordance with the Section entitled "Oil and Mineral Rights" of this Article, (ii) nothing herein shall prevent an Owner from leasing his Condominium provided such leasing complies with the Section entitled "Leases" of the Article hereof entitled "General Provisions," and (iii) nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Covered Property including, without limitation, the use of Units as models.

Section 3 - Signs. No sign of any kind shall be displayed to the public view on or from any portion of the Covered Property without the approval of the Architectural Committee. Notwithstanding the foregoing, (i) one sign of reasonable

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dimensions advertising a Condominium for sale or for rent may be placed within the Covered Property at a location which the Board has approved by the Owner thereof or by his agent, and (ii) nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Covered Property including, without limitation, the use of all forms of signs, flags, markers and sales devices, and, in this regard, Declarant shall not be subject to the restriction set forth in (i), above, but may place signs, flags, markers and sales devices anywhere within the Covered Property.

Section 4 - Offensive Activity. No noxious or offensive activity shall be carried on upon the Covered Property, nor shall anything be done thereon which might be or become an annoyance or nuisance to occupants within the Covered Property, which shall in any way interfere with the rights of quiet enjoyment of occupants within the Covered Property or which shall in any way increase the rate of any insurance. No Owner or occupant shall engage in activity within the Covered Property which is in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. Nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Covered Property.

Section 5 - Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Covered Property or used therein unless the same and its proposed use are approved by the Architectural Committee. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Covered Property.

Section 6 - Parking. Unless otherwise permitted by the

Board, no passenger automobile, motorcycle or bicycle shall be permitted to remain upon the Covered Property unless parked or placed within a garage or guest parking space; provided, however, temporary parking shall be permitted. For purposes hereof, "temporary parking" shall mean parking of vehicles belonging to invitees of Owners and occupants, parking of delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of goods and services to the Association or to the Owners and occupants and parking of vehicles belonging to and being used by Owners, occupants and invitees for loading and unloading purposes. The Board may adopt rules applicable to the provisions of this Section entitled "Parking" and their enforcement, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Covered Property.

Section 7 - Garage Doors. No garage door shall be permitted to remain open except for purposes of entering a garage, exiting therefrom or cleaning or maintaining such garage, and the Board may adopt rules for the regulation of the opening of garage doors including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments.

Section 8 - External Fixtures. No external items such as, but not limited to, television and radio poles and antennae, flag poles, clotheslines, wiring, insulation, air-conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, walls, landscaping and planting, other than those provided in connection with the original construction of the

Covered Property, and any replacements thereof, and other than those approved by the Architectural Committee and any replacements thereof, shall be constructed, erected or maintained on or within the Covered Property, including any structures thereof. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Covered Property.

Section 9 - Window Covers. Window coverings must be WHITE or OFF-WHITE unless the Board or Architectural Committee approves a different color therefor. Only curtains, drapes, blinds and shades may be installed as window covers. No window shall be covered by paint, foil, sheets or similar items. The Board or Architectural Committee may adopt rules regulating the type, color and design of window covers, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. Notwithstanding the foregoing, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales acitivities within the Covered Property.

Section 10 - Electronic Transmitting Equipment. No electronic transmitting equipment other than electronic garage door opening devices, if any, and other than electronic transmitting equipment and devices approved by the Board shall be installed, maintained or used within the Covered Property.

Section 11 - External Laundrying. Unless otherwise permitted by the Board, external laundrying and drying of clothing and other items is prohibited.

Section 12 - Unsightly Items. All weeds, rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers and woodpiles, and machinery and

equipment not a part of Units, shall be prohibited upon any Unit unless obscured from view of adjoining Units and facilities of the Common Area. Trash and garbage not disposed of by equipment contained within Units shall be placed in containers by Owners and occupants for removal from the Covered Property in accordance with rules applicable thereto adopted by the Board. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agent and assigns from engaging in all forms of construction and sales activities within the Covered Property.

Section 13 - Oil and Mineral Rights. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the surface of the Covered Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be installed upon the surface of the Covered Property or within five hundred (500) feet below the surface of the Covered Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Covered Property. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Covered Property.

Section 14 - Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept upon the Covered Property, except that dogs, cats or other household pets may be kept within a Unit provided they are not raised, bred, kept or maintained for any commercial purpose or in numbers deemed unreasonable by the Board. Notwithstanding the foregoing, no animal or fowl may be kept within a Unit which, in the good faith judgment of the Board or a committee selected by the Board for

this purpose results in an annoyance or is obnoxious to residents within the Covered Property. All animals permitted to be kept by this Section shall be kept on a leash when on any portion of the Covered Property except within a Unit. The Board may adopt rules applicable to the provisions of this Section and to the keeping of pets within the Covered Property, and their enforcement, including the assessment of charges to Owners and occupants who violate such rules. Any charges so assessed shall be Special Assessments.

Section 15 - Children. The Board may adopt special rules for the regulation of the conduct of children (meaning persons under eighteen (18) years of age) within the Covered Property including the assessment of charges to Owners and occupants whose children violate such rules. Any charges so assessed shall be Special Assessments. Each Owner or occupant with children shall be accountable to all other Owners and occupants for the conduct of any child of the former while within the Covered Property.

Section 16 - Additional Noise Restrictions Applicable to Swimming Pool Areas. Unless the Board has consented thereto in writing, no Owner, occupant or other person shall play any recording device, phonograph, tape or record or disk player or musical instrument which can be overheard by others within any swimming pool recreational area of the Covered Property, including the swimming pool itself or any cabana, changing facility or deck area; provided, however, nothing herein shall be construed as preventing Declarant and its agent and assigns from engaging in all forms of construction and sales activities within the Covered Property. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments.

Section 17 - Restrictions Required by City.

Notwithstanding any other provision of this Declaration, unless

otherwise permitted in writing by the City Manager of the City of Carpinteria, California (the "City"):

(a) No boat, trailer, camper, van, recreational truck or other form of recreational vehicle or other other form of recreational equipment shall be permitted to be parked anywhere within the Covered Property; provided, however, temporary parking thereof for not more than eight (8) hours in any seventy-two (72) hour period within portions of the Covered Property designated by the Board shall be permitted, and provided, further, the foregoing vehicles and equipment may be used for all forms of construction, sales and rental activities (including the use of trailers as construction, sales and rental offices).

(b) Light, air, view and free passage in and on the open spaces within the Covered Property excepting therefrom those portions thereof consisting of Units and appurtenant exclusive easements forming a part of Units, shall not be significantly or materially interferred with or reduced by any fences, shrubs, trees, walls or planters, except as shown on the building plans and the landscape plan for the Covered Property approved by the City. "Open space" for purposes of this Subsection (b) includes but is not limited to recreational areas and facilities for the use of residents of the Covered Property such as a swimming pool, community gardens and landscaped areas for common use, or any other existing open areas of the Covered Property.

Notwithstanding the foregoing, nothing set forth in this Subsection (b) shall prevent Declarant from engaging in all forms of construction and sales activities within the Covered Property.

(c) Except to the extent Owners are obligated to maintain as elsewhere set forth in this Declaration (which obligations shall be enforceable against Owners as set forth below), the Association shall maintain all landscaping, drainage, fences and walls in the Covered Property in a first class condition.

(d) The Association shall water and maintain in a first class condition the landscaping along U. S. Highway 101 immediately adjacent to the Covered Property.

Both the Board and the Association shall have a duty to enforce this Section entitled "Restrictions Required by City" and, upon notification by the City to enforce and carry out this Section entitled "Restrictions Required by City," the Association and the Board shall promptly do so. If the Association or any Owner fails to carry out the provisions of this Section entitled "Restrictions Required by City," the City may require (without limiting other remedies available to it), but shall not be obligated to require, the Association or such Owner, as applicable, to do so by mandatory injunction or by writ of mandate. In such event, the Association or such Owner, as applicable, shall pay the City's reasonable attorney's fees.

The obligations of the Board and the Association under this Section entitled "Restrictions Required by City" shall be required only to the extent that the same have not been done and performed by Declarant in connection with any approvals given to Declarant by the City respecting the subdivision of the Covered Property and its development whether pursuant to the Subdivision Map Act or otherwise, and such obligations of the Board and the Association under this Section are not intended to relieve Declarant or any of its affiliates of any such obligations to the City or any other party; provided, however, this Section entitled "Restrictions Required by City" shall not be construed as imposing any additional obligations upon Declarant or preventing Declarant from engaging in all forms of construction and sales activities within the Covered Property.

The provisions of this Section entitled "Restrictions Required by City" may neither be amended nor revoked without the written consent of the City Manager of the City, provided, however, such written consent need not be part of any recorded

instrument, and a statement therein that such consent has been obtained shall be binding and conclusive on all parties relying thereon.

Section 18 - Use of Electricity in Garages. Unless otherwise approved by the Board, use of electricity in garages for purposes other than for (i) interior lighting of the same (using lighting equipment installed by Declarant and replacements thereof approved by the Board) and (ii) operating electric garage door openers is prohibited.

ARTICLE XII

RIGHTS OF ENJOYMENTSection 1 - Members' Rights of Enjoyment. Every Member

shall have a nonexclusive easement and right for use and enjoyment in and to all Common Area of all Projects (other than portions thereof subject to exclusive easements), regardless of the Project in which such Member is an Owner, and such easement and right shall be appurtenant to and shall pass with the interest required to be an Owner, subject to all of the covenants, conditions, restrictions, easements and other provisions contained in this Declaration, including, without limitation, the following provisions:

(a) The right of the Association to limit the number of guests of Members and to limit the use of recreational facilities, if any, on the Common Area by persons not in possession of a Unit, but owning all or a portion of the interest in a Condominium required for membership.

(b) The right of the Association to establish reasonable rules and regulations pertaining to the conduct of persons within, and the use of, the Common Area, including all facilities thereof.

(c) The right of the Association to suspend the rights of a Member to use the recreational facilities, if any, located upon the Common Area, or any portion thereof designated by the Board, at any time during which any Assessment against his Condominium remains unpaid and delinquent or for a period not to exceed thirty (30) days for any single infraction of this Declaration, the Bylaws or the Association Rules, provided that any suspension of such rights to use all or any recreational facilities, if any, located on the Common Area, except for the failure to pay Assessments, shall be made only by the Association or a duly appointed committee thereof after notice and hearing given and held in accordance with the Bylaws. Notwithstanding the

foregoing, the Association shall not have the right hereunder to suspend any Member's rights to use any portion of the Covered Property necessary for such Member to gain access to his Unit.

(d) The right of the Association to establish, in cooperation with any governmental entity, a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association.

(e) The right of the Association to grant permits, licenses and easements on, over or under the Common Area for utilities or other public purposes consistent with the intended use of the Common Area; provided that such permits, licenses and easements shall not unreasonably interfere with the rights of any Owner to the use and enjoyment of his Unit and the Common Area. As to a permit, license or easement affecting Common Area, none thereof shall be effective unless approval by Members entitled to cast two-thirds (2/3) of the votes has been obtained as evidenced by a writing executed by an officer of the Association which writing has been recorded in the Official Records of said County.

Section 2 - Delegation of Use. Any Member may delegate his rights of enjoyment in and to any facilities of the Common Area to the members of his family or his tenants who reside within his Unit, or to his invitees, subject to all provisions of this Declaration, including those set forth in the Section of this Article entitled "Members' Rights of Enjoyment," the Bylaws and the Association Rules.

Section 3 - Waiver of Use. No Member may exempt himself from personal liability for Assessments duly levied by the Association, nor release the Condominium owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws and Association Rules, by waiver of the use and enjoyment of the facilities of the Common Area, or by abandonment of his Condominium or the Unit thereof.

ARTICLE XIII

EASEMENTS

Section 1 - Amendment to Eliminate Easements. Until the initial sales of all Condominiums in the initial Covered Property to purchasers other than Declarant as defined in this Declaration have closed and when Declarant no longer has the right to annex pursuant to the Section entitled "Annexation Without Approval and Pursuant to General Plan" of the Article hereof entitled "Integrated Nature of the Covered Property," (i) this Declaration cannot be amended to modify or eliminate the easements reserved to Declarant without prior written approval of Declarant and any attempt to do so shall have no effect, and (ii) any attempt to modify or eliminate this Section shall likewise require the prior written approval of Declarant.

Section 2 - Nature of Easements. Unless otherwise set forth herein, any easement reserved in this Declaration shall be nonexclusive. Any and all easements reserved in this Declaration shall be deemed to be in full force and effect whether or not referred to, reserved and/or granted in any instrument of conveyance.

Section 3 - Certain Rights and Easements Reserved to Declarant.

(a) Utilities. Easements and rights over the Covered Property for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities as are needed to service the Covered Property are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use and enjoyment by the Members of their Condominiums or the Common Area, including the facilities thereof.

(b) Ingress and Egress, in Favor of Certain Property. There is hereby reserved to Declarant, together with the right to grant and transfer the same to the record owner(s) of the real property described in Exhibit "D" attached hereto and incorporated

herein by this reference, as an appurtenance to, and for the benefit of, said real property and all future divisions thereof, a nonexclusive easement for purposes of ingress and egress over and across any or all driveways, walkways and/or streets of the Covered Property, if any.

(c) Construction and Sales. There are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including Declarant's sales agents, representatives and assigns, over the Covered Property as the same may from time to time exist, easements and rights for construction, display (including the use of Units as models), maintenance, sales and exhibit purposes (including the use of signs and other advertising devices) in connection with the erection and sale or lease of Condominiums within the Covered Property; provided, however, that such easements and rights shall terminate when all initial sales of Condominiums within the Covered Property to purchasers other than a Declarant as herein defined have closed.

Section 4 - Certain Easements for Owners.

(a) Rights and Duties; Utilities and Television.

Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone and television lines or drainage facilities are installed within the Covered Property, the Owners of Condominiums the Units of which are served by said connections, lines or facilities shall have the right, and there are hereby reserved to Declarant and all other Owners, together with the right to grant and transfer the same, easements and rights to the full extent necessary for the full use and enjoyment of such portion of such connections, lines or facilities which service the Unit of each Condominium owned, and to enter Units of Condominiums owned by others, or to have utility companies enter Units of Condominiums owned by others, in or upon which said connections, lines or facilities, or any portions thereof, lie, to

repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary, provided that such entering Owner or utility company shall promptly repair all damage to any Unit caused by such entry as promptly as possible after completion of work thereon.

(b) Ingress, Egress and Recreational Rights. There are hereby reserved to Declarant and to all other Owners, together with the right to grant and transfer the same, easements and rights for ingress, egress, use, enjoyment and general recreational purposes over and upon all Common Area of all Projects other than portions thereof subject to exclusive appurtenant easements, if any. Such easements and rights shall be subject to the rights of the Association as set forth in the Article hereof entitled "Rights of Enjoyment."

Section 5 - Certain Easements for Association.

(a) Association Rights. There are hereby reserved to the Association easements and rights over the Covered Property for the purpose of permitting the Association to discharge its obligations as described in this Declaration.

(b) Rights and Duties; Utilities and Television. Whenever sanitary sewer house connections, water house connections, electricity, gas, telephone and television lines or drainage facilities are installed within the Covered Property, and said connections, lines or facilities serve the Common Area facilities, the Association shall have the right, and there are hereby reserved to the Association, together with the right to grant and transfer the same, easements and rights to the full extent necessary for the full use and enjoyment of such portion of such connections, lines or facilities which service the Common Area facilities, and to enter upon all portions of the Covered Property, or to have utility companies enter upon all portions of the Covered Property, including Units of Condominiums, in or upon which said connections, lines or facilities, or any portions

thereof, lie, to repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary, provided the Association or utility company shall promptly repair all damage, including damage to any Unit, caused by such entry as promptly as possible after completion of work thereon.

Section 6 - Support, Settlement and Encroachment. There are hereby reserved to Declarant and all other Owners, together with the right to grant and transfer the same, the following reciprocal rights and easements for the purposes set forth below:

(a) A right and easement appurtenant to each Unit of a Condominium which is contiguous to another Unit of a Condominium or which is contiguous to the Common Area which Unit of a Condominium shall be the dominant tenement and which contiguous Unit of a Condominium or Common Area shall be the servient tenement.

(b) A right and easement appurtenant to the Common Area contiguous to the Unit of a Condominium which Common Area shall be the dominant tenement and which contiguous Unit of a Condominium shall be the servient tenement.

(c) It is provided, however, that in the event the Common Area is the dominant tenement in a right and easement described in this Section, the Association shall have said rights and easements rather than Declarant and the Owners, and said rights and easements are hereby reserved to the Association, together with the right to grant and transfer the same.

(d) Said rights and easements shall be for the purposes of:

(i) support and accommodation of the natural settlement of structures; ;

(ii) encroachments by reason of roof or eave overhangs and for the maintenance of such roof or eave overhangs; and

(iii) encroachments of other portions of structures resulting from any cause, including the construction of the structures upon the dominant tenement and the reconstruction or modification of such structures, and for the maintenance of such encroachments.

Section 7 - Cable Television. In connection with the furnishing of any cable television service to the Covered Project by or through Declarant, neither Declarant nor any person or entity affiliated with Declarant, shall receive any markup or profit therefrom. The foregoing notwithstanding, nothing herein or elsewhere in this Declaration shall require installation of a cable antenna television system within the Covered Property or that Declarant furnish or cause to be furnished cable television service to the Covered Property.

ARTICLE XIV

INTEGRATED NATURE OF THE COVERED PROPERTY

The real property described in Exhibit "C" (hereinafter in this Article referred to as the "Annexation Property") and/or any other real property may be annexed to and become subject to this Declaration by any of the methods set forth hereinafter in this Article, as follows:

Section 1 - Development of the Covered Property.

Declarant intends to sequentially develop the Annexation Property on a phased basis; however, Declarant may elect not to develop all or any part of the Annexation Property, to annex all or any part of the Annexation Property to this Declaration in increments of any size whatsoever or to develop more than one such increment at any given time and in any given order. Moreover, Declarant reserves the right to subject all or any portion of the Annexation Property to the plan of this Declaration or one or more separate declarations of covenants, conditions and restrictions which subjects said property to the jurisdiction and powers of a homeowners association or other entity with powers and obligations similar to the Association and which is not subject to the provisions of this Declaration. Although Declarant shall have the ability to annex the Annexation Property as provided in this Article, Declarant shall not be obligated to annex all or any portion of the Annexation Property, and no portion of the Annexation Property shall become subject to this Declaration unless and until a Supplementary Declaration describing same shall have been executed and recorded.

Section 2 - Supplementary Declarations. A Supplementary Declaration shall be a writing in recordable form recorded in the office of the County Recorder of said County which annexes real property to the plan of this Declaration and which incorporates into it by reference all of the covenants, conditions, restrictions, easements and other provisions of this Declaration

and which contains such other provisions as are set forth in this Declaration relating to Supplementary Declarations. Such Supplementary Declarations contemplated above may contain such complementary additions and modifications of the covenants, conditions, restrictions and easements contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplementary Declaration, or any merger or consolidation, revoke, modify or add to the covenants established by this Declaration with respect to the existing Covered Property.

Section 3 - Annexation Without Approval and Pursuant to General Plan. All or any part of the Annexation Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that a Supplementary Declaration covering the portion of the Annexation Property to be annexed shall be executed and recorded by Declarant; provided, however, that the portion of the Annexation Property to be annexed is to be developed substantially in accordance with a broad general plan described in an application for, or forming part of a filing for, a Subdivision Public Report previously submitted to the California Department of Real Estate, and provided, further, that no Supplementary Declaration shall be so executed and recorded pursuant to this Section (i) more than three (3) years subsequent to the original issuance of a Final Subdivision Public Report covering the initial Covered Property, or (ii) more than three (3) years subsequent to the original issuance of the then latest Final Subdivision Public Report covering an annexed area, whichever of (i) or (ii) shall have later occurred.

Section 4 - Annexation Pursuant to Approval. Upon approval in writing of the Association, pursuant to approval by two-thirds (2/3) of the voting power of the Association residing in Members other than Declarant, any person who is the record owner of real property other than the Annexation Property, who desires to add such property to the plan of this Declaration and to subject such property to the jurisdiction of the Association may execute and record a Supplementary Declaration. The provisions of this Section shall also apply to the Annexation Property subsequent to the expiration of the power of Declarant to annex such property in accordance with the Section entitled "Annexation Without Approval and Pursuant to General Plan" of this Article.

Section 5 - Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, which merger or consolidation must be approved by one hundred percent (100%) of the voting power of the Association, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may, by operation of law, be transferred to the properties, rights and obligations of the Association as the surviving or consolidated association may administer the covenants, conditions, restrictions and easements established by this Declaration with respect to the Covered Property, together with any covenants, conditions, restrictions and easements applicable to any other property as one plan.

Section 6 - When Annexation Becomes Effective. The recordation of a Supplementary Declaration shall constitute and effectuate the annexation of the real property described therein making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and

thereafter said annexed real property shall be part of the Covered Property and all of the Owners of Condominiums in said annexed real property shall automatically be Members; provided, however, (i) Assessments shall not commence as to said annexed real property until the first day of the month following the conveyance of a Condominium within said annexed real property to an Individual Owner, and (ii) "use rights" and voting rights shall not commence as to said annexed real property until the date of the conveyance of a Condominium within said annexed real property to an Individual Owner. For purposes hereof, "use rights" refer both to use by Owners and occupants of said annexed real property of other portions of the Covered Property, and use by Owners and occupants of other portions of the Covered Property of said annexed real property.

Section 7 - Presumption as to Certain Annexation Requirements. Issuance by the California Department of Real Estate of a Final Subdivision Public Report covering real property annexed pursuant to the Section entitled "Annexation Without Approval and Pursuant to General Plan" of this Article shall operate as a conclusive presumption that all requirements, including those set forth in said Section, regarding such annexation have been validly met.

Section 8 - Payment of Additional Reserves. If at the time the first Condominium located within the real property annexed by a Supplementary Declaration is conveyed to an Individual Owner (the "initial conveyance date") any residential dwelling unit located within said annexed real property was rented more than one (1) year prior to the initial conveyance date, then and in that event Declarant agrees to pay to the Association an amount equal to the product of (i) twelve (12) times (ii) the monthly per Unit reserve amount applicable to reserves for maintenance, repair and replacements of improvements specified in the Association's budget in effect at the time of the initial

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conveyance date times (iii) the number of Condominiums within said annexed real property. If Declarant fails or refuses to pay such amount to the Association within thirty (30) days after the initial conveyance date, the Association shall be entitled to collect said amount from Declarant by either proceedings at law or by Special Assessments levied in equal amounts against each Condominium then owned by Declarant within the Covered Property and subject to Assessment by the Association.

ARTICLE XV

RIGHTS OF LENDERS

Section 1 - Filing Notices; Notices and Approvals. A Mortgagee or its Mortgage servicing contractor, or any insurer or guarantor of a Mortgage, shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees, servicing contractors, insurers or guarantors unless and until such Mortgagee or its Mortgage servicing contractor, or the insurer or guarantor of such Mortgage, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Condominium within the Covered Property and further stating (i) the legal description of such Condominium or the address of its Unit, and (ii) the name and address of the Mortgagee, Mortgage servicing contractor, insurer and guarantor of such Mortgage making such request. Such notice shall also state whether such Mortgagee is a First Mortgagee. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration or its Mortgage servicing contractor, or its insurer or guarantor, is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section a Mortgagee or its Mortgage servicing contractor, or its insurer or guarantor, must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder, shall not be affected by the failure to deliver a notice or request to the Board. Any notice or request delivered to the Board by a Mortgagee or its Mortgage servicing contractor, or its insurer or guarantor, shall remain effective without any further action by such Mortgagee or its Mortgage servicing

contractor, or its insurer or guarantor, for so long as the facts set forth in such notice or request remain unchanged.

Section 2 - Priority of Mortgage Lien. Except as to nonpayment of Assessments which shall be governed by the Section of this Article entitled "Relationship with Assessment Liens," no breach of any of the covenants, conditions, restrictions or easements herein contained shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Condominium, but all of said covenants, conditions, restrictions and easements shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Condominium.

Section 3 - Curing Defaults. A Mortgagee who acquires title by judicial foreclosure or trustee's sale, or the immediate transferee of such Mortgagee, shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is noncurable or not practical or feasible to cure shall be final and binding on all Mortgagees.

Section 4 - Resale. It is intended that the Mortgagee under a Mortgage securing a loan to facilitate the resale of any Condominium after judicial foreclosure or trustee's sale is a Mortgagee under a Mortgage securing a loan made in good faith and for value and is entitled to all of the rights and protections afforded to other Mortgagees.

Section 5 - Relationship with Assessment Liens.

(a) The lien provided for in the Article hereof entitled "Nonpayment of Assessments" for the payment of Assessments shall be subordinate to the lien of any First Mortgage which was recorded prior to the date any such Assessment becomes due.

ARTICLE XVI

LIMITATIONS UPON THE RIGHT TO PARTITION AND SEVERANCE

Section 1 - No Partition. The right to partition is hereby suspended, except that the right to partition shall revive and a Project may be sold as a whole when the conditions for such action set forth in the Articles hereof entitled "Destruction of Improvements" and "Eminent Domain" have been met; provided, however, notwithstanding the foregoing, any Owner may bring an action for partition by sale of the Project in which his Condominium is located as provided in Section 1354 of the California Civil Code, or any similar statute then in effect, upon the occurrence of any of the events therein provided.

Section 2 - No Severance. The elements of a Condominium and other rights appurtenant to the ownership of a Condominium, including exclusive easements over Common Area, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration or any similar declaration is in effect, make any conveyance of less than an entire Condominium and such appurtenances. Any conveyance made in contravention of this Section shall be void. The provisions of this Section shall terminate on the date that judicial partition shall be decreed as to the Project of which condominium is a part. The foregoing notwithstanding, exclusive easements appurtenant to the ownership of a Condominium may be severed therefrom by the Owner thereof with the written approval of (i) a majority of the members of the Board and (ii) the First Mortgagee of any First Mortgage encumbering such Condominium.

Section 3 - Proceeds of Partition Sale.

(a) Whenever an action is brought for the partition by sale of a Project, whether upon the occurrence of any of the events provided in Section 1354 of the California Civil Code or any similar statute then in effect or upon the revival of the right to partition pursuant to the Articles hereof entitled

by the Board. In the event that such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 4 - Reimbursement by Certain Owners. In the event that it shall be proven in a court of law of competent jurisdiction over the claim or claims causing the Association to take action under this Article that a judgment resulting in a lien on all or a portion of a Project was primarily due to the acts or omissions of a particular Member or Members or the families or invitees thereof, such Member or Members shall reimburse the Association for all expenses incurred by it pursuant to the provisions of this Article. Upon such reimbursement, the Association shall distribute the funds received to the Members against whom Special Assessments were levied pursuant to the provisions of this Article. In the event such Member or Members fails to make such reimbursement, the Association shall levy a Special Assessment against such Member or Members equal to such Member's pro rata share of such expenses as determined by the Board. In the event that such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

ARTICLE XVII

PROTECTION OF THE PROJECT FROM LIENSSection 1 - Association to Defend Certain Actions.

In the event that a lawsuit is brought against all or substantially all of the Members within a Project which will or could result in any lien or encumbrance being levied against an entire Project, the Association shall defend such lawsuit and the costs of such defense shall be a Special Assessment against all of the Members within such Project; provided, however, in the event an insurance carrier is obligated to provide such defense under a policy of insurance carried by the Association, the Association shall be relieved of the obligation to provide such defense. Nothing contained herein shall in any way limit the rights of any Member or Members to retain counsel of their choice to represent them in such lawsuit at their own expense. In the event that a Member chooses to retain counsel, he shall not be relieved of liability for the Special Assessment provided for in this Section.

Section 2 - Payment of Lien. In the event that a lien or encumbrance not covered by Section 1357 of the California Civil Code or any similar statute then in effect attaches to all or substantially all of a Project by reason of a judgment or otherwise, the Association shall promptly take the appropriate steps to remove such lien, including but not limited to the payment of money and the posting of a bond. The Association shall have the power to borrow money and to take such other steps as are necessary to free a Project from such liens.

Section 3 - Owners to be Specially Assessed.

Simultaneously with any action taken pursuant to the Section entitled "Payment of Lien" of this Article, the Association shall levy a Special Assessment against all of the Members whose Condominiums were subject to the lien or encumbrance which caused the Association to act pursuant to said Section equal to each such Member's pro rata share of such lien or encumbrance as determined

"Destruction of Improvements" or "Eminent Domain," the Owners of Condominiums in such Project shall share in the proceeds of such sale in proportion to the relative value of each Condominium as determined by an MAI appraisal obtained by the Board, made as of a time prior to any destruction or taking, if applicable, and paid for out of such proceeds. In this connection, each Owner hereby expressly waives any requirement of law which might be construed as requiring that such proceeds be shared in a different manner, including Section 1354 of the California Civil Code or any similar statute then in effect.

(b) The distribution of the proceeds of any such partition sale shall be adjusted as necessary to reflect any prior distribution of insurance proceeds or condemnation award as may have been made to Owners and their Mortgagees pursuant to the Articles hereof entitled "Destruction of Improvements" and "Eminent Domain." In the event of any such partition and sale, the liens and provisions of all Mortgages or Assessment liens encumbering Condominiums shall extend to each applicable Owner's interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment of any Mortgage and Assessment liens encumbering such proceeds as aforesaid.

Section 4 - Power of Attorney. There is hereby granted to the Association an irrevocable power of attorney to sell a Project pursuant to Section 1355(b)(9) of the California Civil Code or any similar statute then in effect for the benefit of all Owners therein when partition of such Project may be had.

Section 5 - Partition of a Condominium. No Condominium, including the Unit thereof, may be partitioned or subdivided without the prior written approval of the First Mortgagee of the First Mortgage encumbering such Condominium.

set forth in this Declaration.

(e) Nothing in this Section shall be construed as releasing any Owner from his personal obligations to pay for any Assessment levied pursuant to this Declaration.

Section 6 - Seventy-Five Percent (75%) Vote of First Mortgagees. Except upon the prior written approval of at least seventy-five percent (75%) of First Mortgagees, based on one (1) vote for each First Mortgage held, neither the Association nor the Members shall be entitled by action or inaction to do any of the following:

(a) Abandon or terminate by any act or omission the condominium legal status of the Covered Property, or any part thereof;

(b) Materially amend any provision of this Declaration, the Articles or the Bylaws which establish, provide for, govern or regulate any of the following:

(i) Voting;

(ii) Assessments, Assessment liens, or the subordination of such liens;

(iii) Reserves as the same are described in this Declaration;

(iv) Insurance or fidelity bonds;

(v) Rights to use the Common Area;

(vi) Annexation;

(vii) Leasing of Condominiums;

(viii) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey or lease his Condominium; and

(ix) Any provisions which are for the express benefit of Mortgagees, Mortgage servicing contractors or insurers or guarantors of Mortgages.

(c) Abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common

(b) If any Condominium subject to a monetary lien created by any provisions hereof shall be subject to the lien of a First Mortgage: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such First Mortgage; and (ii) the foreclosure of the lien of said First Mortgage or the sale under a power of sale included in such First Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure. For purposes hereof, the term "Events of Foreclosure" specifically does not include a deed or assignment in lieu of foreclosure.

(c) Without limiting the provisions of Subsection (b) of this Section, any First Mortgagee who obtains title to a Condominium by reason of any of the Events of Foreclosure, or any purchaser at a trustee's or judicial foreclosure sale of a First Mortgage, shall take title to such Condominium free of any lien or claim for unpaid Assessments against such Condominium which accrued prior to the time such Mortgagee or purchaser takes title to such Condominium, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Condominiums within the Covered Property.

(d) The judicial foreclosure of any Mortgage encumbering a Condominium junior to a First Mortgage, or the sale by trustee's sale pursuant to a power of sale contained in any Mortgage encumbering a Condominium junior to a First Mortgage, shall not operate to affect or impair any lien created by anything

- (a) To inspect the books and records of the Association during normal business hours;
- (b) To receive within a reasonable time after making such request free of charge any annual audited financial statement of the Association for its immediately preceding fiscal year (however, if the number of Condominiums within the Covered Property is less than fifty (50), the parties requesting such audited financial statement shall pay for its preparation unless the same is otherwise available);
- (c) To receive written notice of all annual and special meetings of the Members or of the Board, and First Mortgagees and their Mortgage servicing contractors, and insurers and guarantors of First Mortgages, shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give First Mortgagees and their Mortgage servicing contractors, and insurers and guarantors of First Mortgages, the right to call a meeting of the Board or of the Members for any purpose or to vote at any such meeting;
- (d) To receive written notification from the Association of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (e) To receive written notification of any proposed action pursuant to the Section entitled "Seventy-Five Percent (75%) Vote of First Mortgagees" of this Article entitled "Rights of Lenders"; and
- (f) To receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration, the Articles, Bylaws or Association Rules, including nonpayment of Assessments, by the Owner whose

Area; provided, however, the granting of permits, licenses and easements affecting the Common Area for utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval;

(d) Partition or subdivide a Unit or any elements thereof (such action also requires the prior written approval of the First Mortgagee of the First Mortgage encumbering the Condominium of which such Unit forms a part);

(e) Change the manner in which Assessments other than Special Assessments are determined and levied as set forth in this Declaration;

(f) Change the manner in which condemnation awards and insurance proceeds are allocated and distributed as set forth in this Declaration;

(g) Change the ownership interest of the respective Condominiums as provided in the Section entitled "Condominium" of the Article hereof entitled "Definitions";

(h) Dissolve the Association or abandon or terminate the maintenance of the Common Area as set forth in this Declaration by the Association;

(i) Cause any portion of the Covered Property to be restored or repaired after a partial condemnation or destruction due to an insurable hazard unless such restoration or repair is performed substantially in accordance with the original plans and specifications therefor and all other applicable provisions of this Declaration; and

(j) Terminate professional management of the Covered Property and assume self-management thereof.

Section 7 - Other Rights of First Mortgagees, Servicing Contractors, Insurers and Guarantors. Any First Mortgagee or its Mortgage servicing contractor, and any insurer or guarantor of a First Mortgage, shall, upon written request to the Association, be entitled:

Condominium is encumbered by a First Mortgage which it holds, services, insures or guarantees, which default has not been cured within sixty (60) days; provided, however, the Association shall only be obligated to provide such notice to First Mortgagees and their Mortgage servicing contractors, and insurers and guarantors of First Mortgages, who have delivered a written request therefor to the Association specifying the Condominium or Condominiums to which such request relates.

Section 8 - Mortgagees, Servicing Contractors, Insurers and Guarantors Furnishing Information. Mortgagees and their Mortgage servicing contractors, and insurers and guarantors of Mortgages, are hereby authorized to furnish information to the Board concerning the status of any Mortgage.

Section 9 - Right of First Refusal. In the event this Declaration, or the Articles, Bylaws or Association Rules, is amended to provide for any right of first refusal to purchase or lease a Condominium, a Mortgagee who obtains title to a Condominium pursuant to a judicial foreclosure or trustee's sale shall be exempt therefrom. In addition, conveyances to and from third party foreclosure purchasers and Mortgage insurers and guarantors shall also be exempt therefrom. In this regard, no such right of first refusal shall impair the rights of a Mortgagee to:

- (a) foreclose or take title to a Condominium pursuant to the remedies provided in the Mortgage;
- (b) accept a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor; or
- (c) sell or lease a Condominium so acquired by the Mortgagee.

Section 10 - Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control; provided, however, this Declaration and any Supplementary Declaration may be amended or revoked as provided

under Subsections (a) and (b) of the Section entitled "Amendments" of the Article hereof entitled "General Provisions" without the consent of any Mortgagee as therein provided.

Section 11 - Notice of Destruction or Taking. In the event any Condominium, Common Area and any improvements thereto or any portion thereof is damaged or is made the subject of any condemnation proceedings or is otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any First Mortgagee and its Mortgage servicing contractor and any insurer or guarantor of such First Mortgage affected by such destruction, taking or threatened taking. As used herein, "damaged" or "taking" shall mean damage to or taking of the Common Area exceeding Ten Thousand Dollars (\$10,000.00) or damage to or taking of a Unit of a Condominium exceeding One Thousand Dollars (\$1,000.00). If requested in writing by a First Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Mortgagee. Absent such request, the obligations under this Section shall be deemed an agreement between the Association and such First Mortgagee.

Section 12 - Payment of Taxes or Premiums by First Mortgagees. First Mortgagees may, jointly or singly, (i) pay taxes or other charges which are in default and which may or have become a charge against the Common Area (unless such taxes or charges are separately assessed against the Owners, in which case the rights of First Mortgagees shall be governed by the provisions of their respective Mortgages) and (ii) pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. If requested in writing by a First Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Mortgagee. Absent such request, the obligations under this Section shall be deemed an

agreement between the Association and such First Mortgagee.

Section 13 - Management Agreement. Any agreement for management of the Covered Property or any other agreement providing for services of Declarant or any affiliate of Declarant shall be in writing and shall provide for termination by either party thereto without cause or payment of a termination fee on not more than thirty (30) days written notice, and the term of such agreement shall not exceed one (1) year, renewable by written agreement of the parties for successive periods of one (1) year.

Section 14 - Reserves. Reserves comprising a portion of the Common Expenses shall not be eliminated without the consent of all First Mortgagees.

Section 15 - Ingress and Egress to Units. There may be no restriction upon the right of ingress and egress by any Owner or occupant to his Unit.

ARTICLE XVIII**GENERAL PROVISIONS**

Section 1 - Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, easements and other provisions now or hereafter imposed by this Declaration, or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or easements and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles and Bylaws and any amendments thereto and the Association Rules. The foregoing notwithstanding, with respect to architectural control, and Assessment liens or any other liens or charges, the Architectural Committee and the Association, respectively, shall have the exclusive right to the enforcement thereof.

Section 2 - No Waiver. Failure by the Association or by any Owner to enforce any covenant, condition, restriction, easement or provision herein contained, or contained in the Articles, Bylaws or Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement thereafter as the same or any other covenant, condition, restriction, easement or provision.

Section 3 - Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or the Mortgagees under this Declaration are cumulative, and not one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

Section 4 - Severability. Invalidation of any one or a

portion of the covenants, conditions, restrictions, easements or provisions set forth in this Declaration or in the Articles, Bylaws or Association Rules by judgment or court order shall in no way affect any other covenants, conditions, easements or provisions contained herein or therein which shall remain in full force and effect.

Section 5 - Covenants to Run with the Land; Term.

Subject to the provisions of the Section entitled "Amendments" of this Article which permit amendments and revocations under certain limited circumstances, the covenants, conditions, restrictions, easements and other provisions of this Declaration shall run with and bind the Covered Property as equitable servitudes and also as covenants running with the land pursuant to Section 1468 of the California Civil Code or any similar statute then in effect and shall inure to the benefit of and be enforceable as above provided by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fiftynine (59) years from the date this Declaration is recorded, after which time said covenants, conditions, restrictions, easements and other provisions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by Owners of a majority of Condominiums within the Covered Property and seventy-five percent (75%) of the First Mortgagees, based on one (1) vote for each First Mortgage held, has been recorded within one (1) year prior to the end of any such period, agreeing to revoke said covenants, conditions, restrictions, easements and other provisions in whole or in part.

Section 6 - Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential Condominium community and for the maintenance of the Covered Property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in

resolving questions of interpretation or construction.

Section 7 - Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

Section 8 - Nuisance. The result of every act or omission whereby any provision, condition, covenant, restriction, easement or other provision contained in this Declaration or any provision contained in the Articles, Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

Section 9 - Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Articles, Bylaws or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of suit.

Section 10 - Notices. Any notice to be given to an Owner or to a Mortgagee or Mortgage servicing contractor or insurer or guarantor of a Mortgage under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Board for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of the Unit of such Owner's Condominium. Any notice so deposited in the mail within

said County shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.

(b) Notice to a Mortgagee or to its Mortgage servicing contractor or to any insurer or guarantor of its Mortgage shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Mortgagee or such contractor or such insurer or guarantor in writing to the Board for the purposes of notice or, if no such address shall have been furnished, to any office of the Mortgagee in said County, or if no such office is located in said County, to any office of such Mortgagee. Any notice so deposited in the mail within said County shall be deemed delivered forty-eight (48) hours after such deposit.

(c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, to any Mortgagee or Mortgagees, to any Mortgage servicing contractor or contractors, to any insurer or insurers of a Mortgage, to any guarantor or guarantors of a Mortgage, or to all Owners or all Mortgagees or all Mortgage servicing contractors or all insurers of Mortgages or all guarantors of Mortgages, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

Section 11 - Declarant's Exemptions. Declarant shall not be subject to the provisions of the Article entitled "Architectural Control" or the provisions of the Article entitled "Use Restrictions" to the extent necessary to enable Declarant to engage in all forms of sales and construction activities within the Covered Property and within the real property described in Exhibit "C" hereto pursuant to the Section of this Article

entitled "Construction by Declarant."

Section 12 - Effect of Declaration. This Declaration is made for the purposes set forth in the recitals to this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the Articles, Bylaws or Association Rules is determined to be unenforceable in whole or in part or under certain circumstances.

Section 13 - Personal Covenant. To the extent the acceptance of a conveyance of a Condominium creates a personal covenant between the Owner of such Condominium and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except as to the payment of monies to the Association which came due during the period of such ownership.

Section 14 - Nonliability of Officials. To the fullest extent permitted by law, neither the Board, any committees of the Association, nor member of such Board or committee nor any officer of the Association shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of his or their duties.

Section 15 - Enforcement of Bonded Obligations. In the event that the improvements to the Common Area within the initial Covered Property or any annexed area have not been fully completed prior to the conveyance of the first Condominium therein to an Individual Owner and the Association is obligee under a bond or

other arrangement (hereinafter the "Bond") to secure completion of such improvements, the following provisions shall apply:

(a) 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 improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvements, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, a special meeting of the Members shall be called for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the Bylaws dealing with meetings of the Members, but in any event such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting of Members shall be the Owners other than Declarant. A vote at such meeting of a majority of the voting power of such Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

Section 16 - Leases.

(a) Any agreement for the leasing or rental of a Condominium (hereinafter in this Section referred to as a "lease") shall be in writing and shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Association Rules and that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease.

(b) Within fifteen (15) days after leasing his Condominium, an Owner shall furnish the Board (i) with a copy of such lease, (ii) with written advice as to the make, color and license number of all motor vehicles owned by such lessee, and (iii) with a check in an amount determined by the Board in order to reimburse it for duplicating and distributing to such lessee copies of this Declaration, the Articles, the Bylaws and the Association Rules; and as soon as practicable after receiving such notification that an Owner has leased his Condominium, the Board shall cause copies of the foregoing documents to be delivered to such lessee. Failure by an Owner to comply with the foregoing shall be deemed a default hereunder by such Owner entitling the Board to levy a fine against such Owner in an amount determined by the Board but in no event less than One Hundred Dollars (\$100.00). In the event such fine is not paid within ten (10) days after receipt by such Owner of a written demand for payment, the Board shall be entitled to levy a Special Assessment against such Owner and his Condominium therefor. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof including those set forth in the Article, hereof entitled "Nonpayment of Assessments."

(c) Any Owner who shall lease his Condominium shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, the Bylaws and the Association

Rules. Failure by an Owner to take legal action, including the institution of proceedings in Unlawful Detainer against his lessee who is in violation of this Declaration, the Articles, the Bylaws or the Association Rules within ten (10) days after receipt of written demand so to do from the Board, shall entitle the Association, through the Board, to take any and all such action, including the institution of proceedings in Unlawful Detainer on behalf of such Owner against his lessee. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor shall entitle the Board to levy a Special Assessment against such Owner and his Condominium for all such expenses incurred by the Association. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof including those set forth in the Article hereof entitled "Nonpayment of Assessments."

(d) No Owner may lease less than the entire Unit of his Condominium. In addition, no Condominium shall be leased for transient or hotel purposes, which shall be defined as rental for any period of less than thirty (30) days or any rental whatsoever if the occupants thereof are provided with customary hotel services such as room service for food and beverages, maid services, the furnishing of laundry and linen, or bellboy service; provided, however, the foregoing shall not apply to the First Mortgagee under a First Mortgage encumbering a Condominium in possession following a default in such First Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure.

Section 17 - Construction by Declarant. Nothing in this Declaration shall limit the right of Declarant to alter the Common Area or the Units, or to construct such additional improvements as

Declarant deems advisable prior to completion of all improvements upon and sale of the Covered Property and the property described in Exhibit "C" hereto. Such right shall include but shall not be limited to the use of Units as models, maintaining sales and construction trailers and temporary structures, erecting, constructing and maintaining on the Covered Property such structures and displays, including signs and other advertising devices, as may be reasonably necessary for the conduct of the business of completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time to establish on the Covered Property additional licenses, easements, reservations and rights-of-way to itself, to utility companies or to others as may from time to time be reasonably necessary for the proper development and disposal of the Covered Property and the real property described in Exhibit "C" hereto. Declarant reserves the right to alter its construction plans and designs as it deems appropriate. The rights of Declarant hereunder may be assigned to any successor or successors to all or part of Declarant's respective interest in the Covered Property by an express assignment incorporated in a recorded instrument. Declarant (i) shall exercise its rights contained in this Section in such a way as not to unreasonably interfere with the Members' rights to use and enjoy the Covered Property, and (ii) shall be obligated to notify the California Department of Real Estate in writing of any alterations or changes made pursuant to this Section which would constitute a material "change in setup" as contemplated by Section 11012 of the California Business and Professions Code or any similar statute then in effect and, if required by said Department, to obtain an amended Final Subdivision Public Report for all or a portion of the Covered Property.

Section 18 - Unsegregated Real Property Taxes. Until such time as real property taxes have been segregated by the

County Assessor of said County for a Project, same shall be paid by the respective Owners of Condominiums therein. In connection with such payment, the proportionate share of such tax or installment thereof for a particular Condominium in such Project shall be determined by multiplying the tax or installment in question by the respective interest of such Condominium in the Common Area of such Project. The Association may levy a Special Assessment against any Owner who fails to pay his share of any real property taxes pursuant to this Section. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 19 - Use of Funds Collected by the Association.

All funds collected by the Association, including Assessments and contributions to the Association paid by Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for not-for-profit purposes of the Association in managing, maintaining, caring for, preserving and architecturally controlling the Covered Property and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Member (other than as a result of the Association managing, maintaining, caring for, preserving and architecturally controlling the Covered Property and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration). Contributions to the Association paid by Owners, if any, shall be maintained in a segregated account.

Section 20 - Conflicting Provisions. In the case of any conflict between this Declaration and the Articles or the Bylaws, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control.

Section 21 - Amendments. Subject to the provisions of Section 11018.7 of the California Business and Professions Code or

any similar statute then in effect and subject to other provisions of this Declaration, including, without limitation, the rights of Mortgagees pursuant to the Articles hereof entitled "Insurance" and "Rights of Lenders," or otherwise, this Declaration and any Supplementary Declaration may be revoked or amended as follows:

(a) Prior to the conveyance of the first Condominium in the initial Covered Property to an Individual Owner, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking same. Notice of such amendment or revocation shall be mailed to the California Department of Real Estate.

(b) Prior to the conveyance of the first Condominium in any annexed area to an Individual Owner, any Supplementary Declaration and any amendments thereto may be amended or revoked by the execution by the then record owner of the real property covered by such Supplementary Declaration of an instrument amending or revoking same. Notice of such amendment or revocation shall be mailed to the California Department of Real Estate.

(c) Subsequent to the conveyance of the first Condominium in the initial Covered Property to an Individual Owner, this Declaration and any Supplementary Declaration covering an annexed area in which a conveyance of a Condominium to an Individual Owner has been made, and any amendments to any of said instruments, may be amended by affirmative written assent or vote by any group of Members entitled to vote not less than seventy-five percent (75%) of the total voting power, which group shall, in any event, include Members excluding Declarant entitled to vote not less than seventy-five percent (75%) of the total voting power held by all Members excluding Declarant; provided, however, if approval of such amendment is sought at any time when two classes of membership are still in effect, then, and in that event, this Declaration and any Supplementary Declaration covering

an annexed area in which a conveyance of a Condominium to an Individual Owner has been made, and any amendments to any of said instruments, shall instead be amended by affirmative written assent or vote only by Members entitled to vote not less than seventy-five percent (75%) of the voting power of each class of membership.

(d) An amendment or revocation which only requires the execution of an instrument by Declarant or by a record owner as hereinabove provided shall be effective when executed by Declarant or such record owner and when recorded in the Office of the County Recorder of said County. An amendment which requires the affirmative written assent or vote of the Members as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved, and when the amendment has been recorded in the Office of the County Recorder of said County.

(e) Notwithstanding the foregoing, any provision of this Declaration, the Bylaws or Association Rules which expressly requires the approval of a specified percentage or specified percentages of the voting power of the Association or First Mortgagees for action to be taken under said provision can be amended only with the affirmative written assent or vote of not less than the same percentage or percentages of the voting power of the Association and/or First Mortgagees. Any amendment subject to this provision shall be effective after the specified approval has been given and that fact has been certified in a writing executed by the President and the Secretary of the Association, and when the said writing has been (i) recorded in the Office of the County Recorder of said County, when such amendment is of this Declaration or a Supplementary Declaration, (ii) properly annotated in accordance with the Section entitled "Record of Amendments" of that Article entitled "Amendments" of the Bylaws, and entered upon the corporate records, when such amendment is of

the Bylaws, or (iii) delivered to each Owner and entered in the records of the Association that are kept for inspection at its principal office in accordance with the provisions of the Section entitled "Association Rules" of the Article entitled "Duties and Powers of the Association" of this Declaration, when such amendment is of the Association Rules, whichever of (i), (ii) and/or (iii) may be applicable at the time.

(f) The provisions of Subsection (e) of this Section shall not apply to amendments and revocations pursuant to Subsections (a) and (b) of this Section.

(g) If applicable, all amendments and revocations pursuant to this Section shall comply with the requirements of Section 11018.7 of the California Business and Professions Code or any similar statute then in effect.

Section 22 - Privately Maintained Streets. Any streets serving or within the Covered Property which are not dedicated streets are not to be considered private, but may be used by the general public at large and, in particular, may be used by owners and occupants of the real property described in Exhibit "D" hereto subject to reasonable regulation of such use by the Association which reasonable regulation shall also be applicable to Owners and occupants of the Covered Property, and each Owner, in accepting delivery of the deed to his Condominium, shall be deemed to have consented thereto.

IN WITNESS WHEREOF, Declarant has executed this instrument as of this 15th day of March, 1984.

BEACHWALK,
a limited partnership

By: Raznick & Sons, Inc.,
a corporation, General Partner

By Wayne Colmer
Executive Vice President

State of California }ss
County of Los Angeles}

On this 15th day of March, 1984, personally appeared before me, a Notary Public in and for said State, Wayne Colmer, known to me to be the Executive Vice President of Raznick & Sons, Inc., a corporation, which corporation is known to me to be the general partner of BEACHWALK, a limited partnership, and acknowledged to me that he executed the same on behalf of such corporation, that such corporation executed the same as general partner of such limited partnership, and that such limited partnership executed the same.

Patricia A. Gross

NOTARY PUBLIC



84-17273

EXHIBIT "A"

Lot 1 of Tract No. 25090, Unit 1, in the City of
Carpinteria, County of Santa Barbara, State of California, as per
map recorded in Book 123, pages 67 and 68 of Maps, in the office
of the County Recorder of said County.

EXHIBIT "B"

1. The real property described in Exhibit "A" hereto is hereby designated a "Project" and comprises the initial Covered Property.

2. Declarant proposes to improve said real property by causing to be constructed thereon thirty-six (36) dwelling units and related improvements.

3. The respective undivided fractional interest in the Common Area of the Project comprised of the real property described in Exhibit "A" hereto to be conveyed with each Unit therein is a 1/36 interest therein.

84-17273

EXHIBIT "C"

Lot 1 of Tract No. 25090, Unit 2, in the City of
Carpinteria, County of Santa Barbara, State of California, as per
map recorded in Book 123, pages 69 and 70 of Maps, in the office
of the County Recorder of said County.

