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DECLARATION

OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

COVENTRY SQUARE



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**DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
COVENTRY SQUARE**

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**DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
COVENTRY SQUARE**

THIS DECLARATION is made on the date hereinafter set forth by Capital Salvage, a California Corporation (herein referred to as "Declarant").

**SECTION 1: RECITALS**

1.01. Description of Real Property. Declarant is the owner of that certain real property in Sacramento County, California, which is more particularly described on Exhibit "A" attached hereto and incorporated herein.

1.02. Multiple Phases. Declarant has improved or intends to improve the real property by subdividing and constructing improvements on it including structures containing 24 residential units ("Units") and other improvements in accordance with the Condominium Plan affecting the Project and prepared and recorded pursuant to California Civil Code Section 1351. By this Declaration, Declarant intends to establish a condominium under the provisions of the Davis - Stirling Common Interest Development Act.

The development of this Project is in the first phase of a proposed four phased project. It is anticipated that the future phases, if annexed, will consist of approximately 64 additional residential units and other improvements, which are more particularly described on Exhibit "B" attached hereto, all constructed in accordance with any development plans, maps and specifications on file with the County of Sacramento and the California Department of Real Estate.

Declarant may, but is not required to, annex future phases to the Project. Any annexation by Declarant shall be done in accordance with Section 3.03.

1.03. Ownership Interests. Each owner shall receive title to his individual Unit, a membership in the Coventry Square Homeowners Association ("Association"), and an undivided percentage interest as tenant in common in the Common Area as provided herein.

1.04. Common Plan for Project. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed.

NOW, THEREFORE, Declarant hereby declares that the real property described on Exhibit "A" shall be held, conveyed, hypothecated, mortgaged, encumbered, leased, rented, used, occupied, sold and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are declared and agreed to be in furtherance of a plan of condominium ownership for the project, as described in California Civil Code Section 1350-1370, and for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for improvement of the Property. Pursuant to California Civil Code Sections 1353 and 1354, all of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land, be enforceable as equitable servitudes, and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Property or the Project.

## SECTION 2: DEFINITIONS

In addition to other definitions provided for herein, the following terms shall have the following meanings:

- 2.01. "Articles" shall mean the Articles of Incorporation of Coventry Square Homeowners Association and any amendments thereto.
- 2.02. "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the Property which is to be paid by each Unit Owner as determined by the Association.
- 2.03. "Association" shall mean the Coventry Square Homeowners Association, a California non-profit mutual benefit corporation, the members of which shall be the Owners of Units in the Project, their successors and assigns.
- 2.04. "Association Rules" shall mean rules and regulations regulating the use and enjoyment of the Common Area which may be adopted by the Board from time to time.
- 2.05. "Board" or "Board of Directors" shall mean the governing body of the Association.
- 2.06. "Bylaws" shall mean the Bylaws of Coventry Square Homeowners Association and any amendments thereto.
- 2.07. "Common Area" shall mean the entire Project, except all Units, as defined in this Declaration and as shown and defined on the Condominium Plan. The Common Area shall be owned by the Owners of the Units as tenants-in-common, in equal undivided interests, one undivided interest for each Unit. The Common Area includes all Exclusive Use Common Areas as hereinafter defined. The Common Area may be expanded through the annexation of additional properties described in Exhibit "B".
- 2.08. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Property and any reasonable reserve for such purposes as found and determined by the Board and all sums designated Common Expenses by or pursuant to the Project Documents.
- 2.09. "Condominium" shall mean an estate in real property as defined in California Civil Code Section 1351(f), consisting of an undivided interest in common in all or any portion of the Common Area, together with a separate interest in a space called a Unit, the boundaries of which are described on a recorded final map, parcel map or Condominium Plan in sufficient detail to locate all boundaries thereof, and such other appurtenant rights and interests as are described in this Declaration, in the Condominium Plan or in the deed conveying the Condominium.
- 2.10. "Condominium Plan" shall mean the diagrammatic floor plan of the Units built or to be built on the Property which identifies each Unit and shows its dimensions pursuant to Civil Code Section 1351, attached as Exhibit "C" hereto, and any amendments.



- 2.11. "County" shall mean the County of Sacramento, California, the County in which the Project is located.
- 2.12. "Declarant" shall mean Capital Salvage, a California Corporation, its successors and assigns, if such successors and assigns are assigned the rights of Declarant pursuant to Section 16.10 hereof or if such successor or assign is a mortgagee acquiring Declarant's interest in the Project by foreclosure or by deed in lieu of foreclosure.
- 2.13. "Declaration" shall mean this Declaration, and any amendments, modifications or supplements thereto.
- 2.14. "Eligible First Mortgagee" shall mean a First Mortgagee who has requested notice by sending a written request to the Association, stating both its name and address and the unit number or address of the unit it has the mortgage on.
- 2.15. "Exclusive Use Common Area" shall mean that portion of the Common Area designated for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests for the uses and purposes described in Section 3.03.
- 2.16. "Final Public Report" shall mean the final public report for the Project issued by the California Department of Real Estate or any successor state agency pursuant to the California Subdivided Lands Act (Business & Professions Code Section 11000 et seq ) as it may be amended from time to time.
- 2.17. "Improvements" shall mean all structures and improvements on the Property, including, but not limited to, buildings, paving, fences, signs and landscaping.
- 2.18. "Map" shall mean the real property described in Exhibit "A" of this Declaration.
- 2.19. "Member" shall mean a person or entity entitled to membership in the Association as provided herein. Each Owner or Co-Owner of a Condominium shall be a member.
- 2.20. "Mortgage" shall mean a mortgage or deed of trust encumbering a Condominium or other portion of the Project. A "Mortgagee" shall include the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage. "First Mortgage" or "First Mortgagee" is one having priority over all other Mortgages or holders of Mortgages encumbering the same condominium or other portion of the Project. A "First Mortgagee" shall include any holder (including FHLMC and FNMA), insurer (including FHA), or guarantor (including VA) of a First Mortgage on a condominium or other portion of the Project. "FHA" shall mean the United States Department of Housing and Urban Development, Federal Housing Administration. "VA" shall mean the United States Department of Veterans Affairs. "FHLMC" shall mean the Federal Home Loan Mortgage Corporation. "FNMA" shall mean the Federal National Mortgage Association. Where any provision of the Project Documents requires the approval of a First Mortgagee, the approval of the holder, insurer or guarantor of that First Mortgage shall be deemed to be the required approval.

2.21. "Owner" or "Owners" shall mean the record holder or holders of title, if more than one, to any Condominium in the Project. This shall not include contract sellers or persons or entities having any interest merely as security for the performance of an obligation. If a Condominium is sold under a recorded contract of sale (or a recorded memorandum of such contract), then such purchaser, rather than the fee Owner, shall be considered the "Owner".

2.22. "Project Documents" shall mean and include this Declaration, as amended from time to time, the exhibits, if any, attached hereto, together with the other basic documents used to create and govern the Project, including the Map, Articles and Bylaws and Condominium Plan (but excluding unrecorded rules and regulations adopted by the Board or the Association).

2.23. "Project" or "Property" shall mean the entire real property described on Exhibit "A" attached hereto, including all structures and improvements erected or to be erected thereon or on such additional properties described on Exhibit "B" which may be brought within the jurisdiction of the Association.

2.24. "Quorum" shall mean a majority of those entitled to act, except in the case of a quorum necessary for the imposition of regular and special assessments set forth in Section 8.

2.25. "Separate Interest" shall mean a Unit.

2.26. "Subdivided Property" shall mean the entire real property described on Exhibit "A" attached hereto, including all structures and improvements erected or to be erected thereon or on such additional properties described on Exhibit "B" which may be brought within the jurisdiction of the Association.

2.27. "Subdivider" shall mean the Declarant.

2.28. "Unit" or "Living Unit" shall mean the elements of a Condominium that are not owned in common with other Owners of Condominiums in the Project, such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums and this Declaration.

### SECTION 3: PROPERTY RIGHTS

3.01. "Units". Each of the Units are separately shown, described, numbered and designated on the Condominium Plan. A Unit does not include other interests in real property that are less than estates in real property, such as exclusive or nonexclusive easements. In interpreting deeds and plans the existing physical boundaries of a Unit or of a Unit reconstructed in substantial accordance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan, regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Declaration, in the Condominium Plan, in any deed, or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component unit elements. Each Unit Owner has the right to ingress and egress from such Unit with such right being perpetual and appurtenant to the Unit ownership.

3.02. Common Area. The Common Area shall consist of the entire Project except all Units, as defined in this Declaration and as shown on the Condominium Plan. Each Unit Owner shall have as appurtenant to the Unit an undivided interest in the Common Area on which the unit is located for each Unit Owned. As to Phase 1 of the project, each unit owner shall have an undivided 1/24th interest in and to the common area of Phase 1. The common interest appurtenant to each Unit is declared to be permanent in character and cannot be altered without the consent of all the Unit Owners affected and any First Mortgagee having a security interest in the Unit, as expressed in an amended Declaration. Such common interests cannot be separated from the Unit to which it is appurtenant. Each Unit Owner may use the Common Areas in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other Unit Owners.

3.03. Exclusive Use Common Areas. The following described portions of the Common Area referred to as the "Exclusive Use Common Areas" are hereby set aside and allocated for the exclusive use of the Owner of the Unit to which they are attached, assigned by Unit number on the Condominium Plan, conveyed with title or hereafter assigned by the Board:

- a. Patio designated "P";
- b. Covered Carport Parking "C-\_\_\_";
- c. Balcony designated "B";
- d. Yard designated "Y";
- e. Garage designated "G".

3.04. Partition Prohibited. The common areas shall remain undivided as set forth above. Except as provided by California Civil Code Section 1359, no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the project. Judicial partition by sale of

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a single unit owned by two or more persons and division of the sale proceeds is not prohibited hereby, but partition of title to a single unit is prohibited.

3.05. Annexation of Additional Property. Additional property may be annexed to and become subject to this Declaration by any of the following methods set forth in this Section. Upon annexation, additional parcels shall become subject to this Declaration without the necessity of amending individual sections thereof.

a. Annexation Pursuant to Plan. The property described on Exhibit "B" shall be annexed to and become a part of the Project, subject to this Declaration, and subject to the jurisdiction of the Association, without the assent of the Association or its members, or without the assent of the Owners, on condition that:

(1) Date for Annexation. Any annexation pursuant to this Section shall be made prior to the third anniversary of the issuance of the original Amended and Renewed Public Report for the immediately proceeding phase. Declarant shall be under no obligation to develop or annex said additional phases and real property and Declarant makes no representation with respect to whether or not such additional real property will ever be developed or annexed. This Section shall not be amended without the written approval of Declarant.

(2) No Unreasonable Burden. Any annexation pursuant to this Section shall not result in an unreasonable diminution of the benefits to, or an unreasonable increase in the burdens upon, existing Owners in the Project and shall be consistent with the phasing plan presented to the California Department of Real Estate at the time of application for the original Final Public Report for the sale of Units in the Project. It is anticipated that the total number of Units annexed to the Project pursuant to this Section will be approximately 64 Units.

(3) Declaration of Annexation. A Declaration of Annexation shall be recorded covering the applicable portion of the property to be annexed. Said Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, as are consistent with the scheme of this Declaration.

b. Annexation Pursuant to Approval: Upon approval in writing of the Association, pursuant to vote or written consent of 66-2/3% of the total votes residing in members other than the Declarant, the Association and the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Declaration of Annexation. Said Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, as are consistent with the scheme of this Declaration. Said Declaration shall include designation of Units and/or Common Areas for the purpose of this Declaration.

c. Effect of Annexation: Assessments collected from owners in the property may be expended by the Association without regard to the particular phase from which such assessments originated. All owners shall have ingress and egress to all portions of the common area

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throughout the property, subject to the provisions of this Declaration, the Bylaws of the Association and the Rules and Regulations of the Association in effect from time to time.

d. **Quality of Construction:** Future improvements to the Project will be consistent with initial improvements in terms of quality of construction.

3.06. **Reserves for Rental Program in Annexed Phase.** Declarant shall pay to the Association, concurrently with the closing of the escrow for the first sale of a Unit in an annexed phase, appropriate amounts for reserves for replacement or deferred maintenance of common area improvements in the annexed phase necessitated by or arising out of the use and occupancy of residential units under a rental program conducted by Declarant which has been in effect for a period of at least one year as of the date of closing of the escrow for the first sale of a Unit in the annexed phase.

3.07. **Easements and Rights.** In addition to any and all other easements and rights contained in this Declaration, the Properties shall be subject to the following easements and rights:

a. **Owners' Rights.** Every Owner shall have a nonexclusive right of enjoyment in and to the Common Area, including ingress and egress to and from his Unit. However, such nonexclusive rights shall be subordinate to, and shall not interfere with, exclusive rights over the Exclusive Use Common Area, if any. Each such nonexclusive right shall be appurtenant to and shall pass with the title to the Unit, subject to the following provisions:

(1) Section 9 of this Declaration authorizes the Board to impose monetary penalties, temporary suspensions of an Owner's rights as a member of the Association or other appropriate discipline for failure to comply with the governing instruments provided that the established procedures are followed for notice and hearing which satisfy the minimum requirements of Corporations Code Section 7341 with respect to the accused member before a decision to impose discipline is reached. These procedures are set out in Section 12 of the Bylaws

(2) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of the members agreeing to such dedication or transfer has been recorded, provided, however, that no such dedication shall impair the ingress and egress to any individual Unit.

b. **Easements and/or Rights for Utilities and Maintenance.** Easements and/or rights over and under the Property for the installation, repair and maintenance of electric, telephone, water, gas and sanitary sewer lines and facilities, heating facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping as shown on the recorded map of the property, and as may be hereafter required or needed to service the Property, are hereby reserved by Declarant and its successors and assigns, including the Association, together with the right to grant and transfer the same.

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c. Encroachment Rights. Each Unit within the Property is hereby declared to have a right over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be valid rights for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid right for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units or Common Area shall be permitted and that there shall be valid rights for the maintenance of said encroachments so long as they shall exist.

d. Entry for Repairs. The Board may authorize its agents and employees to enter any Unit and/or Exclusive Use Common Area when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible, to effect emergency repairs or to effect necessary repairs which the Owner has failed to perform as required by this Declaration. Such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. Except in case of an emergency, 24 hour advance notice shall be given to the Owner or occupant.

e. Declarant's Reservation of Easements and/or Rights. Declarant hereby reserves easements and/or rights over the Common Area for common driveway purposes, for drainage and encroachment purposes, and for ingress to and egress from the common areas for the purpose of completing improvements thereon or for the performance of necessary repair work. Said easement and/or right shall automatically terminate four years after the recordation of this Declaration.

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

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performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Unit shall require compliance by the tenant or contract purchaser with all of the covenants, conditions and restrictions contained in this Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right to action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

#### SECTION 4: USE RESTRICTIONS

4.01. Use of Units. No Unit, or any portion thereof, shall be occupied and used except for residential purposes by the Owners, their contract purchasers, lessees, tenants, or social guests. No trade or business or commercial activity shall be carried on or conducted in any Unit, except that Declarant, its successors or assigns, may use any Unit in the Project owned by Declarant for a model home site and display and sales office during construction and until the last Unit is sold by Declarant, or until 3 years from the date of closing of the first sale of a Unit in the Project, whichever occurs first. The provisions of this Section shall not prohibit home occupations so long as they are merely incidental to the use of the Unit as a dwelling, are permitted by local law, are conducted in such a manner as to not adversely affect other Owners' use and enjoyment of the Project, and have received prior written approval of the Board.

4.02. Parking. Parking spaces and garages for the Project are shown on the Condominium Plan. Each Unit shall always have at least one exclusive use parking space conveyed with title to the Unit. In addition to the spaces conveyed with the Units, the remaining unconveyed parking spaces and garages may be assigned by the Board or remain unassigned for the use of all Owners, their tenants and guests at the discretion of the Board.

4.03. Vehicle Restrictions. No trailer, camper, mobile home, commercial vehicle, truck (other than a standard size pickup truck), inoperable automobile, or similar equipment shall be permitted to remain upon any area within the Property, other than temporarily. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property. No off-road unlicensed motor vehicles shall be operated upon the Property.

4.04. Signs. No sign of any kind shall be displayed to the public view on or from any Unit or any portion of the Project without the approval of the Association, except as follows.

- a. One sign of customary and reasonable dimensions advertising a Unit for sale, lease, rent or exchange displayed from a Unit;
- b. Such signs as may be used by Declarant or its assignees in connection with the development of the project and sale of Units; and
- c. Such other signs or notices as are required by law or as are otherwise necessary to perfect a right provided for in law.

4.05. Animals. No animals, reptiles, rodents, birds, fish, livestock, or poultry shall be raised, bred, or kept in any Unit or portion of the Project; except that no more than two usual and ordinary household pets such as small dogs (weighting no more than 35 pounds each), cats, fish, or birds inside bird cages may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and they are kept under reasonable control at all times. This provision shall



not apply to aquarium type fish. Notwithstanding the foregoing, no pets may be kept on the Project which result in an annoyance or nuisance to other Owners. No pets shall be allowed on the Common Area except as may be permitted by rules of the Board. No dog shall enter the Common Area except while on a leash which is held by a person capable of controlling it. Owners shall prevent their pets from soiling any portions of the Common Area.

4.06. Trash; Storage of Materials. All garbage and trash shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. It shall be placed and kept in covered sanitary containers where it is not visible from any neighboring unit except for a reasonable time prior to or after collection. All woodpiles or storage piles shall be kept screened and concealed from view of Units, streets and Common Areas. Garbage and trash shall be placed for pick up as required by the disposal service and any rules adopted by the Association.

4.07. Antennae; Roof Projections. Except for any antennae, chimneys, vent stacks or other items or equipment upon or projecting from the roof which are installed by Declarant as part of the initial improvements, no such item or equipment shall be erected or maintained upon the outside of any building on the properties unless the same has been approved by the Board. No alteration to or modification of a central television antenna system or cable television system, whichever is applicable, as developed by Declarant and as maintained by the Association, shall be permitted, without the written consent of the Board.

4.08. Right to Lease. No Owner shall be permitted to lease or rent his Unit for transient or hotel purposes, which shall include, but not be limited to rental for any period less than 30 days. All leases must be in writing and be expressly subject to the Project Documents and the breach of any provision shall be a default under the Lease or Rental Agreement. Subject to the foregoing restrictions, the Owners of Units shall have the right to lease the same, provided that the Board is notified of the name of the tenant and the duration of the Lease. The Owner shall provide the Lessee with a copy of the Articles, Bylaws, Declaration and any Rules and Regulations of the Association.

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

No building, fence, wall, obstruction, screen, awning, or structure of any kind shall be commenced, erected or maintained upon the Property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the Board. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the Board for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation.

Failure of the Board to act within 30 days after the plans have been submitted to it shall constitute approval.

In the event of the failure of any individual unit owner to comply with a written directive or order from the Board, then in such event the Board shall have the right and authority to perform the subject matter of such directive or order and the cost of such performance shall be charged to the owner of the lot in question and may be recovered by the Board in an action of law against such individual unit owner.

4.10. Window Coverings. Windows shall be covered by drapes, shades or shutters and shall not be painted or covered by foil, cardboard or similar materials. All window coverings visible from the Common Area shall be of a material, design and color which, in the opinion of the Board, is compatible with the exterior design and coloration of adjacent portions of the Project.

4.11. Clotheslines. No exterior clotheslines or other outside clothes drying or airing facility shall be erected or maintained on the properties in any location where the same would be visible from any street or neighboring Unit. Further, no clothes washers, clothes dryers, refrigerators or freezers may be kept, stored or operated on any balcony, patio, porch or other exterior area.

4.12. Power Equipment and Car Maintenance. No power equipment, work shops or car maintenance of any nature shall be permitted on the Project without the prior written approval of the Board. In deciding to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception and similar objections.

4.13. Drainage. No Owner shall do any act or construct any improvement which would interfere with the natural or established drainage systems or patterns within the Project without the written consent of the Board.

4.14. Liability of Owners for Damage to Common Area. The Owner of each Condominium shall be liable to the Association for all damages to the Common Area and/or improvements thereon caused by such Owner, or any occupant of his Unit or guest, except for that portion of said damage, if any, fully covered by insurance of the Association. Liability of an Owner shall be established only after notice to the Owner and hearing before the Board.

4.15. Recreational Facilities.

a. Every member of the Association shall have a right to use the recreational facilities situated on the Common Area, subject to the following provisions:

(1) The right of the Association to charge reasonable fees for the use of any recreational facility by non-members; and

(2) The right of the Association to deny use after hearing for infringement of rules and nonpayment of dues.

b. An Owner may delegate, in accordance with the Bylaws, right of enjoyment to the recreational facilities to family members, tenants or contract purchasers who reside in the Unit.

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4.16. Sports Fixtures. No basketball standards, hoops or backboards or other fixed sports apparatus shall be attached to the front of any Unit.

4.17. Nuisances. No noxious, illegal, or seriously offensive activities shall be carried on within any Unit, or in any part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each Owner's Unit or Common Area, or which shall in any way increase the rate of insurance for the Project or for any other Unit, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

4.18. Use of Patios and Balconies. No personal property of any kind, including, but not limited to toys, tools, bicycles, tricycles, motorcycles, shopping carts, skates, skate boards, trash containers, towels, strollers, play pens or patio furniture may be left on the common area ground or left outside of any unit at any time without written permission of the Association. Towels, bathing suits or other household or personal items shall not draped or hung over patio or balcony walls. Items of personal property may be kept on patios and balconies as long as these items are hidden from view behind patio and balcony fences.

4.19. Compliance with Project Documents. Each Owner, contract purchaser, lessee, tenant, guest, invitee or other occupant of a Unit or user of the Common Area shall comply with the provisions of the Project Documents.

## SECTION 5: MAINTENANCE OBLIGATIONS

5.01. Association Maintenance Obligations. The Association shall have the following duties: To manage, operate, improve, maintain, repair and replace the Common Area and all its facilities, improvements, and landscaping including, without limitation, all parking spaces, Condominium Buildings, fences, walkways, lighting, and private streets located on the Common Area, and any other property acquired by or subject to the control of the Association, including personal property, in a safe, sanitary and attractive condition. Notwithstanding the foregoing, the Association shall have no duty to maintain the Units or the non-structural areas and/or Owner installed improvements within the Exclusive Use Common Areas.

The Association shall also bear the costs for the repair and maintenance of common area damaged by the presence of wood-destroying pests or organisms.

(A) The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.

(B) (1) The association may cause the temporary, summary removal of any occupant for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

(2) The association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the owners, not less than 15 days nor more than 30 days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

(3) Notice by the association shall be deemed complete upon either

(a) Personal delivery of a copy of the notice to the occupants, and sending a copy of the notice to the owners, if different than the occupants, by first-class mail, postage prepaid at the most current address shown on the books of the association.

(b) By sending a copy of the notice to the occupants at the separate interest address and a copy of the notice to the owners, if different than the occupants, by first-class mail, postage prepaid, at the most current address shown on the books of the association

(c) For purposes of this section, "occupant" means an owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession on the separate interest

If any of the maintenance or repair work referred to above is necessitated by the willful or negligent acts of the Owner, his family, guests or invitees, the costs of such special restoration or repairs shall be chargeable to the Owner as provided in Section 6

5.02. Owners' Maintenance Obligations. Each Owner of a Condominium shall be responsible for maintaining his Unit, including but not limited to the equipment and fixtures in the Unit and its interior walls, ceilings, windows and doors in a safe, sanitary and attractive condition. Each Owner has complete discretion as to the choice of furniture, furnishings, and interior decorating, except windows may be covered only by drapes, shutters or shades and may not be painted or covered by foil, cardboard or other similar materials. Each Owner also shall be responsible for repair, replacement and cleaning of the windows and glass of his Unit, both exterior and interior, and for maintaining the non-structural areas and/or Owner installed improvements of his appurtenant Exclusive Use Common Area in a safe, sanitary and attractive condition.

If an Owner fails to maintain his Unit and/or his Exclusive Use Common Area as provided herein in a manner which the Board reasonably deems necessary to preserve the safety, appearance and/or value of the Project, the Board may notify the Owner of the work required and request that it be done within a reasonable and specific period. If the Owner fails to perform such maintenance and/or repairs within said period, the Board shall, subject to the notice and hearing requirements set forth in the Bylaws, have the right to enter upon the Unit and/or Exclusive Use Common Area to cause such maintenance and/or repair work to be performed. Cost of any such repair or maintenance shall be charged to the Owner through an Individual Charge as provided in Section 8 hereof.

Notwithstanding the foregoing, in the event of an emergency arising out of the failure of an Owner to maintain his Unit and/or Exclusive Use Common Area, the Board shall have the right, through its agents and employees, to immediately enter the Unit and/or Exclusive Use Common Area to abate the emergency and individually charge the cost thereof to such Owner.

**SECTION 6: ASSOCIATION ADMINISTRATION**  
**MEMBERSHIP AND VOTING**

6.01. Association to Manage Project. The management of the Project shall be vested in the Association in accordance with the Project Documents, and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

6.02. Membership. Each Owner shall be a member of the Association, and shall remain a member thereof until such time as ownership ceases for any reason, at which time such membership in the Association shall automatically cease.

6.03. Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the Unit to which it is appurtenant, and then only to the purchaser, in the case of a sale, or Mortgagee, in the case of an encumbrance of such Unit. A Mortgagee does not have membership rights until it becomes an Owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. Any person or entity acquiring fee title or equitable title to a Unit, whether by reason of a deed from the Owner or through a foreclosure, shall within 15 days of acquiring such title inform the Association in writing of the date such title transferred and the name or names in which title is held.

6.04. Classes of Membership and Voting. The Association shall have two classes of voting members:

Class A. Class A members shall be all Owners except Declarant and shall be entitled to one vote for each Unit owned. When more than one person or entity owns a Unit, all such persons and entities shall be members and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

Class B. The Class B member shall be the Declarant, who shall be entitled to three votes for each Unit owned.

6.05. Termination of Class B Membership. The Class B membership shall be irreversibly converted to Class A membership on the occurrence of whichever of the following is first in time:

(a) Not later than the second anniversary of the first conveyance of a Unit in the most recent phase of the Project pursuant to the original Amended and Renewed Public Report, or

(b) Not later than the fourth anniversary of the first conveyance of a Unit in the first phase of the Project pursuant to the original Amended and Renewed Public Report

6.06. Approval of Members Other Than Declarant. With the exception of actions authorized for the Enforcement of Bonded Obligations, no action which requires the approval of a prescribed majority of the voting power of members of the Association other than the Declarant shall preclude the Declarant from casting votes attributable to subdivisions interests which he owns.

Where a two class voting structure is still in effect, any action requiring the approval by the vote or written assent of a prescribed majority of the Class A voting power shall also require the vote or written assent of a bare majority of the Class B voting power.

Where a single class voting structure exists, after the conversion of Class B to Class A membership, approval of any action by the vote or written assent of a prescribed majority of the total voting power of Owners other than the Declarant shall also require the approval by vote or written assent of a bare majority of the total voting power of the Association.

6.07. Inspection of Books. All members shall have reasonable access to inspect the books, records and financial statements of the Association, including annual audited financial statements when such are prepared, pursuant to this Declaration and subject to the same.

6.08. Commencement of Voting Rights. Voting rights attributable to Units shall not vest until assessments against those Units have been levied by the Association

6.09. Co-Owner Votes. The vote for each Unit may not be cast on a fractional basis. If the Co-Owners of a Unit are unable to agree among themselves as to how their vote shall be cast, they shall forfeit the vote on the matter in question. If only one Owner exercises the vote of a particular Unit, it shall be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Unit. If more than one Co-Owner exercises the vote for a particular Unit, their votes shall not be counted and shall be deemed void.

6.10. Membership Meetings. Regular and special meetings of members and of the Board shall be held with the frequency at the time and place and in accordance with the provisions of the Bylaws.

6.11. Notice and Place of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 10 days but not more than 90 days before such meeting to each first mortgagee requesting notice and to each member, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Meetings shall be held within the Project or at a meeting place as close thereto as possible.

6.12. Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which shall be established, and which shall conduct regular and special meetings according to the provisions of the Bylaws.

## SECTION 7: POWERS, DUTIES AND LIMITATIONS OF THE ASSOCIATION

7.01. Powers and Duties of Association. In addition to the powers and duties enumerated in its Articles and Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers and duties:

a. Delegation of Powers. To delegate all powers to committees, officers or employees of the Association as expressly authorized by the Project Documents.

b. Management Agent. To employ a management agent and to contract with independent contractors to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a firm or person appointed as a managing agent or any other contract providing for services of the developer, sponsor or builder shall not exceed a 1 year term renewable by the parties for successive one year periods and shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association, to terminate the same for cause on 30 days written notice, and either party may terminate without cause and without payment of a termination fee on 60 days written notice.

c. Maintenance. To maintain the Project as required by the provisions of this Declaration.

d. Supervision. To supervise all officers, agents and employees of the Association and see that their duties are properly performed.

e. Assessments, Liens, Fines. To levy and collect assessments and as provided in the Project Documents, impose fines or take disciplinary action against any Owner for failure to pay assessments or for violation of any provision of the Project Documents. Penalties may include, but are not limited to: fines, temporary suspension of voting rights, rights to use of the facilities on the Common Area, or other appropriate discipline for failure to comply with the governing instruments, provided that the accused member is given notice and the opportunity to be heard by the Board with respect to the alleged violations before a decision to impose discipline is reached. Such notice and hearing procedures shall satisfy the minimum requirements of Corporations Code Section 7341, which are set forth in Section 12 of the Bylaws.

f. Enforcement of Project Documents. To enforce applicable provisions of the Project Documents for the ownership, management and control of the Project.

g. Adoption of Rules. To adopt, amend and repeal reasonable rules consistent with the Project Documents relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their contract purchasers, lessees, tenants, guests and invitees with respect to the Property and other Owners. A copy of such Association Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Common Area.

h. Records. Cause to be kept a complete record of all matters and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by five or more of the total voting power of the Association, keep adequate and correct books and records of account, minutes



of proceedings of its members, Board and committees, and a record of its members giving their names and addresses and classes of membership.

i. Water and Other Utilities. To acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other utility services as necessary for the Common Area.

j. Granting of Easements. To grant easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Units.

k. Exercise of Easements. To exercise all easement rights as granted to it in this Declaration for the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of their responsibilities, the Association's agents or employees.

l. Contracts. To contract for goods and/or services for the Common Area facilities and interests or for the Association, subject to limitations elsewhere set forth in the Project Documents.

m. Limit Number of Guests. To limit the number of an Owner's guests who may use any facilities on the Common Area.

n. Acquisition of Property. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

o. Budgets. To prepare budgets and financial statements for the Association as prescribed in this Declaration.

p. Legal and Accounting. To obtain and pay the cost of legal, accounting and other professional services necessary or proper for the maintenance and operation of the Project and the enforcement of the Project Documents.

q. Emergency Repair. To enter upon any privately owned Unit as necessary in connection with construction, maintenance or emergency repair for the benefit of the common area or the owners in common.

r. Election of the Board of Directors. To elect the members of the Board

s. Filling Vacancies. To fill vacancies on the Board created by the removal of a Board member.

7.02. Property Taxes and Assessments. Each Owner shall be obligated to pay any taxes or assessments levied by the County Assessor against his Unit and personal property. To the extent not assessed to or paid directly by the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Common Area or other property owned by the Association.

The Association shall prepare and file annual tax returns with the federal government and the State of California and make such elections as may be necessary to reduce or eliminate the tax liability of the Association.

7.03. Insurance. The Association shall maintain casualty, liability and other insurance on behalf of the Association as required by the provisions of this Declaration.

7.04. Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof to the Owners responsible for the existence of said lien.

7.05. Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Property of the Association.

7.06. Prohibited Acts. The Association, through its Board, shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant:

a. Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one year with the following exceptions:

(i) A management contract, the terms of which have been approved in writing by the Federal Housing Administration or the Veterans Affairs.

(ii) 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;

(iii) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits short rate cancellation by the insured.

(iv) Lease agreements for laundry room fixtures and equipment of not to exceed five years duration provided that the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest of 10% or more.

(v) Agreements for cable television services and equipment or satellite dish telephone services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the subdivider has a direct or indirect ownership interest of 10% or more.

(vi) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities in which the subdivider has a direct or indirect ownership interest of 10% or more.

b. Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year;

c. Selling during any fiscal year Property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year;

d. Paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association; and

e. Filling of a vacancy on the Board created by the removal of a Director.

**7.07. Action Requiring Consent.** The Board shall take the following actions only upon obtaining consents of members as follows:

(1) The Consent of three-fourths of the voting power of the Association residing in members other than the Declarant so long as the Declarant holds or directly controls at least 25% of the voting power of the Association, and after the Declarant no longer controls 25% or more, the consent of two-thirds of the voting power of all members shall be necessary to do the following:

(i) Borrow money, and only with the assent (by vote or written consent) of three-fourths (3/4) of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(ii) Dedicate, sell or transfer all of or any part of any interest it may have in the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided that no such dedication or transfer shall be effective unless an instrument has been signed by two-thirds of the members agreeing to such dedication, sale or transfer, and any sale of all or substantially all of the corporation's assets must be in compliance with Section 7.07(2)(i) below.

(iii) Participate in mergers and consolidations with other nonprofit corporations organized for the same purpose or annex additional residential property, provided that any merger, consolidation or such annexation shall have the assent by vote of three-fourths (3/4) of members or by the written consent of such members, excluding Declarant.

(2) The consent of 100% of the members shall be required so long as there is any lot, parcel, area, apartment or unit for which the Association is obligated to provide management, maintenance, preservation or control for the Association to do the following:

(i) Transfer all or substantially all of its assets, or

(ii) File a certificate of dissolution.

## SECTION 8: ASSESSMENTS

8.01. Agreement to Pay; Personal Obligation. Declarant, and his successor in interest, if any, for each Unit owned by it, and each Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) Regular Annual Assessments and (2) Special Assessments for capital improvements or unusual expenses to be established and collected as hereinafter provided (collectively "Assessments"), and (3) Individual Charges levied against an individual Owner, to be established and collected as provided in this Declaration and in the other Project Documents.

All Assessments and Individual Charges, together with any late charges, interest, collection costs and reasonable attorney's fees incurred in collecting delinquent Assessments and Individual Charges, shall be the personal obligation of the Owner of such Unit at the time when the Assessments or Individual Charges fell due. If more than one person or entity was the Owner of a Unit at the time the Assessments or Individual Charges fell due, the personal obligation to pay each Assessment and Individual Charge shall be joint and several. The personal obligation for delinquent Assessments and Individual Charges shall not pass to any transferee unless expressly assumed by him. No Owner may exempt himself from liability for his Assessments or Individual Charges obligation by waiver of the use or enjoyment of any of the Project.

8.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for paying the costs of and creating reserves for the costs of all obligations which the Association is authorized or obligated to perform as described in this Declaration

8.03. Common Facility Assessment Exemption. The Declarant and any other Owner of a Unit may be exempted from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility that is not complete at the time assessments commence. Any exemption from the payment of assessments shall be in effect only until the earliest of the following events

- a. A Notice of Completion of the common facility has been recorded; or
- b. The common facility has been placed into use.

8.04. Regular Annual Assessments. The purpose of Regular Annual Assessments is to defray expenses attributable to the ownership, operation and furnishing of common services by the Association.

Until January 1 of the year immediately following the first conveyance of a Unit to an Owner, the Regular Annual Assessment for each Unit shall be prescribed by the Board. Thereafter, the Board may not, without the vote or written assent of Members constituting a quorum, casting a majority of the votes at a meeting or election of the Association, impose a Regular Annual Assessment per Unit which is more than 20% greater than the Regular Annual Assessment for the immediately preceding fiscal year; provided, however, that the power of the Board shall not be limited with respect to Regular Annual Assessment increases for the following purposes:

a. Addressing emergency situations. For purposes of this section, an emergency situation is any one of the following:

(1) An extraordinary expense required by an order of a court.

(2) An extraordinary expense necessary to repair or maintain the Subdivided Property or any part of it for which the Association is responsible where a threat to personal safety on the Property is discovered.

(3) An extraordinary expense necessary to repair or maintain the Subdivided Property or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget. However, prior to the imposition or collection of an assessment pursuant to this paragraph, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of assessment.

If the Board fails to distribute the pro forma operating budget as required by the Subsection entitled "Budgets, Financial Statements (in Section 10) for any fiscal year, the Association may not increase its regular annual assessment for that fiscal year, as authorized by Civil Code Section 1366(b), unless the Board has obtained the approval of a majority of the votes at a meeting of the Members at which a quorum was present. For the foregoing purposes, a quorum means more than 50% of the Owners of the Association; and the meeting must be conducted in accordance with Corporations Code Sections 7510 - 7527 - 7613 or any successor statute thereto.

The Association shall provide notice by first-class mail to the Owners of the Lots of any increase in the regular or special Assessments of the Association, not less than 30 nor more than 60 days prior to the increased Assessment becoming due.

The provisions of this Subsection entitled "Regular Annual Assessments" are intended to comply with Civil Code Section 1366(a) and (b). If these sections are amended in any manner, the provisions of this Subsection automatically shall be amended in the same manner, provided that if Section 1366(b) is repealed and no successor statute is enacted with respect to restrictions on assessments, the provisions of the Subsection shall remain in full force and effect.

Regular Assessments shall be payable in equal monthly installments, due on the first day of each month, unless the Board adopts some other basis for collection.

8.05. Special Assessments. The Board may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for extraordinary expenses incurred by the Association. If the special assessment exceeds in the aggregate 5% of the budgeted gross expenses of the Association for that fiscal year, the vote or written consent of Members constituting a quorum, casting a majority of the votes at a meeting or election shall be required to approve such assessment. In addition, the Board may not impose, without the vote or written assent of a majority of Members constituting a quorum, casting a majority of the votes at

a duly held meeting or election, a Special Assessment which in the aggregate exceeds 5% of the budgeted gross expenses of the Association for that fiscal year; provided, however, the power of the Board shall not be limited with respect to Special Assessments imposed for emergency situations set forth above.

8.06. Quorum. For the purposes of establishing "Assessments" above, a quorum means more than 50% of the Members of the Association. In addition, any meeting or election of the Association for purposes of complying with this Section and the subsection above entitled "Regular Annual Assessments" shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

8.07. Individual Charges. Individual Charges may be levied against a Member as follows:

a. As a monetary penalty imposed by the Association as a disciplinary measure for the failure of a Member to comply with the Project Documents, or;

b. As a means of reimbursing the Association for costs incurred by the Association for the repair of damage to Common Areas and facilities for which the Member was responsible, or to otherwise bring the Member and his Unit into compliance with the Project Documents. Such Individual Charges (other than reasonable late charges, interest, costs of collection and reasonable attorneys' fees related to the collection of Assessments) are not enforceable through the lien provisions of the Project Documents. All Individual Charges shall comply with California Civil Code Section 1366(d) to the extent that it is applicable.

8.08. Equal Division of Regular and Special Assessments. Regular and Special Assessments shall be levied against each Unit (and its Owner) equally, based on a fraction, the numerator of which is one and the denominator of which is the total number of Units in the Project. In addition, as a part of the regular assessment a Unit Owner who has exclusive use of a garage shall be required to pay a garage assessment.

A special assessment to raise funds for the rebuilding or major repair to the garages shall be levied equally by the Association against each Owner who has exclusive use of a garage.

However, a special assessment against Owners in a Project to raise funds for the rebuilding or major repair of the structural common area housing units of the Project shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

8.09. Commencement of Assessments and Individual Charges. The right to levy Assessments and Individual Charges shall commence as to Units in a Phase of the Project on the close of escrow for the first conveyance of a Unit in that Phase of the Project. Regular Assessments shall commence as to all Units in a Phase of the Project on the first day of the month following the first conveyance of a Unit in that Phase under authority of a Public Report. Thereafter, Regular Assessments shall be levied on the first day of each month.

06/22/93

8.10. Delinquent Assessments. Regular and Special Assessments levied pursuant to this Declaration are delinquent 15 days after the date they become due. If an assessment is delinquent, the association may recover all of the following:

- a. Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.
- b. A late charge not exceeding 10 percent of the delinquent assessment or ten dollars (\$10), whichever is greater.
- c. Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the assessment becomes due.

8.11. Creation of the Assessment Lien. Each Assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each Assessment is made, the lien to become effective upon recordation of a Notice of Delinquent Assessment. All late charges, interest charges and costs of collection shall comply with California Civil Code Section 1366(d) to the extent that it is applicable.

## SECTION 9: ENFORCEMENT OF RESTRICTIONS

9.01. General. The Association or any Owner shall have the right to enforce compliance with the Project Documents in any manner provided by law or in bringing an action for damages, an action to enjoin the violation or to specifically enforce the provisions of the Project Documents, to enforce the liens provided for herein (except that no Owner shall have the right to enforce independently of the Association any Assessment, Individual Charge or Assessment lien created herein) and any statutory lien provided by law, including the foreclosure of any such lien and the appointment of a receiver for an Owner and the right to take possession-- of the Unit in the manner provided by law. In the event the Association or any Owner shall employ an attorney to enforce the provisions of the Project Documents against any Owner, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other amounts due as provided for herein. All sums payable hereunder by an Owner shall bear interest at the maximum rate permitted by law from the due date, or if advanced or incurred by the Association or any other Owner pursuant to authorization contained in the Project Documents, commencing 15 days after repayment is demanded. All enforcement powers of the Association shall be cumulative. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9.02. Specific Enforcement Rights. In amplification of, and not in limitation of, the general rights specified in Section 9.01 above, the Association, or its authorized representative, shall have the following rights:

a. Enforcement by Sanctions.

(1) Limitation. The Association shall have no power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his Unit on account of a failure by the Owner to comply with provisions of the Project Documents except where the loss or forfeiture is the result of the judgement of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association.

(2) Disciplinary Action. The Association may impose monetary penalties, temporary suspensions of a reasonable duration (not to exceed 30 days per violation) of an Owner's rights as a Member of the Association or other appropriate discipline for failure to comply with the Project Documents. Notwithstanding the foregoing, the Association shall have no right to interfere with an Owner's right of ingress to or egress from his Unit.

Before disciplinary action authorized under this Section may be imposed by the Association, the Owner against whom such action is proposed to be taken shall be given notice and the opportunity to be heard in accordance with Section 7341 of the Corporations Code, as set forth in Section 12 of the Bylaws.

b. Suit to Collect Delinquent Assessments or Individual Charges. A suit to recover a money judgement for unpaid Assessments or unpaid Individual Charges, together with late charges, interest, costs and reasonable attorneys' fees shall be maintainable by the Association. In the case of unpaid Assessments, such suit shall be maintainable without foreclosing or waiving the lien securing such unpaid Assessments.



c. Enforcement of Lien. If there is a delinquency in the payment of any Assessment or Assessment installment on a Unit, any amounts that are delinquent, together with the late charges (at the maximum rate permitted by law), costs of collection, reasonable attorneys' fees, and interest on all of the foregoing sums (at the maximum rate permitted by law) shall be a lien against that Unit upon the recordation in the office of the County Recorder of a Notice of Delinquent Assessment as provided in California Civil Code Section 1367. Each Owner, including Declarant, hereby appoints the person or entity designated by the Association as the "trustee" in the Notice of Delinquent Assessment, or such substitute trustee as is designated pursuant to California Civil Code Section 2934(a), as his trustee, and each Owner empowers such trustee to enforce the lien and to foreclose the lien by the private power of sale provided in Section 1367(d) of the California Civil Code, as that statute may be revised, amended or altered from time to time, or by judicial foreclosure. Each Owner further grants to such trustee the power and authority to sell the Unit of any defaulting Owner to the highest bidder to satisfy such lien. The Notice of Delinquent Assessment shall be signed by an authorized representative of the Association and shall state the amount of the delinquent Assessment and other sums imposed in accordance with California Civil Code Section 1367, a description of the Unit assessed, the name of the record Owner(s), and the name and address of the trustee authorized by the Association to enforce the lien.

The Notice of Delinquent Assessment shall not be recorded unless and until the Board or its authorized representative has delivered to the delinquent Owner, not less than 15 days before the recordation of the Notice of Delinquent Assessment, a written demand for payment, and unless the delinquency has not been cured within said 15 day period.

Not more than one year (two years if extended) nor less than 15 days after the recording of the Notice of Delinquent Assessment, the Board or its authorized representative may record a notice of default and may cause the Unit with respect to which a notice of default has been recorded to be sold in the same manner as a sale is conducted under California Civil Code Sections 2924-2924h, or through judicial foreclosure. However, as a condition precedent to the holding of any such sale under Section 2924-2924h appropriate publication shall be made. In connection with any sale under Section 2924-2924h, the Board is authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in California as trustee for purposes of conducting the sale. If a delinquency including Assessments and other proper charges is cured after recordation of the Notice of Delinquent Assessment but before sale, or before completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the office of the County Recorder a certificate setting forth the satisfaction of such claim and release of such lien. The Association, acting on behalf of the Owner, shall have the power to bid upon the Unit at foreclosure sale and to acquire, hold, lease, mortgage and convey the Unit.

d. Transfer by Sale or Foreclosure. In a sale or transfer of a Unit, the personal obligation for delinquent Assessments or Individual Charges shall not pass to the Transferee unless expressly assumed by him. The sale or transfer of any Unit shall not affect the Assessment lien, nor the right of the Association to impose a lien for Assessments which became due prior to such sale or transfer. However, the sale or transfer of any Unit pursuant to the exercise of a power of sale or judicial foreclosure involving a default under a First Mortgage shall extinguish the lien and right to lien for Assessments which became due prior to such sale or transfer. No transfer of the

Unit as the result of a foreclosure or exercise of a power of sale shall relieve the new Owner, whether it be the former beneficiary of the First Mortgage or another person, from liability for any Assessments or Individual Charges thereafter becoming due or from the lien thereof.

e. Waiver of Homestead Benefits. Each Owner to the extent permitted by law, waives, to the extent of any liens created pursuant to the Project Documents, the benefit of any homestead or exemption laws of California in effect at the time any Assessment becomes due.

## SECTION 10: BUDGETS, FINANCIAL STATEMENTS AND BANK ACCOUNTS

10.01. Proposed Budget. Not less than 75 days before the beginning of each fiscal year, the Board shall prepare or cause to be prepared, a proposed pro forma budget for the forthcoming fiscal year. Any Owner or Mortgagee may make written comments to the Board with respect to said pro forma operating budget. The pro forma operating budget shall be prepared consistently with the prior fiscal year's operating budget and shall include adequate reserves for contingencies and for maintenance, repair and replacement of the Common Area improvements and Association personal property likely to need maintenance, repair or replacement in the future.

10.02. Adopt Budget. Not more than 75 days nor less than 60 days before the beginning of each fiscal year, the Board shall meet to review the proposed pro forma budget, any written comments received and any other information available to it and, after making any adjustments that the Board deems appropriate, shall adopt the budget and establish the Regular Assessment for the forthcoming fiscal year.

10.03. Budgets, Financial Statements. The following financial and related information shall be regularly prepared and distributed by the Board to all members of the Association:

a. Budget. A pro forma operating budget for the immediately ensuing fiscal year consisting of at least the following information shall be distributed not less than 45 days and not more than 60 days prior to the beginning of the fiscal year:

(1) Estimated revenue and expenses of the Association on an accrual basis;

(2) A summary of the Association's reserves based on the most recent reserves review or study conducted pursuant to Subsection 10.04 (entitled "Reserves and Reserves Study"), which shall be printed in bold type and shall include the following:

(i) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component which the Association is obligated to maintain (collectively the "Major Components");

(ii) As of the end of the fiscal year for which the study was prepared:

(a) The current estimate of cash reserves necessary to repair, replace, restore or maintain the Major Components; and

(b) The current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain the Major Components; and

(iii) The percentage that the amount in (ii)(b) is to the amount in (ii)(a);

(3) A statement as to whether the Board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves therefor; and

(4) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement, or additions to those major components of the common areas and facilities for which the Association is responsible.

b. Balance Sheet. A balance sheet as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of a Unit in the Project, and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the Unit number and the name of the entity assessed;

c. Report. A report consisting of the following shall be distributed within 120 days after the close of the fiscal year:

- (1) A balance sheet as of the end of the fiscal year.
- (2) An operating (income) statement for the fiscal year.
- (3) A statement of changes in financial position for the fiscal year.

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

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

In lieu of the pro forma operating budget referred to in the subsection above entitled "Budget", the Board of Directors may elect to distribute a summary of the items described in Section a(1), a(2), a(3) and a(4) to all Members of the Association with a written notice (in at least 10-point bold type on the front page) that the budget is available at a location within the Project's boundaries and that copies will be provided upon request and at the expense of the Association. The Association must mail such copies of the pro forma operating budget, including the items described in Section a(1), a(2), a(3), and a(4), by first-class United States mail to any Member requesting same at the expense of the Association which copies shall be mailed within five days from receipt of such request.

d. Statement of Enforcement Policies. In addition to financial statements, the Board shall annually distribute within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against Members' Units.

#### 10.04. Reserves and Reserves Study.

a. Reserves. Each annual regular assessment shall include a portion for reserves in such amount as the Board in its discretion considers appropriate to meet the cost of the future repair, replacement or additions to the major components that the Association is obligated to maintain and repair. Reserve funds may not be expended for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to maintain.

b. Transfer of Reserves. Notwithstanding the foregoing, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash-flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within three years of the date of the initial transfer, provided that the Board, on the making of a finding supported by documentation that a delay is in the best interest of the Development, may delay the restoration until the time which the Board reasonably determines to be necessary. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required herein. The special assessment shall not be subject to the assessment increase restrictions set forth in subsection 8.4 (entitled "Regular Annual Assessments") and Civil Code Section 1366(b).

c. Reserve Study. At least once every three years, the Board shall cause a study of the reserve account requirements to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the Association for any fiscal year. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

The study shall, at a minimum, include:

(1) Identification of the major components which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than 30 years;

(2) Identification of the probable remaining useful life of the components identified in subparagraph (1) as of the date of the study;

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified as a subparagraph (1) during and at the end of its useful life; and

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain each major component during and at the end of its useful life after subtracting total reserve funds as of the date of the study.

As used herein, "reserve accounts" means moneys that the Board has identified for use to defray the future repair or replacement of, or additions to those major components which the Association is obligated to maintain; and "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the Association is obligated to maintain.

The provisions of the Subsection entitled "Reserves and Reserves study" are intended to comply with the requirements of Civil Code Section 1365.5(c) and (d). If these Civil Code sections are rescinded or amended in any manner, the provisions of the Subsection automatically shall be rescinded or amended in the same manner.

10.05. Bank Accounts. The Association shall deposit all funds collected from Owners pursuant to the Section herein entitled "Assessments" and all other amounts collected by the Association as follows:

a. General. All funds shall be deposited in a separate bank account ("General Account") with a bank located in California. The Association shall keep accurate books and records regarding such account. Funds deposited in such account may be used by the Association only for the purposes for which such funds have been collected.

b. Reserve. Funds which the Association shall collect for reserves for capital expenditures relating to the repair and maintenance of the Units and Common Area, and for such other contingencies as are required for good business practice shall, within 10 days after deposit in the General Account, be deposited into an interest bearing account with a bank or savings and loan association selected by the Association, or invested in Treasury Bills or Certificates of Deposit or otherwise prudently invested, which shall collectively be referred to as the "Reserve Account". Funds deposited into the Reserve Account shall be held in trust and may be used by the Association only for the purposes for which such amounts have been collected.

## SECTION 11: INSPECTION OF BOOKS AND RECORDS

11.01. Inspection by Members. The membership register (including names, addresses and telephone numbers), books of account and minutes of meetings of the members, of the Board and of committees of the Board shall be made available for inspection and copying by any member of the Association, or by his duly appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the Project as the Board shall prescribe.

11.02. Rules for Inspection by Members. The Board shall establish reasonable rules with respect to:

- a. Notice to be given to the custodian of the records by the member desiring to make the inspection;
- b. Hours and days of the week when such an inspection may be made;
- c. Payment of the costs of reproducing copies of documents requested by a member.

11.03. Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

11.04. Review of Financial Records. The Board shall review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean monies that the Association's Board has identified from its annual budget for use to defray the future repair or replacement of, or additions to, those major components which the Association is obligated to maintain.

11.05. Reserve Account Withdrawal Restrictions. The Board shall require that at least two (2) signatures be needed for the withdrawal of monies from the Association's reserve accounts, who either shall be members of the Board or one (1) member of the Board and one (1) officer who is not a member of the Board.

## SECTION 12: INSURANCE, DESTRUCTION, CONDEMNATION

12.01. Insurance. In addition to other insurance required to be maintained by the Project Documents, the Association, through its Board, shall obtain from generally accepted insurance carriers, and maintain in effect at all times, the following insurance at common expense:

a. Liability Insurance. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association and each Owner against any liability incident to the ownership, use or maintenance of the Common Area, including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$1,000,000 (one million dollars) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance may include protection against water damage liability, liability for nonowned and hired automobiles, liability for property of others, and such other risks as are customarily covered with respect to projects similar in construction, location and use. Such policy may provide for a reasonable deductible.

b. Fire, Casualty and Extended Coverage Insurance. The Association shall also obtain and maintain a policy of fire, casualty and extended coverage insurance for the full insurable replacement value (without deduction for depreciation) of all of the improvements within the Project (including the Common Area and all Units). Such policy may provide for a reasonable deductible. The form, content, term of policy, its endorsements and the issuing company shall meet the reasonable standards of all First Mortgagees and shall be consistent with good sound insurance coverage for properties similar in construction, location and use. The policy shall name as insured the Association for the benefit of the Owners and Declarant, as long as Declarant is the Owner of any Unit, and all Mortgagees as their respective interests shall appear, and may contain a loss payable endorsement in favor of any trustee described below.

c. Individual Fire Insurance Limited. Except as provided in this Section, no Owner shall separately insure his Unit against loss by fire or other casualty covered by any insurance carried under Section 12.01(b). If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under policies described above that results from the existence of such other insurance shall be chargeable to the Owner who acquired other insurance, and such Owner shall be liable to the Association to the extent of any such diminution. An Owner may insure his personal property against loss. In addition, any improvements made by an Owner to his Unit may be separately insured by the Owner, but the insurance is to be limited to the nature of coverage commonly known as "tenant's improvements". All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, Declarant and the First Mortgagee of such Unit.

d. Trustee. All fire, casualty and extended coverage insurance proceeds payable under Section 12.01(b) above for losses to real property and improvements may be paid to a trustee, to be held and expended for the benefit of the Owners, Mortgagees, and others, as their respective interests shall appear. Said trustee shall be a commercial bank, savings and loan or trust company in the county in which the Project is located that agrees in writing to accept such trust.



e. Other Insurance. The Board shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Board also shall purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150% of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation) sufficient to meet the requirements of any First Mortgagee. The Board shall also purchase and maintain insurance on personal property owned by the Association, and any other insurance that it deems necessary, that is required by any First Mortgagee or that is customarily obtained for projects similar in construction, location and use.

f. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 12.01(a)(b) and (e). The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

g. Officer and Director Insurance. The Association may purchase and maintain insurance in an amount up to \$500,000 on behalf of any Director, Officer, or member of a committee of the Association (collectively the "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Association would have the power to indemnify the agent against such liability under applicable law.

h. Waiver of Subrogation. All casualty and liability insurance carried by the Association, or the Owners, shall contain provisions whereby the insurer waives rights of subrogation as to the Association, Directors, Officers, Declarant, Owners, occupants of Units, their family, guests, agents and employees.

i. Notice of Cancellation. All insurance carried by the Association shall require the insurer to notify any First Mortgagee requesting such notice at least 15 days prior to the effective date of any reduction or cancellation of the policy.

j. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is adequate.

k. Payment of Premiums. Premiums on insurance maintained by the Association shall be a common expense funded by Assessments levied by the Association.

## 12.02. Destruction.

a. Minor Destruction Affecting Common Area. Notwithstanding Section 12.02(b), the Board shall have the duty to repair and reconstruct the Common Area without the consent of Members and irrespective of the amount of available insurance proceeds or other funds, in all instances of partial destruction where the estimated cost of repair and reconstruction does not exceed 5% of the budgeted gross expenses of the Association for that fiscal year. The Board may levy a Special Assessment for the cost of such repair and reconstruction to the extent insurance

proceeds or other funds are unavailable. Said Special Assessment shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

b. Major Destruction Affecting Common Area.

(i) Destruction: Proceeds Exceed 85% of Reconstruction Costs. If there is a total or partial destruction of the Common Area, and if the available proceeds of the insurance carried pursuant to Section 12.01 or other available funds are sufficient to cover not less than 85% of the costs of repair and reconstruction, the Common Area shall be promptly rebuilt unless, within 90 days from the date of destruction, Members then holding at least 75% of the voting power of each class determine that repair and reconstruction shall not take place.

(ii) Destruction: Proceeds Less than 85% of Reconstruction Costs. If the proceeds of insurance carried pursuant to Section 12.01 or other available funds are less than 85% of the costs of repair and reconstruction, repair and reconstruction shall not take place unless, within 90 days from the date of destruction, Members then holding at least a majority of the voting power of Members of each class determine that repair and reconstruction shall take place. If repair and reconstruction is to take place, the Board shall execute, acknowledge and record in the office of the County Recorder not later than 120 days from the date of destruction a certificate declaring the intention of the Members to rebuild.

(iii) Special Assessment to Rebuild. If the determination is made to rebuild pursuant to the above Sections, the Association may levy a Special Assessment against all Unit Owners to cover the cost of rebuilding not covered by insurance proceeds or other funds. Said Special Assessments shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

(iv) Rebuilding Contract. If the determination is made to rebuild, the Board shall obtain bids from at least 3 reputable contractors, and shall award the repair and reconstruction work to the most reasonable bidder. The Board shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds shall be disbursed to said contractor according to the terms of the contract. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

(v) Rebuilding Not Authorized. If the determination is made not to rebuild, then, subject to the rights of Mortgagees, any insurance proceeds then available for such rebuilding shall be distributed to each Owner according to the relative fair market values of their Condominiums. The Board shall select an independent member of the Society of Real Estate Appraisers ("SREA") who shall determine such relative values in accordance with SREA standards as of a date immediately prior to such destruction. The Board shall have the duty, within 120 days from the date of destruction, to execute, acknowledge and record in the Office of the County Recorder, a certificate declaring the intention of the Members not to rebuild.

12.03. Condemnation.

a. Sale in Lieu. If an action for condemnation of all or a portion of the Project is proposed or threatened by any governmental or quasi-governmental or other entity having the right of eminent domain, then on the unanimous written consent of all of the Owners and subject to the rights of all Mortgagees, the Project, or a portion of it, may be sold by the Board acting as irrevocable attorney-in-fact of all of the Owners for a price deemed fair and equitable by the Board but in no event less than the aggregate unpaid balance of all Mortgages encumbering Condominiums in the Project.

b. Distribution of Proceeds of Sale. On a sale occurring under Section 12.03(a), if the agreement of sale does not by its terms apportion the sale proceeds among the Owners and their respective Mortgagees, the Board shall select an independent SREA appraiser who shall determine the relative fair market values of the Condominiums affected by the sale, in accordance with SREA Standards. The sale proceeds shall then be apportioned among the Owners, and their respective Mortgagees, according to such relative values.

c. Distribution of Condemnation Award. If the Project, or a portion of it, is not sold but is instead taken, the judgement of condemnation shall by its terms apportion the award among the Owners and their respective Mortgagees.

d. Appraisal if Condemnation Award not Apportioned. If the judgement of condemnation does not by its terms apportion the award among the Owners and their respective Mortgagees, the Board shall select an independent SREA appraiser who shall determine the relative fair market values of the Condominiums affected by the condemnation, in accordance with SREA Standards. The award shall then be apportioned among the Owners, and their respective Mortgagees, equitably, according to such relative values.

### SECTION 13: MORTGAGEE PROTECTIONS

13.01. Mortgages Permitted. Any Owner may encumber his Unit with Mortgages.

13.02. Priority Mortgage. Notwithstanding any other provision of this Declaration, it is hereby provided that a breach of any of the conditions contained in the Project Documents by any Owner or of any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to said Unit or any part thereof. Any lien which the Association may have on any Unit in the Project for the payment of common expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on the Unit recorded prior to the date of recordation of a notice of delinquent assessment.

13.03. Payment of Taxes or Premiums by Mortgagees. Mortgagees may, jointly or singly, 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 Mortgagees shall be governed by the provisions of their Mortgages. Mortgagees may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Area and Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any Mortgagee which requests the same to be executed by the Association.

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

13.05. Mortgagee's Rights. A First Mortgagee's rights shall include, but not be limited to, the following:

a. Attend Meetings. Any First Mortgagee, upon written request, shall receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

b. Furnish Information. Any Mortgagee may furnish information to the Board concerning the status of any Mortgage.

c. Inspect Books and Records. The Association shall make available to Owners, prospective purchasers and First Mortgagees current copies of the Project Documents and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours.

In addition, if the project contains 50 or more Units, the Association must provide an audited financial statement for the immediately preceding fiscal year if the First Mortgagee submits a written request for it. Said financial statement shall be furnished by the Association within a reasonable time following such request. If the project contains fewer than 50

Units and there is no audited financial statement available, any First Mortgagee should be allowed to have an audited financial statement prepared at its own expense.

13.06. No Restrictions on Owner's Right to Ingress and Egress. There shall be no restriction upon any Owner's right to ingress and egress to his Unit, which right shall be perpetual and appurtenant to his Unit ownership.

13.07. Notices of Mortgagees. Upon written request to the Association, any First Mortgagee shall be entitled to timely written notice of the following:

- a. Any proposed amendment to the Project Documents effecting a change in:
  - (i) The boundaries of any Unit or the exclusive use rights appurtenant thereto, if any;
  - (ii) The interests in the general or exclusive use Common Areas, if any, appurtenant to any Unit or the liability for common expenses appurtenant thereto;
  - (iii) The number of votes in the Association appurtenant to any Unit; or
  - (iv) The purposes to which any Unit or the Common Area are restricted.
- b. Any proposed termination of the legal status of the Project as a condominium.
- c. Any condemnation or casualty loss which affects either a material portion of the Project or any Unit on which there is a First Mortgage held, insured or guaranteed by such requesting party.
- d. Any 60-day delinquency in the payment of Assessments or Individual Charges owed by an Owner subject to a First Mortgage held, insured or guaranteed by such requesting party.
- e. Any default in the performance by the affected Owner of any obligation under the Project Documents which is not cured within 60 days.
- f. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- g. Any proposed action which requires the consent of a specified percentage of First Mortgagees as specified in Section 13.08.

13.08. FNMA, FHLMC, FHA, VA Mortgages.

a. Conditions When This Section Applicable. The provisions of this Section 13.08 shall apply if any of the following conditions exist pertaining to First Mortgages on any of the Units:

- (1) Any First Mortgage is sold or transferred to FNMA;
- (2) Any First Mortgage is sold or transferred to FHLMC, or
- (3) Any First Mortgage is FHA insured or a Veterans Affairs ("VA") mortgage.

b. Approval of Material Amendments. The approval of 67% of the total voting power of the Association and 51% or more of the Eligible First Mortgagees (based upon one vote for each first mortgage owned) must be obtained for amendments of a material nature to the Project Documents. A change to any of the following would be considered as material:

- (1) Voting rights;
- (2) Assessments, assessment liens, or subordination of assessment liens;
- (3) Reserves for maintenance, repair and replacement of common areas or any other portions of the Project which the Association has a duty to maintain, repair and replace.
- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interests in the general or exclusive use common areas, if any, or rights to their use;
- (6) Boundaries of any Unit;
- (7) Convertibility of Units into common areas or vice-versa;
- (8) Expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- (9) Insurance or fidelity bonds;
- (10) Leasing of Units;
- (11) Imposition of any right of first refusal or similar restriction on a Unit Owner's right to sell, transfer or convey his Unit;
- (12) A decision by the Owner's Association to establish self management when professional management has been required previously by a First Mortgagee;
- (13) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;
- (14) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; or
- (15) Any provisions that expressly benefit First Mortgagees, insurers or guarantors.

An addition or amendment to the Project Documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only.

If an addition or amendment is not considered as a material change, approval will be implied when a First Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after the proposal is submitted.

c. Termination of Legal Status. Except as provided above, any election to terminate the legal status of the Project as a condominium must be approved by at least 67% of the voting power of the Association and 67% of the Eligible First Mortgagees based upon one vote for each First Mortgage owned.

d. Reallocation of Interests in the Common Area. No reallocation of interests in the Common Area resulting from a partial condemnation or partial destruction of the Project shall be effected without the approval of 51% of the Eligible First Mortgagees based upon one vote for each First Mortgage owned.

e. Restriction on Certain Changes. Unless at least 66-2/3% of the First Mortgagees (based on one vote for each First Mortgage owned) or 66-2/3% of the Owners other than Declarant have given their prior written approval, the Association shall not:

(1) By act or omission seek to abandon or terminate the Condominium Project;

(2) Change the pro rata interest or obligations of any Condominium Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Condominium Unit in the common elements;

(3) Partition or subdivide any Condominium Unit;

(4) Seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the Condominium Project is not a transfer within the meaning of this clause;

(5) Use hazard insurance proceeds for losses to any Condominium Property (whether Units or common elements) for other than the repair, replacement, or reconstruction of the Condominium Property.

f. No Right of First Refusal. The right of an Owner to sell, transfer or otherwise convey his Unit shall not be subject to any "right of first refusal" or similar restriction

g. Foreclosure Eliminates Unpaid Assessments. Each holder of a first mortgage lien on a Unit who comes into possession of the Unit by virtue of foreclosure of the mortgage or any purchaser at a foreclosure sale, will take the Unit free of any claims for unpaid Assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit, except for claims for a pro rata share of such Assessments or charges resulting from a pro rata reallocation of such Assessments or charges of all Project Units, including the mortgaged Unit.

h. Mortgage Priority in Case of Distribution. No provision in any Project Document will entitle a Unit Owner or other party to priority over any rights of the First Mortgagee on the Unit pursuant to its Mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or Common Area.

i. Working Capital Fund. If required by FHA, VA, FNMA or FHLMC as a condition of qualifying the Project for any mortgage purchase, guarantee or other related program, a working capital fund shall be established for the Project by the contribution to such fund, by the Owners and Declarant, of a sum not to exceed the amount of 2 months Regular Assessments for

each Unit owned. Any amounts paid into this fund should not be considered as advance payments of regular assessments. Each Unit's share of the working capital fund should be collected at the time the sale of the Unit is closed and then should be transferred to the Association for deposit to a segregated fund. Within 60 days after closing has been held for the first Unit, the developer shall pay each unsold Unit's share of the working capital fund to the Association. The developer shall then reimburse itself for this payment from the funds collected at closing when the unsold Units are sold.

j. Leasing Restrictions. No Owner shall be permitted to lease his Unit for transient or hotel purposes. No Owner may lease less than the entire Unit. Any lease or rental agreement must be in writing and be subject to the provisions of the Project Documents. No Unit may be leased or rented for less than 30 days.

k. Taxes Relate Only to Individual Units. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Units and not to the Project as a whole.

13.09. FHA/VA Approval. During any period of time that a mortgage on any portion of the Project is held, insured or guaranteed by FHA or VA, and as long as there is a Class B Membership, the following actions shall require the prior approval of FHA or VA: amendment of the Project Documents, annexation of additional property, dedication or mortgaging of the Common Area, merger or consolidation of the Association with another corporation.

13.10. Additional FHA Provisions. Declarant desires that loans secured by mortgages encumbering Units within the development qualify for mortgage insurance by FHA.

All Owners, tenants and occupants of Units in the development covenant and agree that the administration of the development shall be in accordance with the terms and provisions of the Regulatory Agreement (FHA Form No. 3278) executed by FHA and the Association and that such terms and provisions of said Regulatory Agreement shall be fully complied with.

To the extent any matters in this Declaration or in the Articles or the Bylaws are in any way inconsistent with any matters in said Regulatory Agreement, then any such inconsistent matters in said Regulatory Agreement shall prevail. The right to lease Units in the development shall be subject to all terms and provisions of said Regulatory Agreement.

In the event of any conflict between any of the provisions of this Section and any other provisions of this Declaration, the provisions of this Section shall control.

Any provision of this Declaration which confers a power or right upon the FHA or the Federal Housing Commissioner and all of the provisions of the Regulatory Agreement shall be inapplicable whenever there are no Units where FHA insures the mortgage held by any First Mortgagee.



Whenever a notice is required to be sent to a Mortgagee holding an FHA insured mortgage or the approval of FHA is required, the notice or the request for approval shall be sent to the supervisor of the FHA office in which the project is located. If FHA does not respond to a request within 20 days after the notice is mailed or delivered, then FHA shall be deemed to have approved the request.

13.11. Compliance with FHA/VA, FHLMC or FNMA Requirements. Declarant intends that the Project shall comply with all of the requirements of the Federal Housing Administration ("FHA"), the Veterans Affairs ("VA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA"). All casualty and liability insurance covering any portion of the Project encumbered by a Mortgage insured by FHA, guaranteed by VA, or held by FHLMC or FNMA, shall therefore conform to the applicable FHA/VA, FHLMC or FNMA requirements. Declarant and all Unit Owners also agree that in the event the Project or the Project Documents do not comply with the applicable FHA/VA, FHLMC or FNMA requirements, the Board and each Owner shall take any action or adopt any resolutions required by Declarant or any First Mortgagee to conform such Project Documents, or the Project, to the FHA/VA, FHLMC or FNMA requirements, subject to the review and approval of the California Department of Real Estate, in accordance with applicable law, so long as the Department of Real Estate retains jurisdiction.

13.12. Waivers. A Mortgagee may waive any requirement contained in this Declaration as they pertain to such Mortgagee, provided that such waiver shall be in writing.

13.13. Conflicts. In the event of a conflict between any of the provisions of this Section 13 and any other provisions of this Declaration, the provisions of this Section 13 shall control.

#### SECTION 14: ENFORCEMENT OF BONDED OBLIGATIONS

If any Common Area improvements in the Project have not been completed prior to the issuance of the Final Public Report and the Association is obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of Declarant to complete such improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within 60 days after the completion date specified for that improvement 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 improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within 30 days after the expiration of the extension.

A special meeting of Members for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, shall be held not less than 35 days nor more than 45 days after receipt by the Board of a petition for such meeting signed by Members representing 5% or more of the total voting power of the Association. At such special meeting, a vote of a majority of the voting power of the Association residing in 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 this decision by initiating and pursuing appropriate action in the name of the Association.

## SECTION 15: AMENDMENTS

15.01. Prior to First Conveyance. Prior to close of escrow on the conveyance of the first Unit, Declarant may amend or revoke this Declaration subject to the requirements of Business and Professions Code Section 11012 and 11018.7.

15.02. After First Conveyance. After conveyance of the first Unit, this Declaration may be amended or revoked only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the voting power of each class of Members of the Association. If only one class of membership exists at the time an amendment is proposed, then it must be approved by at least a bare majority of the total voting power of the Association, which shall include at least a bare majority of the votes of Members other than Declarant. The percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

15.03. Recordation. Any amendment must be recorded and shall become effective only upon being recorded in the County Recorder's Office.

15.04. Unanimous Consent for Specific Amendments. The consent of all Owners shall be required for any amendment of Project Documents effecting a change in

- (1) the boundaries of any Unit;
- (2) the undivided interest in the common elements pertaining to the Unit or the liability for Common Expenses appertaining thereto;
- (3) the number of votes in the Owners Association appertaining to the Unit; or
- (4) the fundamental purposes to which any Unit or the common elements are restricted.

15.05. FHA Requirements. Notwithstanding any provision of this Section to the contrary, all requirements of Section 13.09 entitled "FHA/VA Approval" must be met in order to effectuate any amendment or revocation pursuant to this Section.

## SECTION 16: GENERAL PROVISIONS

16.01. Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be binding on the Association and the Owners of any Units, their legal representatives, heirs, grantees, tenants, successors and assigns, subject to this Declaration, for a term of 30 years from the date this Declaration is recorded. Thereafter, subject to the Section above entitled "Amendments", they shall be automatically extended for successive periods of 10 years.

16.02. Owner's Compliance. Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration), the Project Documents and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages, for injunctive relief, or to enforce such provisions, decisions or resolutions.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Project Documents shall be deemed to be binding on all Owners of Units, their successors and assigns.

16.03. Notices. Any notice permitted or required by the Project Documents may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the Unit of such person if no address has been given to the Secretary.

16.04. Notice of Transfer. No later than 15 days after the sale or transfer of any Unit under circumstances whereby the transferee becomes the Owner thereof, the transferee shall notify the Association in writing of such sale or transfer. Such notice shall set forth:

- (i) the Unit involved;
- (ii) the name and address of the transferee and transferor; and
- (iii) the date of sale.

Unless and until such notice is given, the Association shall not be required to recognize the transferee for any purpose, and any action taken by the transferor as an Owner may be recognized by the Association. Prior to receipt of any such notification by the Association, any and all communications required or permitted to be given by the Association shall be deemed duly given and made to the transferee if duly and timely made and given to said transferor.

16.05. Delivery of Project Documents to Transferee. Prior to the transfer of title to a Unit, the transferor shall provide to the prospective transferee a copy of the Project Documents and such other documents and information as are required by California Civil Code Section 1173.

16.06. Easements Reserved and Granted. Any easements appurtenant to a Unit referred to in this Declaration shall be deemed reserved and/or granted by reference to this Declaration in a deed to said Unit.

16.07. Termination of any Responsibility of Declarant. If Declarant shall convey all of its right, title and interest in and to the Project to any partnership, individual or corporation, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or corporation shall be obligated to perform all such duties and obligations of the Declarant.

16.08. Mergers and Consolidations. To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit organizations organized for the same purposes as this Association, provided that any such merger or consolidation shall have the written consent of all of the members or the assent by vote of two-thirds of the members voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be given to all members at least thirty days in advance, and must comply with the annexation provisions contained in Section 3, incorporated herein by reference.

16.09. Limitation of Restrictions on Declarant. Nothing in this Declaration shall be understood or construed to:

a. Prevent Declarant, its contractors, or subcontractors from doing on the Project or any Unit, whatever is reasonably necessary or advisable in connection with the completion of said work; or

b. Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or

c. Prevent Declarant from conducting on any part of the Property its business of completing said work and of establishing a plan of ownership and of disposing of said Property in Units by sale, lease or otherwise; or

d. Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease or disposition thereof, provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of his Unit or the Common Area.

The foregoing limitations of the application of the restrictions to Declarant shall terminate upon the sale of Declarant's entire interest in the Project, or three years after the close of the first escrow, whichever occurs earlier.

Any action taken by Declarant pursuant to any provision of this Section will not unreasonably interfere with the Owners' rights and use of the project.

16.10. Successor. The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of any Declarant's interest in the Project, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor or to a Mortgagee acquiring Declarant's interest in the Project by foreclosure or by deed in lieu of foreclosure.

16.11. Fair Housing. No Owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing or mortgaging or occupancy of his Unit to any person of a specified race, sex, marital status, color, religion, ancestry, physical handicap or national origin.

16.12. Severability. Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this Project is located, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

16.13. Estoppel Certificate. Within ten (10) days of the mailing or delivery of a written request by an Owner, the Board shall provide the Owner with a written statement containing the following information:

(i) whether to the knowledge of the Association, the Owner or the Owner's Unit is in violation of any of the provisions of this Declaration, the Articles, Bylaws, or Association Rules;

(ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year the request is received; and

(iii) the amount of any assessments levied against the Owner's Unit that are unpaid as of the date of the statement, including any late charges, interest, or cost of collection that as of the date of the statement are or may be made a lien against the Owner's Unit as provided by this Declaration, the Articles, Bylaws, or Association Rules.

16.14. Conflict with Project Documents. If there is a conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order: Articles, Bylaws, and Rules and Regulations of the Association.

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

16.16. Dispute Resolution Procedures. Any disputes between the Association (or any Owner) and the Declarant or any director, officer, partner, employer or agent of the Declarant relating to this Declaration, the use or condition of the Property, and/or the construction and installation of any Improvements located thereon shall be subject to the following provisions:

(i) Notice: Any Person with a claim against the Declarant or any director, officer, partner, employer or agent thereof (collectively the "Declarant" for purposes of this section) shall notify the Declarant in writing of the claim, which writing shall describe the nature of the claim and the proposed remedy (the "Claim Notice").

(ii) Right to Inspect: Within a reasonable period after receipt of the Claim Notice, which period shall not exceed 60 days, the Declarant and the Claimant shall meet at a mutually-acceptable place within the Development to discuss the claim. At such meeting or at such other mutually-agreeable time, Declarant and Declarant's representatives shall have full access to the Property that is subject to the claim for the purposes of inspecting the Property. The parties shall negotiate in good faith in an attempt to resolve the claim. If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Development to take and complete corrective action.

(iii) Alternative Dispute Mechanism: If the parties cannot resolve the claim pursuant to the procedures described in subparagraph (ii) above, prior to the commencement of any litigation in any court of competent jurisdiction, the parties shall negotiate in good faith regarding the submission of the claim to a referee pursuant to Code of Civil Procedure Sections 638-645.1 or any successor statute thereto or other appropriate alternative dispute mechanism. The parties shall use the procedures adopted by the American Arbitration Association for the general reference procedures. The parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the alternative dispute mechanism, and neither party shall be required to participate in an alternative dispute mechanism unless it is satisfied all necessary and appropriate parties will participate.

If the Association and /or Owner has complied with the requirements of subparagraphs (i), (ii) and (iii) above and the Declarant denies any responsibility for the claim, accepts only partial responsibility, accepts responsibility but the parties cannot in good faith agree on an appropriate remedy or alternate dispute forum for resolving the dispute, the Association and/or Owner may bring an action in any court of competent jurisdiction to resolve the dispute. The Association and each Owner covenants that each shall forbear from commencing any litigation against the Declarant without complying with the procedures described in subparagraphs (i), (ii) and (iii) above. If the Association or any Owner breaches the foregoing covenant, Declarant may obtain an appropriate order compelling the Association and/or Owner to comply with the procedures described in subparagraphs (i), (ii) and (iii).

Notwithstanding any other provision herein to the contrary, in any dispute between the Association and/or any Owner and Declarant, each party shall bear its own attorneys' fees.

Any and all communications by and between the parties, whether written or oral, which are delivered by the parties or their attorneys or other representatives in an effort to settle the claim shall be considered communications undertaken in the course of effecting a settlement or compromise and as such shall not be admissible as the admission on the part of any party or any representative or agent of that party to be utilized for any such purpose in any action or proceeding.

The procedures set forth in subparagraphs (i), (ii) and (iii) above shall not apply to any action taken by the Association against Declarant for delinquent assessments which shall be governed by Section 9.02 or in any action involving any Common Area Improvement bonds which shall be governed by the provisions of Section 14.

IN WITNESS WHEREOF, Declarant has executed this Declaration.

DATED: AUGUST 6, 1993.

CAPITAL SALVAGE, a California Corporation

By: [Signature]  
KELLY NG, Vice President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

NO 2192

State of California  
County of Alameda

On Aug 6, 1993 before me, ROBERT J. PEACOCK  
DATE NAME, TITLE OF OFFICER, E.G. "JANE DOE, NOTARY PUBLIC"

personally appeared Kelly Ng  
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]  
SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- ☐ INDIVIDUAL  
☒ CORPORATE OFFICER(S)  
Vice President  
TITLE(S)  
☐ PARTNER(S) ☐ LIMITED  
☐ GENERAL  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER \_\_\_\_\_

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES):  
\_\_\_\_\_  
\_\_\_\_\_

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT: \_\_\_\_\_

NUMBER OF PAGES: \_\_\_\_\_ DATE OF DOCUMENT: \_\_\_\_\_

SIGNER(S) OTHER THAN NAMED ABOVE: \_\_\_\_\_

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.



**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION**

All that certain real property situated in the County of Sacramento, State of California, described as follows:

"Parcel A" as described in that certain Certificate of Compliance recorded in Book 81 08 17, at Page 920 being a portion of Lot 1 as shown on the Map of the "Stonehedge Condominiums" filed February 28, 1982, in Book 145 of Maps, Map No. 9, Official Records of Sacramento County.

**EXHIBIT "A"**

**EXHIBIT "B"**

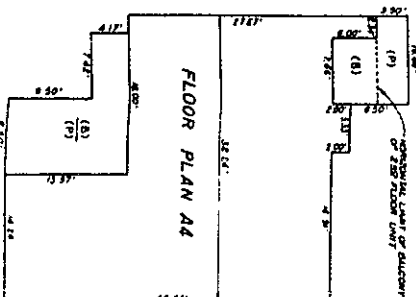
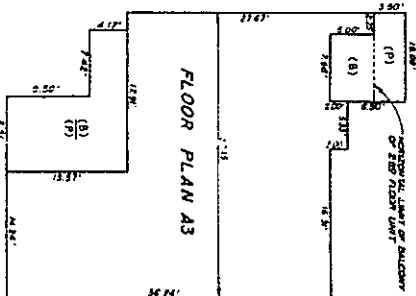
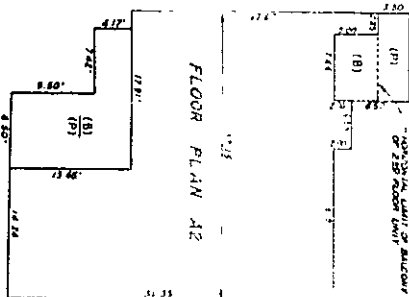
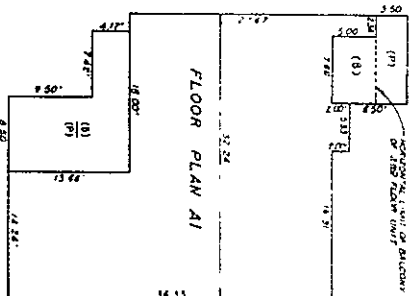
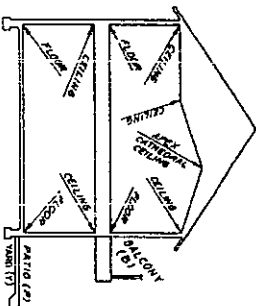
**DESCRIPTION OF ANNEXABLE PROPERTY**

All that certain real property situated in the County of Sacramento, California, described as follows:

"Parcels B, C, and D" as described in that certain Certificate of Compliance recorded in Book 81 08 17, at Page 920 being a portion of Lot 1 as shown on the Map of the "Stonehedge Condominiums" filed February 28, 1982, in Book 145 of Maps, Map No. 9, Official Records of Sacramento County.

**EXHIBIT "B"**

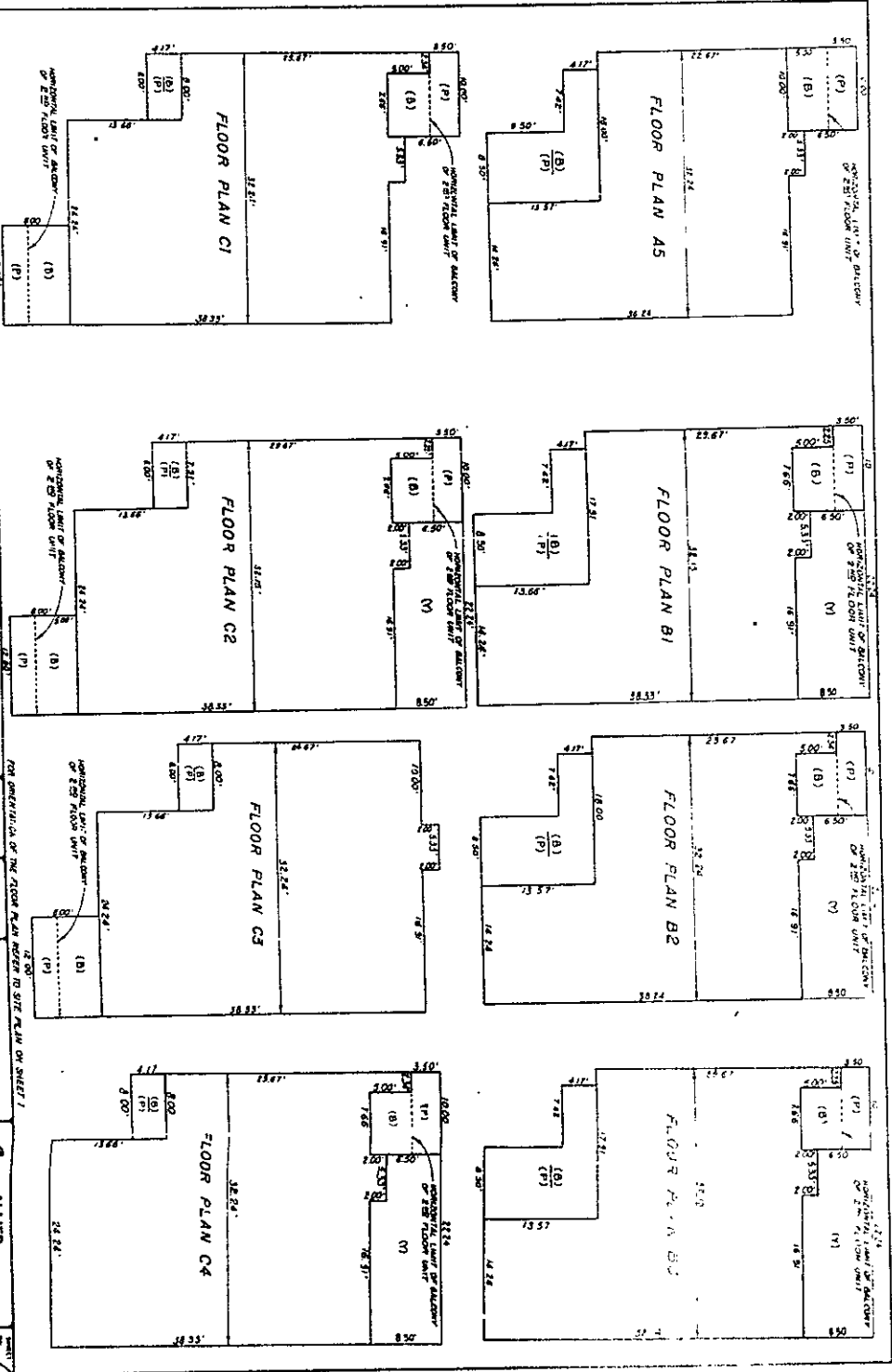


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FOR ORIENTATION I - THE FLOOD PLAN REFER TO SITE PLAN IN SHEET 1

**TYPICAL BUILDING SECTION**

[illegible]



DESIGNED BY	DATE	REVISIONS	SCALE	PROJECT NAME	COUNTY OF SACRAMENTO, STATE OF CALIFORNIA
DRAWN BY					
CHECKED BY					
APPROVED BY					
CONDOMINIUM PLAN					
COVERTY SQUARE CONDOMINIUMS					
FIELD BOOK					
SCALE					
NONE					
SHEET NO. 15 OF 15					
FLOOR PLANS					
ALLIED ENGINEERING SURVEYING					
3					

CONSENT OF LIEN HOLDER  
AND SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deeds of Trust recorded May 26, 1993, in Book 93-05-26, Pages 1925, 1926, 1927, 1928, and 1929, of the Official Records of Sacramento County, California, consents to all of the provisions contained in the attached Declaration and agrees that the lien of the deeds of trust shall be junior and subordinate and subject to said Declaration and certifies that it consents to the recordation of the Condominium Plan attached as Exhibit "C" to the Declaration.

Dated August 6, 1993.

Lienholder

TRI-NG, a California Corporation

By: [Signature]

Title: Vice President

By: \_\_\_\_\_

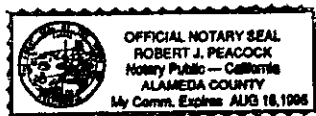
Title: \_\_\_\_\_

STATE OF CALIFORNIA )  
COUNTY OF Alameda ) SS.

On this 6th day of August in the year 1993 before me, the undersigned, a Notary Public in and for said State, personally appeared Kelly Ng, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as Vice President, and [Signature] personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as Secretary of the corporation that executed the within instrument and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

[Signature]  
NOTARY PUBLIC



P:  
of  
at  
C

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No 5193

State of California

County of Alameda

On Aug 4, 1983 before me,

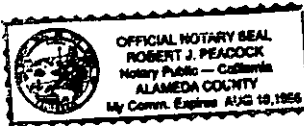
NAME, TITLE OF OFFICER: E.G. "JANE DOE, NOTARY PUBLIC"

**ROBERT J. PEASOCK**

personally appeared

Kelly Ng  
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument



WITNESS my hand and official seal

SIGNATURE OF NOTARY

## OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

Though the data requested here is not required by law it could prevent fraudulent reattachment of this form

## OPTIONAL SECTION

### CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

☐ INDIVIDUAL

☒ CORPORATE OFFICER(S)

VICE PRESIDENT  
TITLE(S)

☐ PARTNER(S) ☐ LIMITED

☐ GENERAL

☐ ATTORNEY-IN FACT

☐ TRUSTEE(S)

☐ GUARDIAN-CONSERVATOR

☐ OTHER

### SIGNER IS REPRESENTING:

NAME OF COMPANY, ORGANIZATION, OR ENTITY(IES)