ATTACHMENT

Attached is the document you (or someone on your behalf) requested. As required by Section 12956.1(b)(1) of the California Government Code, please take note of the following:

"If the document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, disability, handicap, national origin, genetic information, gender, gender identity, gender expression, source of income (as defined in California Government Code § 12955(p)) or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

If this cover page is a copy which has been transmitted to you by facsimile, email or other form of electronic transmission, please note that the notice above appears in the original cover page in 14-point bold face type.

11237

RECORDING REQUESTED BY:

CHICAGO TITLE COMPANY

WHEN RECORDED MAIL TO:

BRIAN D. GREENBERG, ESQ.
ONE AMERICA PLAZA
SUITE 940
600 WEST BROADWAY
SAN DIEGO, CA 92101-3362

F8
117 2W 1of1

DOC # 2005-0987870

NOV 15, 2005 12:32 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 363.00 WAYS: 2
PAGES: 117

Space Above for Recorder's Use

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

610-614 WESTBOURNE VILLAS

TABLE OF CONTENTS

11238

FOR

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

610-614 WESTBOURNE VILLAS

1. Definitions 3

1.1. Architectural Committee or Committee 3
1.2. Articles 3
1.3. Assessment, Annual 3
1.4. Assessment, Capital Improvement 3
1.5. Assessment, Reconstruction 4
1.6. Assessment, Special 4
1.7. Association 4
1.8. Association Maintenance Funds 4
1.9. Beneficiary 5
1.10. Board or Board of Directors 5
1.11. Budget 5
1.12. Bylaws 5
1.13. City 5
1.14. Close of Escrow 5
1.15. Common Area 5
1.16. Common Expenses 6
1.17. Condominium 6
1.18. Condominium Plan 7
1.19. Declarant 8
1.20. Declaration 8
1.21. Deed of Trust 8
1.22. DRE 8
1.23. Family 8
1.24. FHLMC 8
1.25. Fiscal Year 8
1.26. Fannie Mae 8
1.27. GNMA 9
1.28. Improvements 9
1.29. Manager 9

1.30. Member, Membership 9
1.31. Mortgage 9
1.32. Mortgagee, Mortgagor 10

1.33. Notice and Hearing 10
1.34. Owner 10
1.35. Person 10
1.36. Property or Project 10
1.37. Record, File, Recordation 10
1.38. Residence 10
1.39. Restrictions 11
1.40. Rules and Regulations 11
1.41. Separate Interest or Unit 11

2. 610-614 WESTBOURNE VILLAS HOMEOWNERS ASSOCIATION 12

2.1. Association and Owners Responsibilities 12
2.2. Duties and Powers 13
2.3. Membership 14
2.4. Transfer 14
2.5. Classes of Membership 15
2.6. Voting Rights 16
2.7. Repair and Maintenance by the Association 17
2.8. Repair and Maintenance by Owners 20
2.9. Use of Agent 21

3. Rights in Common Area 22

3.1. Association Easement 22
3.2. Partition 22
3.3. Members' Easements in Common Area 22
3.4. Extent of Members' Easements 23
3.5. Delegation of Use 24
3.6. Waiver of Use 24
3.7. Damage by Member 25

4. Architectural Review Committee 26

4.1. Members of Committee 26
4.2. Review of Plans and Specifications 27
4.3. Meetings of the Committee 29
4.4. No Waiver of Future Approvals 29
4.5. Compensation of Members 29
4.6. Inspection of Work 29
4.7. Scope of Review 30

4.8. Variances 31
4.9. Appeals 31

5. Maintenance Funds and Assessments 32

5.1. Personal Obligation of Assessments 32
5.2. Maintenance Funds of Association 33
5.3. Purpose of Assessments 33
5.4. Limitations on Annual Assessment Increases 34
5.5. Annual Assessments/Commencement-Collection 37
5.6. Capital Improvement Assessments 38
5.7. Delinquency 38
5.8. Creation and Release of Lien 39
5.9. Requirements of Civil Code Section 1367.1 with regard to Recordation of a Lien 40
5.10. Enforcement of Liens 41
5.11. Priority of Assessment Lien 42
5.12. Prohibitions on Association's right to collect payments or assessment 43
5.13. Correction of Recordation of Lien Error 43
5.14. Procedural Requirements of Civil Code Section 1367.1 43
5.15. Alternative Dispute Resolution-Assessment Disputes 44
5.16. Capital Contributions to the Association 45

6. Property Easements and Rights of Entry 45

6.1. Easements 45
6.2. Rights of Entry 47

7. Residence and Use Restrictions 48

7.1. Single Family Residences 48
7.2. Nuisances 48
7.3. Signs 50
7.4. Antennas/Satellite Dishes 51
7.5. Inside and Outside Installations 51
7.6. Animal Regulations 52
7.7. Business or Commercial Activity 53
7.8. Rubbish Removal 54
7.9. Further Subdivision 55
7.10. Drainage 55
7.11. Water Supply System 56

8. Insurance 57

8.1. Duty to Obtain Insurance; Types 57

8.2. Waiver of Claims Against Association 59
8.3. Right and Duty of Owners to Insure 59
8.4. Notice of Expiration Requirements 60
8.5. Insurance Premiums 60
8.6. Trustee for Policies 61
8.7. Action as Trustee 62
8.8. Annual Insurance Review 62
8.9. Required Waiver 62

9. Destruction of Improvements 64

9.1. Restoration of the Property 64
9.2. Sale of Property and Right to Partition 65
9.3. Interior Damage 66
9.4. Notice to Owners and Listed Mortgagees 66

10. Eminent Domain 67

10.1. Project Condemnation 67
10.2. Condemnation of Common Area 67
10.3. Condemnation of Condominiums 68
10.4. Condemnation of Portions of Units 68
10.5. Portions of Awards in Condemnation Not Compensatory for Value of Real Property 70
10.6. Notice to Owners and Mortgagees 70

11. Rights of Mortgagees 71

12. Duration and Amendment 75

12.1. Duration 75
12.2. Termination and Amendment 75

13. General Provisions 79

13.1. Enforcement of Restrictions 79
13.2. Severability 81
13.3. Interpretation 81
13.4. Mergers or Consolidations 81
13.5. No Public Right or Dedication 81
13.6. Nonliability and Indemnification 82

13.7. Notices 85
13.8. Constructive Notice and Acceptance 85

14. Managing Agent 86

14.1. Written Disclosure of Prospective Managing Agent 86
14.2. Definition of "managing agent" 87
14.3. Handling of Association Funds by Managing Agent 87

15. Causes of Action in Tort 90

15.1. Lawsuits Against the Association 90

16. Civil Code Section 1352.5 91

16.1. Prohibition on Restrictive Covenants 91
16.2. Role of Board of Directors 91
16.3. Enforcement of Section 16.2. 91

17. Dispute Resolution Procedure 92

17.1. Dispute with Declarant Parties 92

18. Documentation to be provided Prospective Purchaser 100

18.1. Owner Requirements of Civil Code Section 1368 100
18.2. Association Requirements of Civil Code Section 1368 102
18.3. Failure to comply with Article XVIII 102
18.4. Validity of Transfer 102
18.5. Additional Owner Requirements 102

19. Requirements of Civil Code Section 1361.5 103

19.1. Prohibitions on Restriction of Access 103

20. Requirements of Civil Code Section 1366.2 103

20.1. Recordation of Statement of Relevant Information 103

21. Requirements of Civil Code Section 1363.6 105

21.1. Statement by Common Interest Development Association to Secretary of State 105

SUBORDINATION 109

11244

FOR

610-614 WESTBOURNE VILLAS

THIS DECLARATION is made by WESTBOURNE CONDOMINIUMS, L.L.C., A CALIFORNIA LIMITED LIABILITY COMPANY ("Declarant").

P R E A M B L E:

A. Declarant is the owner of certain real property located in the City of San Diego, California and described as follows:

PARCEL 1 OF PARCEL MAP NO. 19866, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY OCTOBER 24, 2005.

B. It is the desire and intention of Declarant to create a "condominium project," as defined in Section 1351(f) of the California Civil Code, to subdivide the Property (as hereinafter defined) as authorized by Section 66427 of the California Government Code into "condominiums" as defined in Section 783 of the California Civil Code, and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the condominiums created pursuant to the Davis-Stirling Common Interest Development Act.

C. Declarant hereby declares that all the Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used occupied and improved subject to the limitations, restrictions, reservations, rights, easements, conditions and covenants contained in this Declaration, all of which are declared and agreed to be in

furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of the Property for the purpose of enhancing the value, desirability and attractiveness of the Property. All provisions of this Declaration, including without limitation the easements, uses, obligations, covenants, conditions and restrictions hereof, are hereby imposed as equitable servitudes upon the Property. All of the limitations, restrictions, reservations, rights, easements, conditions and covenants herein shall run with and burden the Property and shall be binding on and for the benefit of all of the Property and all Persons having or acquiring any right, title or interest in the Property, or any part thereof, and their successive owners and assigns.

D. Declarant, its successors, assigns and grantees, covenant and agree that the undivided interest in the Common Area, the membership in the Association, any easements conveyed therewith and the fee title to each respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit; provided, however, that this restriction upon the severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Property is suspended in accordance with Section 1359 of the California Civil Code and the provisions of Article X hereof. Any conveyance by an Owner of a Condominium, or any portion thereof shall be presumed to convey the entire Condominium, together with a membership in the Association.

ARTICLE I

1. Definitions.
Unless otherwise expressly provided, the following words and phrases when used herein shall have the following specified

meanings.

1.1. Architectural Committee or Committee.
Architectural Committee or Committee shall mean the Architectural Review Committee created pursuant to Article IV hereof.

1.2. Articles.
Articles shall mean the Articles of Incorporation of the Association filed or to be filed in the Office of the Secretary of State of the State of California, as such Articles may be amended from time to time.

1.3. Assessment, Annual.
Annual Assessment shall mean a charge against a particular Owner and the Condominium, representing a portion of the Common Expenses which are to be levied among all of the Owners and their Condominiums in the Project in the manner and proportions provided herein.

1.4. Assessment, Capital Improvement.
Capital Improvement Assessment shall mean a charge which the Board may from time to time levy against each Owner and his Condominium, representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common Area. Such charge shall be levied among all the Owners and their Condominiums in the Project in the same proportions as are Annual Assessments.

1.5. Assessment, Reconstruction.
Reconstruction Assessment shall mean a charge which the Board may from time to time levy against a particular Owner and the Condominium, representing a portion of the cost to the Association

for reconstruction of any Improvements on any of the Common Property. Such charge shall be levied among all of the Owners and their Condominiums in the Project in the same proportions as the relative interior square foot floor areas of the residential elements of the Units (as such areas are depicted in the Condominium Plan), expressed as percentages, and computed by dividing the interior square foot floor area of the residential element of each Unit by the total interior square foot floor areas of the residential elements of all Units in the Project.

1.6. Assessment, Special.
Special Assessment shall mean a charge against a particular Owner, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty assessed by the Board, plus interest and other charges on such Special Assessments as provided for herein. Special Assessments shall not include any late payment penalties, interest charges or costs (including attorneys' fees) incurred by the Association in the collection of Annual, Capital Improvement and Reconstruction Assessments.

1.7. Association.
Association shall mean the "610-614 WESTBOURNE VILLAS HOMEOWNERS ASSOCIATION", an unincorporated assocation, its successors and assigns. The Association is an "association" as defined in Section 1351(a) of the California Civil Code.

1.8. Association Maintenance Funds.
Association Maintenance Funds shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article V hereof.

1.9. Beneficiary.
Beneficiary shall mean a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, as the case may be, and the

assignees of such Mortgagee or Beneficiary.

1.10. Board or Board of Directors.
Board or Board of Directors shall mean the Board of Directors of he Association.

1.11. Budget.
Budget shall mean a written, itemized estimate of the income and Common Expenses of the Association in performing its functions under this Declaration, which Budget shall be prepared pursuant to the Bylaws.

1.12. Bylaws.
Bylaws shall mean the Bylaws of the Association as adopted by the Board, as such Bylaws may be amended from time to time.

1.13. City.
City shall mean the City of San Diego, State of California, and its various departments, divisions, employees and its representatives.

1.14. Close of Escrow.
Close of Escrow shall mean the date on which a deed is Recorded conveying a Condominium to a retail purchaser.

1.15. Common Area.
"Common Area" consists exclusively of "airspace" and does not include any earth or physical improvements. The lower limit of the Common Area extends from a horizontal plane beginning from an elevation point that is fifty-feet (50') above the highest vertical improvement. The upper limit of the Common Area extends to a horizontal plane one foot (1') above the lower elevation. The lateral boundaries of the Common Area are vertical planes at the limits of the horizontal dimensions of the Property. The Common Area is more particularly shown and described on the Condominium Plan.

1.16. Common Expenses.
Common Expenses shall mean those expenses for which the Association is responsible under this Declaration, including the actual and

estimated costs of: maintenance, management, operation, repair and replacement of the Common Area; unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments; the costs of any and all utilities metered to more than one Unit and other commonly metered charges for the Property; the costs of trash collection and removal (as applicable); the costs of maintenance of the clustered mailboxes and address identification signs; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers accountants, attorneys and other employees; the cost of all gardening, security, and other services which benefit the Common Area; the costs of fire, casualty and liability insurance, worker's compensation insurance, errors and omissions and director officer and agent liability, including the costs of bonding of the members of the Board; taxes paid by the Association, including any blanket tax assessed against the Property; amounts paid by the Association for discharge of any lien or encumbrance levied against the Property, or portions thereof, and the costs of any other item or items incurred by the Association, for any reason whatsoever in connection with the Property, for the common benefit of the Owners.

1.17. Condominium.
Condominium shall mean an estate in real property as defined in California Civil Code Section 1351(f), and shall consist of an undivided fee simple ownership interest in the Common Area together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. The fractional undivided fee simple interest appurtenant to each Unit shall be an undivided one-third (1/3rd) fractional interest in the Common Area to be held by the owners as tenants in common.

1.18. Condominium Plan.
Condominium Plan shall mean the Recorded plan, as amended from time to time, consisting of (1) a description or survey map of the

Project, which shall refer to or show monumentation on the ground, (2) a three-dimensional description of the Project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the Common Area and each Separate Interest, and (3) a certificate consenting to the recordation of the Condominium Plan pursuant to Civil Code Section 1350, signed and acknowledged by the following:

(i) The record Owner of fee title to the property included in the condominium project.

(ii) In the case of a condominium project which will terminate upon the termination of an estate for years, the certificate shall be signed and acknowledged by all lessors and lessees of the estate for years.

(iii) In the case of a condominium project subject to a life estate, the certificate shall be signed and acknowledged by all life tenants and remainder interests.

(iv) The certificate shall also be signed and acknowledged by either the trustee or the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage encumbering the Project.

Owners of mineral rights, easements, rights-of-way, and other nonpossessory interests do not need to sign the Condominium Plan.

1.19. Declarant.
Declarant shall mean WESTBOURNE CONDOMINIUMS, L.L.C., A

CALIFORNIA LIMITED LIABILITY COMPANY, its successors and any Person to which the Declarant shall have assigned any of its rights hereunder by an express written assignment.

1.20. Declaration.
Declaration shall mean this instrument, as it may be amended from time to time.

1.21. Deed of Trust.
Deed of Trust shall mean a Mortgage as further defined herein.

1.22. DRE.
DRE shall mean the California Department of Real Estate and any successors thereto.

1.23. Family.
Family shall mean one or more natural persons related to each other by blood, marriage or adoption, or one or more natural persons not all so related, but who maintain a common household in a Residence.

1.24. FHLMC.
FHLMC shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporation.

1.25. Fiscal Year.
Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.26. Fannie Mae.
Fannie Mae shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

1.27. GNMA.
GNMA shall mean the Government National Mortgage Association

administered by the United States Department of Housing and Urban Development, and any successor to such association.

1.28. Improvements.
Improvements shall mean all structures and appurtenances thereto of every type and kind, including but not limited to, buildings, walkways, sprinkler pipes, fences, walls, landscaping, the exterior surfaces of any visible structure and the paint on such surfaces, planted trees and shrubs.

1.29. Manager.
Manager shall mean the Person employed by the Association pursuant to and limited by the provisions of this Declaration, and delegated the duties, power or functions of the Association as limited by this Declaration, the Bylaws and the terms of the agreement between the Association and said Person.

1.30. Member, Membership.
Member shall mean any Person holding a membership in the Association, as provided in this Declaration. Membership shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in the Restrictions.

1.31. Mortgage.
Mortgage shall mean any Recorded mortgage or deed of trust or other conveyance of one or more Condominiums or other portion of the Property to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance.

1.32. Mortgagee, Mortgagor.
Mortgagee shall mean a Person to whom a Mortgage is made and

shall include the Beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his or its property to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor" and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.33. Notice and Hearing.
Notice and Hearing shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at the Owner's expense, in the manner further provided in the Bylaws.

1.34. Owner.
Owner shall mean the Person or Persons, including Declarant holding fee simple interest to a Condominium. The term "Owner' shall include a seller under an executory contract of sale but shall exclude Mortgagees.

1.35. Person.
Person shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.36. Property or Project.
Property or Project shall mean all of the real property described in Paragraph A of the Preamble to this Declaration. The Property is a "common interest development" and a "condominium project"as defined in Section 1351(c) and Section 1351(f), respectively, of the California Civil Code.

1.37. Record, File, Recordation.
Record, Recorded, Filed, or Recordation shall mean, with respect to any document, the recordation or filing of such document in the Office of the San Diego County Recorder.

1.38. Residence.
Residence shall mean a Unit, intended for use by a single Family.

1.39. Restrictions.
Restrictions shall mean this Declaration and the Rules and

Regulations of the Association from time to time in effect.

1.40. Rules and Regulations.
Rules and Regulations shall mean the rules and regulations adopted by the Board pursuant to this Declaration or the Bylaws, as such rules and regulations may be amended from time to time.

1.41. Separate Interest or Unit.
Separate Interest or Unit, which shall consist of a Living Unit, shall mean a separate interest in space as defined in Section 1351 (f) of the California Civil Code. Each Separate Interest or Unit shall be a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan. In interpreting deeds, declarations and plans, the existing physical boundaries of the Unit or a Unit constructed or reconstructed in substantial accordance with the Condominium Plan and the original plans hereof, if such plans are available, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan or Declaration, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries, as shown on the Condominium Plan or defined in the deed and Declaration, and the boundaries of a building as constructed or reconstructed.

2. 610-614 WESTBOURNE VILLAS HOMEOWNERS ASSOCIATION.

2.1. Association and Owner Responsibilities. In the event the Association remains an unincorporated homeowner Association, each of the Owners of a Condominium shall be subject to the following maintenance responsibilities. The Owner of Unit 614 shall be responsible for maintenance of the Residence and all of the Improvements, including the concrete walkway and landscaping installed by the Declarant, within the boundaries of Unit 614 as shown on the Condominium Plan. The Owners of Unit 610 and the Owners of Unit 612 as shown on the Condominium Plan shall be jointly responsible for the exterior maintenance of the building and the roof thereof and all of the Improvements, including the entry gates, within the boundaries of Unit 610 and Unit 612. The Owners of Units 610, 612 and 614 shall equally responsible for payment of the costs of any insurance policy for all of the Residences and the Improvements within the boundaries of Units 610, 612 and 614 as shown on the Condominium Plan. The Owners of Units 610, 612 and 614 as shown on the Condominium Plan shall be solely responsible for all utilities, gas and electric, as well as water, provided to the respective Owners Unit. In the event all of the Owners agree to incorporate an Association the maintenance responsibilities of the Owners as set forth herein shall be assumed by the Association, which shall have the right to levy assessments as set forth hereinafter. Notwithstanding the foregoing, in the event the Owners obtain a blanket insurance policy, the costs thereof shall be prorated based on the square footage of each of the Owners Units.

2.2. Duties and Powers. The term "Common Area" as used in this Section 2.2 and

throughout this Declaration, when used in conjunction with maintenance responsibilities, is applicable to the Residences and the Improvements within the boundaries of the Units as shown and described on the Condominium Plan.

The duties and powers of the Association are those set forth in the Declaration together with its general and implied powers of an incorporated Association under the laws of the State of California may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration. The Association shall further have the right to install or construct capital Improvements on the Common Area. The Association may at any time, and from time to time reconstruct, replace or refinish any Improvement or portion thereof upon the Common Area in accordance with the original design, finish or standard of construction of such Improvement; replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area. The Association may employ personnel necessary for the effective operation and maintenance of the Common Area, including the employment of legal, management and accounting services. The Association shall additionally have the power but not the duty to enter into contracts with Owners or other persons to provide services or to maintain and repair Improvements within the Project and elsewhere which the Association is not otherwise required to provide or maintain pursuant to this Declaration; provided, however, that any such contract shall provide for the payment to the Association for the costs of providing such services or maintenance. Concurrently with the commencement of Annual Assessments, as provided in Section 5.5 of this Declaration, the obligations thereunder are hereby deemed to have been assigned to and accepted by the Association.

2.3. Membership.
Every Owner, upon becoming the Owner of a Condominium, shall

automatically become a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases, at which time his Membership in the Association shall automatically cease. Ownership of a Condominium shall be the sole qualification for Membership in the Association. Membership in the Association shall not be assignable except to the Person to which title to the Unit has been transferred, and every Membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Unit. The rights, duties, privileges and obligations of all Members of the Association shall be as provided in the Restrictions.

2.4. Transfer.

The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of the Owner's Condominium, and then only to the purchaser or Mortgagee of such Condominium. A prohibited transfer is void and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Condominium to a contract purchaser under an agreement to purchase shall be entitled to delegate to the contract purchaser his Membership rights in the Association. The delegation shall be in writing and shall be delivered to the Board before the contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Condominium until fee title to the Condominium sold is transferred. If the Owner of any Condominium fails or refuses to transfer his Membership to the purchaser of the Condominium upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a new Owner and his Condominiums (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the membership to the new Owner on the records of the Association provided such fee does not exceed the Association's actual cost involved in changing its records of ownership.

2.5. Classes of Membership.

The Association shall have two (2) classes of voting Membership.

(a) Class A. Class A Members shall originally be all Owners except Declarant for so long as there exists a Class A Membership. Class A Members shall be entitled to one (1) vote for each Condominium owned by such Class A Members and subject to assessment. Declarant shall become a Class A Member with regard to Condominiums owned by Declarant upon conversion of Declarant's Class B Membership as provided below. When more than one (1) Person owns any Condominium, all such Persons shall be members. The vote for such Condominium shall be exercised in accordance with Section 2.6, but in no event shall more than one (1) Class A vote be cast for any Condominium.

(b) Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Condominium owned by Declarant and subject to assessment. The Class B Membership shall cease and be converted to Class A Membership immediately upon the first to occur of the following events:

(1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(2) The second anniversary of the first Close of Escrow in the Project;

2.6. Voting Rights.

(a) All voting rights shall be subject to the

Restrictions. As long as there exists a Class B Membership, any provision of this Declaration, the Articles or Bylaws which expressly requires the vote or written consent of a specified percentage (i.e., other than actions requiring merely the vote or written consent of a majority of a quorum) of the voting power of the Association before action may be undertaken shall require the approval of such specified percentage of the voting power of each class of membership. Upon termination of the Class B Membership, any provision of this Declaration, the Articles or Bylaws which requires the vote or written consent of Owners representing a specified percentage (i.e., other than actions requiring merely the vote or written consent of a majority of a quorum) of the voting power of the Association before action may be undertaken shall then require the vote or written consent of Owners representing such specified percentage of both the total voting power of the Association and the voting power of the Association residing in Owners other than Declarant.

(b) Class A Members shall be entitled to one (1) vote for each Condominium in which they hold the interest required for Membership. When more than one (1) Person holds such interest or interests in any Condominium ("co-owners"), all of such co-owners shall be Members and may attend any meeting of the Association, but only one (1) such co-owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium shall, from time to time, designate in writing one of their number to vote. Fractional votes shall not be allowed. The vote for each Condominium shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation has been revoked, the vote for the Condominium shall be exercised as the co-owners owning the majority interests in the Condominium mutually agree. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the corresponding voting co-owner is acting with the consent of his co-owners. No vote shall be cast for any Condominium if the co-owners present in person or by proxy owning the majority interests in such Condominium cannot

agree to said vote or other action. The nonvoting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly-owned Condominium and

shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws of the Association, shall be deemed to be binding on all Owners, their successors and assigns.

2.7. Repair and Maintenance by the Association.

(a) Maintenance Standards. Subject to Article IX pertaining to destruction of Improvements and Article X pertaining to eminent domain, the Association shall paint, maintain, repair and replace the Common Area and Improvements thereon or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Area and Improvements thereon in a clean, sanitary and attractive condition reasonably consistent with the level of maintenance reflected in the most current Budget. Such Improvements include, without limitation, the front doors and hardware thereon, serving each Unit. However, the Association shall not be responsible for or obligated to perform those items of maintenance, repair or Improvement of the Units, the maintenance of which is the responsibility of the Owners as provided in Section 2.8. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Area.

(b) Maintenance Items. Association maintenance and repairs shall include, without limitation, the right, without obligation, to perform all corrective janitorial,

landscaping and repair work within any Residence, if the Owner fails to repair it; the repair and payment for all centrally metered utilities, water charges, and mechanical and electrical equipment in or on the Common Area; payment of all charges for all utilities which serve individual Units but which are subject to a common meter; the repair and maintenance of all walks, perimeter walls and/or fences private driveways and other means of ingress and egress within the Property.

(c) Termite Eradication. If the Board adopts an inspection and preventive program for the prevention and eradication of infestation by wood destroying pests and organisms, the Association, upon reasonable notice (which shall be given no less than fifteen (15) days nor more than thirty (30) days before the date of temporary relocation to each Owner and the occupants of his Unit, may require such Owner and occupants to temporarily relocate from such Unit in order to accommodate efforts by the Association to eradicate such infestation. 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. Any damage caused to a Unit by such entry by the Board or by any person authorized by the Board shall be repaired by the Board as a Common Expense of the Association. All costs involved in maintaining the inspection and preventive program as well as repairing and replacing the Common Area and Improvements thereon when the need for such maintenance, repair or replacement wood destroying pests or organisms shall be a Common Expense subject to the restrictions applicable to Capital Improvement Assessments.

(d) Charges to Owners. All such costs of maintenance, repairs and replacements for the Property shall be paid for as Common Expenses out of the Maintenance Funds as provided

in this Declaration. It shall further be the affirmative duty of the Board of Directors to require strict compliance with all provisions of this Declaration and to cause the Property to be inspected by the Architectural Committee for any violation thereof. The cost of any maintenance, repairs or replacement by the Association which is not the responsibility of the Association or which arises out of, or is caused by, the act of an Owner or such Owner's Family, tenants, guests, invitees, or agents shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner.

2.8. Repair and Maintenance by Owners.
Each Owner shall maintain, repair, replace, paint, paper, plaster,

tile, finish and restore or cause to be so maintained, repaired, replaced and restored, at the Owner's sole expense, all portions of the Unit, as well as the windows, light fixtures actuated from switches controlled from, or separately metered to, such Owner's Unit, and the interior surfaces of the walls, ceilings, floors, and permanent fixtures, in a clean, sanitary and attractive condition, in accordance with the Condominium Plan and the original construction design of the Improvements in the Project. However, no bearing walls, ceilings, floors or other structural or utility bearing portions of the buildings housing the Units shall be pierced or otherwise altered or repaired, without the prior written approval of the plans for the alteration or repair by the Architectural Committee. It shall further be the duty of each Owner to pay when due all charges for any utility service which is separately metered to his Unit.

2.9. Use of Agent.
The Board of Directors, on behalf of the Association, may contract

with a Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The maximum term of any such contract ("Management Contract") shall be one (1) year, unless a longer term is approved either by vote or written assent of a majority of the voting power of the Association or in which case the maximum term of the Management Contract shall be three (3) years. The maximum term of any contract providing for Declarant's services to the Association or the Project shall also be three (3) years. Each such contract for Declarant's services and each Management Contract shall provide for its termination by either party thereto with cause upon no more than thirty (30) days written notice to the other party, and without cause and without payment of a termination fee upon no more than ninety (90) days written notice to the other party.

3. Rights in Common Area.

3.1. Association Easement.
The Association shall have an easement over the Common Area for performing its duties and exercising its powers described in this Declaration. The Association's obligations to maintain the Common Area shall commence on the date Annual Assessments commence on Condominiums in the Project. Until commencement of Annual Assessments on Condominiums in the Project, the Common Area shall be maintained by Declarant.

3.2. Partition.
Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of the Project, nor shall Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Project seek any such judicial partition.

3.3. Members' Easements in Common Area. Subject to the provisions of this Declaration, every Member of the Association shall have, for himself, his Family, his tenants and guests, a nonexclusive easement of access, ingress, egress, use and employment of, in, to and over the Common Area, and such easement shall be appurtenant to and shall pass with title to every Condominium in the Project.

3.4. Extent of Members' Easements.
The rights and easements of use and enjoyment of the Common Area

created by this Declaration shall be subject to the Restrictions which include, without limitation, the following:

(a) The right of the Board to suspend the rights and easements of any Member, and the Persons deriving such rights and easements from any Member, for use and enjoyment of any recreation facilities located on the Common Area, for any period during which the payment of any Annual, Special Capital Improvement or Reconstruction Assessment against the Member and his Condominium remains delinquent, and, after Notice and Hearing as provided in the Bylaws, to suspend such rights and easements for the period set forth in the Bylaws for any violation of the Restrictions, it being understood that any suspension for either nonpayment of any Assessment or breach of the Restrictions shall not constitute a waiver or discharge of the Member's obligation to pay assessments as provided in this Declaration;

(b) The right of the Association to consent to or otherwise cause the construction of additional Improvements on the Common Area and to consent to or otherwise cause the alteration or removal of any existing Improvements on the Common Area for the benefit of the Members of the Association;

(c) The right of the Association, acting through the Board, to grant, consent to or join in the grant or conveyance of easements, licenses or rights-of-way in, on or over the Common Area for purposes not inconsistent with the intended use of the Property as a residential Condominium project;

(d) Subject to the provisions of this Declaration, the right of each Owner to the exclusive use and occupancy for the purposes designated in this Declaration of the Exclusive Use Common Area assigned to his respective Unit;

(e) The rights and reservations of Declarant as set forth in this Declaration;

(f) The right of the Association, acting through the Board, to reasonably restrict access to roofs, maintenance

and landscaped areas and similar areas of the Property;

(g) The right of the Association to reasonably limit the number of guests and tenants of the Owners using the Common Area; and

(h) The right of the Association, acting through the Board, to establish uniform Rules and Regulations for the use of the Common Area.

3.5. Delegation of Use.
Any Owner entitled to the right and easement of use and enjoyment of the Common Area may delegate his right and easement to his tenants, contract purchasers or subtenants who reside in his/her Condominium, subject to reasonable regulation by the Board. An Owner who has so delegated his right and easement shall not entitled to use or enjoyment of the recreational facilities or equipment of the Property for so long as such delegation remains in effect.

3.6. Waiver of Use.
No Owner may exempt himself from personal liability for assessments duly levied by the Association, or effect the release of the Condominium from the liens and charges thereof, by waiving the use and enjoyment of the Common Area or by abandoning the Condominium.

3.7. Damage by Member.
To the extent permitted by California law, each Member shall be

liable to the Association for any damage to the Common Area not fully reimbursed to the Association by insurance (including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by the Member, his guests, tenants or invitees, or any other Persons deriving their right and easement of use and enjoyment of the Common Area from the Member, or his/her respective family and guests, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right, after Notice and Hearing as provided in the Bylaws, to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the Person for whom the Member may be liable as described above. In the case of joint ownership of a Condominium, the liability of the owners shall be joint and several, except to the extent that the Association shall have previously contracted in writing with the joint owners to the contrary. After Notice and Hearing as provided in the Bylaws, the cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against such Member's Condominium and may be enforced as provided herein.

4. Architectural Review Committee.

4.1. Members of Committee.
The Architectural Review Committee, sometimes referred to herein as the "Architectural Committee" or the "Committee," shall be comprised of three (3) members. The initial members of the Committee shall be representatives of Declarant until one (1) year after the original issuance of the first (or only) Final Subdivision Public Report ("Public Report") for the Property ("First Anniversary"). After the First Anniversary the Board may appoint and remove one (1) member of the Committee, and the Declarant shall have the right and power at all times to appoint or remove a majority of the members of the Committee or to fill any vacancy of such majority, until the earlier to occur of (i) Close of Escrow for the sale of ninety percent (90%) of the Condominiums then subject to this Declaration, or (ii) expiration of five (5) years following the date of original issuance of the first (or only) Final Subdivision Public Report for the Property, after which the Board shall have the power to appoint and remove all of the members of the Committee. Committee members appointed by the Board shall be from the membership of the Association, but Committee members appointed by Declarant need not be Members of the Association. The Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Property. Board members may also serve as Committee members.

4.2. Review of Plans and Specifications.
The Committee shall consider and act upon any and all plans and

specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. No construction, alteration, removal relocation, demolition, repainting, addition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including landscaping, in the Property shall be commenced or maintained, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Committee and approved in writing by the Committee; provided, however, that any Improvement may be repainted without Committee approval so long as the Improvement is repainted the identical color which it was last painted. Without limiting the generality of the foregoing, the provisions of this Article IV apply to the construction, installation, alteration and modification of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714, the City Building Code, applicable zoning regulations, and associated City ordinances. The Owner submitting the plans and specifications ("Applicant") shall obtain a written, dated receipt therefor from an authorized agent of the Committee. Until changed by the Board, the address for the submission of plans and specifications shall be the principal office of the Association. The Committee shall approve plans and specifications submitted for its approval only if it deems that the installation, construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Area or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof will not become a burden on the Association. Declarant, and any Person to which Declarant may assign all or a portion of its exemption hereunder, need not seek or obtain Architectural Committee approval of any person for Improvements constructed on the Property by Declarant or such Person, as the case may be.

The Committee may condition its approval of proposals or plans and specifications for any Improvement (1) upon the Applicant's

furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Property as a result of such work, (2) on such changes therein as it deems appropriate, (3) upon the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (4) upon the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (5) upon the Applicant's agreement to reimburse the Association for the cost of maintenance, (6) upon the Applicant's agreement to complete the proposed work within a stated period of time, or (7) all of the above, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submission plans for approval, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The Committee may provide that the amount of the fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. Decisions of the Committee and the reasons therefor shall be transmitted by the Committee to the Applicant at the address set forth in the application for approval within forty-five (45) days after receipt by the Committee of all materials required by the Committee. Any application submitted pursuant to this Section 4.2 shall be deemed approved unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the Committee of all required materials. The Applicant shall meet any review or permit requirements of the City prior to making any alterations or Improvements permitted hereunder.

4.3. Meetings of the Committee.
The Committee shall meet from time to time as necessary to perform

its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 4.8. In the absence of such designation, the vote or written consent of a majority of the Committee shall constitute an act of the Committee.

4.4. No Waiver of Future Approvals.
The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

4.5. Compensation of Members.
The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

4.6. Inspection of Work.
The Committee or its duly authorized representative may at any time inspect any work for which approval of plans is required under this Article IV ("Work"), which right to inspect shall include the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the Committee-approved plans for the Work or with the requirements of this Declaration ("Noncompliance").

(a) Time Limit. The Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall

terminate sixty (60) days after the latest to occur of the following events: (i) submittal of the plans for the Work to the Committee for its approval as provided in this Article IV; (ii) completion of the Work as provided in the Committee-approved plans; and (iii) written notice from the Owner to the Committee that the Work has been completed. This time limit for inspection and notification by the Committee shall be extended indefinitely if any of these conditions has not occurred. If the Committee fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

(b) Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days from the date of notification from the Committee, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, as provided in this Declaration, the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a Notice of Noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

4.7. Scope of Review.

The Architectural Committee shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, solely on the basis of aesthetic considerations, consistency with this Declaration, and the overall benefit or detriment which would result to the immediate vicinity and the Property generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features. The Committee's approval or disapproval shall be based solely on the considerations set forth in this Article IV, and the Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

4.8. Variances.

The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by a majority of the Committee, and shall become effective upon Recordation. After Declarant has lost the right to appoint a majority of the members of the Committee, the Board must approve any variance recommended by the Committee before any such variance shall become effective. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of the Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Residence.

4.9. Appeals.

For so long as Declarant has the right to appoint and remove a majority of the members of the Committee, decisions of the Committee shall be final, and there shall be no appeal to the Board of Directors. When Declarant is no longer entitled to appoint and remove a majority of the members of the Committee the Board may, at, its discretion, adopt policies and procedures for the appeal of Committee decisions for reconsideration by the Board. The Board shall have no obligation to adopt or implement any such appeal procedures, and in the absence of Board adoption of appeal procedures, all decisions of the Committee shall be final.

ARTICLE V

5. Maintenance Funds and Assessments.

5.1. Personal Obligation of Assessments. Declarant, for each Condominium owned by it, hereby covenants and agrees to pay, and each Owner, by acceptance of a deed to a Condominium whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments for Common Expenses, (2) Special Assessments, (3) Reconstruction Assessments and (4) Capital Improvement Assessments; such assessments to be established and collected as provided herein. The Association shall not levy or collect any Annual Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment that exceeds the amount necessary for the purpose for which it is levied. In accordance with Civil Code Section 1367, an annual or special assessment and any late charges, reasonable costs of collection, reasonable attorney's fees, if any, and interest, if any (Civil Code Section 1367.1), as assessed in accordance with Section 1366, shall be a debt of the Owner of the separate interest at the time the assessment or other sums are levied. Before the Association may place a lien upon the separate interest of an Owner to collect a debt which is past due under Section 1367, the Association shall notify the Owner in writing by certified mail of the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the Owner, including items on the statement which indicate the assessments owed, any late charges and the method of calculation, any attorney's fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. Each such assessment (including Special Assessments), together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of the Condominium at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of the Condominium or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments shall not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser.

5.2. Maintenance Funds of Association.
The Board of Directors shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (1) an Operating Fund for current Common Expenses of the Association, (2) an adequate Reserve Fund for capital improvements, replacements, painting and repairs of the Common Area (which cannot normally be expected to occur on an annual or more frequent basis), and for payment of deductible amounts for policies of insurance which the Association obtains as provided in Section 8.1 hereof, and (3) any other funds which the Board of Directors may establish to the extent necessary under the provisions of this Declaration. Nothing contained herein shall limit, preclude or impair the establishment of additional Maintenance Funds by the Association, so long as the amounts assessed to, deposited into and disbursed from any such Fund are earmarked for specified purposes authorized by this Declaration.

5.3. Purpose of Assessments.
The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and for the operation, replacement, improvement and maintenance of the Common Area and to discharge any other obligations of the Association under this Declaration. All amounts deposited into the Maintenance Funds must be used solely for the common benefit of all of the Owners for purposes authorized by this Declaration. Disbursements from the Operating Fund shall be made by the Board of Directors for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used. Disbursements from the Reserve Fund shall be made by the Board of Directors only for the purposes specified in this Article V and in Section 1365.5(c) of the California Civil Code, as it may be amended from time to time. Nothing in this Declaration shall be construed in such a way as to prohibit the use of Association assessments or funds to abate any annoyance or nuisance emanating from outside the boundaries of the Property. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws.

5.4. Limitations on Annual Assessment Increases. The Board shall levy Annual Assessments in accordance with the following provisions:

(a) Maximum Authorized Annual Assessment for Initial Year of Operations. Until the first day of the Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Board may only levy an Annual Assessment per Condominium in the amount set forth in the Budget for the Project attached as EXHIBIT "A" if the Board first obtains the approval of Members casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Members are represented ("Increase Election"). Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.4(d).

(b) Maximum Authorized Annual Assessment for Subsequent Fiscal Years. Starting with the first Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Board may only levy Annual Assessments which exceed the Annual Assessments for the immediately preceding Fiscal Year as follows:

(1) If the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year then the Board must either (a) have distributed the Budget for the current Fiscal Year in accordance with Section 1365(a) of the California Civil Code, or (b) obtain the approval of Members casting a majority of votes in an Increase Election;

(2) If the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must obtain the approval of Members casting a majority of votes in an Increase Election.

Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.4(d).

(c) Supplemental Annual Assessments. If the Board, by majority vote, determines that the important and essential functions of the Association may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses for the Property for any reason, it shall immediately determine the approximate amount of the inadequacy. Subject to the limitations described in Sections 5.4(a) and (b) above and (d) below, the Board shall have the authority to levy, at any time by a majority vote, a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Condominium.

(d) Emergency Situations. For purposes of Section 5.4(a), 5.4(b) and 5.6, 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 Property or any portion thereof for which the Association is responsible when a threat to personal safety on the Property is discovered; and

(3) An extraordinary expense necessary to repair or maintain the Project 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 under Civil Code Section 1365. However, prior to the imposition or collection of an assessment pursuant to this subparagraph (3), 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. The resolution shall be distributed to the Members with the Notice of Assessment.

(e) Annual Assessments imposed or collected to perform the obligations of the Association, under the Restrictions or the Davis-Stirling Common Interest Development Act, shall be exempt from execution by a judgment creditor of the Association only to the extent necessary for the Association to perform essential services, such as paying for utilities, and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision. This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by the Owners of the Association, constituting a quorum, casting a majority of the votes at a meeting or election of the Association, or to any state tax lien, or to any lien for labor or materials applied to the Common Area.

(f) The Association shall provide notice by first-class mail to the Owners of separate interests of any increase in the annual or special assessments of the Association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

5.5. Annual Assessments/Commencement-Collection. The Board of Directors shall authorize and levy the amount of the Annual Assessment upon each Condominium, as provided herein, by majority vote of the Board. The Annual Assessment shall commence on all Condominiums on the first day of the first calendar month following the first Close of Escrow for the sale of a Condominium subject to this Declaration. All Annual Assessments shall be assessed equally against the Members and their Condominiums based upon the number of Condominiums owned by each Member. Annual Assessments for fractions of any month involved shall be prorated. Declarant shall pay its full pro rata share of the Annual Assessments on all unsold Condominiums for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. However, unless otherwise established by the Board, the initial Annual Assessments shall be assessed in accordance with the Budget prepared by the Declarant. Written notice of any change in the amount of an Annual Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due. From time to time the Board may determine that all excess funds in the Operating Fund be retained by the Association and used to reduce the following year's Annual Assessment. Upon dissolution of the Association incident to the abandonment or termination of the Property, any amounts remaining in any of the Maintenance Funds shall be distributed to or for the benefit of the Members in the same proportions as such monies were collected from the Members.

Each Member shall pay to the Association his Annual Assessment in installments at such frequency and in such amounts as established by the Board. Each installment of Annual Assessments may be paid by the Member to the Association in one check or in separate checks as payments attributable to deposits into specified Association Maintenance Funds. If any installment of an Annual Assessment payment is less than the amount assessed and the payment does not specify the Association Maintenance Fund or Funds into which it should be deposited, the receipt by the Association from that Member shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

5.6. Capital Improvement Assessments.
The Board of Directors of the Association may levy, in any Fiscal Year, a Capital Improvement Assessment or Reconstruction Assessment applicable to that Fiscal 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 or other such addition upon the Common Area including fixtures and personal property related thereto; provided that any proposed Capital Improvement Assessments in any Fiscal Year which, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceeds five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year, shall require the vote or written consent of Members casting a majority of votes at an Increase Election. Notwithstanding the foregoing, the Board may levy in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year which exceeds five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 5.4(d).

5.7. Delinquency.
Any installment of an assessment provided for in this Declaration shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board of Directors of the Association. The Board shall be authorized to adopt a system pursuant to which any installment of Annual Assessments, Capital Improvement Assessments, Special Assessments, or Reconstruction Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges as provided herein, shall bear interest commencing thirty (30) days from the due date until paid at the rate of up to twelve percent (12%) per annum, but in no event more than the maximum rate permitted by law. The Board may also require the delinquent owner to pay a late charge in accordance with California Civil Code Section 1366(c)(2). The Association need not accept any tender of a partial payment of an installment of an assessment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter.

5.8. Creation and Release of Lien.
All sums other than Special Assessments assessed in accordance with the provisions of this Declaration shall constitute a lien on the respective Condominium prior and superior to (a) any declaration of homestead Recorded after the Recordation of this Declaration, and (b) all other liens, except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage or Deed of Trust with first priority or seniority over other Mortgages or Deeds of Trust) made in good faith and for value and Recorded prior to the date on which the "Notice of Lien" (described in this Section) against the respective Condominium was Recorded. The lien shall become effective upon Recordation by the Board or its authorized agent of a Notice of Assessment ("Notice of Lien") securing the payment of any Annual, Capital Improvement or Reconstruction Assessment or installment thereof, levied by the Association against any Condominium Owner as provided in Section 1367 of the California Civil Code. The Notice of Lien shall state (i) the amount of the assessment and other sums imposed in accordance with Civil Code Section 1366; (ii) a legal description of the Condominium against which the same has been assessed; (iii) the name and address of the Association, (iv) the name of the Owner thereof, and (v) in order for the lien to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Lien shall be signed by any authorized officer or agent of the Association and mailed in the manner set forth in Civil Code Section 2924b, to all record Owners of the Owner's interest in the Project no later than ten (10) days after recordation. The lien shall relate only to the individual Condominium against which the assessment was levied and not to the Property as a whole. Within 21 days of the payment to the Association of the full amount claimed in the Notice of Lien, or other satisfaction thereof, the Board of Directors shall cause to be recorded a Notice of Satisfaction and Release of Lien ("Notice of Release") stating the satisfaction and release of the amount claimed. The Board of Directors may demand and receive from the applicable Owner a reasonable charge, to be determined by the Board, for the preparation and Recordation of the Notice of Release before Recording it. Any purchaser or encumbrancer who has acted in good faith and extended value may rely upon the Notice of Release as conclusive evidence of the full satisfaction of the sums stated in the Notice of Lien.

5.9. Requirements of Civil Code Section 1367.1 with regard to Recordation of a Lien.
In accordance with Civil Code Section 1367.1, at least 30 days prior to recording a lien upon the separate interest of the Owner of record to collect a debt that is past due under this subdivision, the Association shall notify the Owner of record in writing by certified mail of the following:

(1) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the separate interest has the right to inspect the Association records, pursuant to Section 8333 of the Corporations Code and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:

"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

(2) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.

(3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association.

(4) The right to request a meeting with the Board as provided by subdivision (c).

(b) Any payments made by the Owner of a separate interest toward the debt set forth, as required in subdivision (a), shall first be applied to the assessments owed, and, only after the assessments owed are paid in full shall the payments be applied to the fees and costs of collection, attorney's fees, late charges, or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received it. The Association shall provide a mailing address for overnight payment of assessments.

(c) (1) An Owner may dispute the debt noticed pursuant to subdivision (a) by submitting to the Board a written explanation of the reasons for his or her dispute. The Board shall respond in writing to the Owner within 15 days of the date of the postmark of the explanation, if the explanation is mailed within 15 days of the postmark of the notice.

(2) An Owner, other than an owner of any interest that is described in Section 11003.5 of the Business and Professions Code, may submit a written request to meet with the Board to discuss a payment plan for the debt noticed pursuant to subdivision (a). The Association shall provide the Owners the standards for payment plans, if any exist. The Board shall meet with the Owner in executive session within 45 days of the postmark of the notice unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more members to meet with the Owner.

5.10. Enforcement of Liens.
It shall be the duty of the Board of Directors to enforce the collection of any amounts due under this Declaration by one or more of the alternative means of relief afforded by this Declaration. The lien on a Condominium may be enforced by sale of the Condominium by the Association, the Association attorneys, any title insurance company authorized to do business in California, or other persons authorized to conduct the sale as a trustee, after failure of the Owner to pay any Annual, Capital Improvement or Reconstruction Assessment, or installment thereof, as provided herein. The sale shall be conducted in accordance with the provisions of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any manner permitted by law. An action may be brought to foreclose the lien of the association by the Board, or by any Owner if the Board fails or refuses to act, after the expiration of at least thirty (30) days from the date on which the Notice of Lien was Recorded; provided that at least ten (10) days have expired since a copy of the Notice of Lien was mailed to the Owner affected thereby. The Association, through its agents, shall have the power to bid on the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit, and the defaulting Owner shall be required to pay the reasonable rental value for such Unit during any

period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving any lien securing the same, but this provision or any institution of suit to recover a money judgement shall not constitute an affirmation of the adequacy of money damages. Any recovery resulting from a suit in law or equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

5.11. Priority of Assessment Lien.
The lien of the assessments provided for herein, including interest and costs (including attorneys' fees), shall be subordinate to the lien of any previously Recorded first Mortgage upon one or more Condominiums. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from liens for any assessments thereafter becoming due. When the Beneficiary of a first Mortgage of record or other purchaser of a Condominium obtains title pursuant to a judicial or nonjudicial foreclosure of the first Mortgage, such Person, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such Person. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Owners of the Condominiums including such Person, his successors and assigns.

5.12. Prohibitions on Association's right to collect payments or assessments.
In accordance with Civil Code Section 1367.1 (g), the Association may not voluntarily assign or pledge the Association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the Association; however, the foregoing provision may not restrict the right or ability of the Association to assign any unpaid obligations of a former member to a third party for purposes of collection. Subject to the limitations of this subdivision, after the expiration of 30 days following the recordation of a lien created pursuant to Civil Code Section 1367.1 (d), the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a. Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust. The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d.

5.13. Correction of Recordation of Lien in error.
In accordance with Civil Code Section 1367.1 (i), if it is determined that a lien previously recorded against the separate interest was recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded, a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

5.14. Procedural Requirements of Civil Code Section 1367.1.
An Association that fails to comply with the procedures set forth in Civil Code Section 1367.1 shall, prior to recording a lien, recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Owner of a separate interest.

5.15. Alternative Dispute Resolution-Assessment Disputes.
In accordance with Civil Code Section 1366.3, (a) The exception for disputes related to Association assessments in subdivision (b) of Civil Code Section 1354 shall not apply if, in a dispute between the owner of a separate interest and the Association regarding the assessments imposed by the Association, the Owner of the separate interest chooses to pay in full to the Association all of the charges listed in paragraphs (1) to (4), inclusive, and states by written notice that the amount is paid under protest, and the written notice is mailed by certified mail not more than 30 days from the recording of a notice of delinquent assessment in accordance with Civil Code Section 1367 or 1367.1; and in those instances, the Association shall inform the Owner that the Owner may resolve the dispute through alternative dispute resolution as set forth in Civil Code Section 1354, civil action and any other procedures to resolve the dispute that may be available through the association.

(1) The amount of the assessment in dispute.
(2) Late charges.
(3) Interest.
(4) All reasonable fees and costs associated with the preparation and filing of a notice of delinquent assessment, including all mailing costs and including reasonable attorney's fees not to exceed four hundred twenty-five dollars ($425.00).

(b) The right of any Owner of a separate interest to utilize alternative dispute resolution under this section may not be exercised more than two times in any single calendar year, and not more than three times within any five calendar years. Nothing within this section shall preclude any owner of a separate interest and the Association, upon mutual agreement, from entering into alternative dispute resolution for a number of times in excess of the limits set forth in this section. The Owner of a separate interest may request and be awarded through alternative dispute resolution for a number of times in excess of the limits set forth in this section. The Owner of a separate interest may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Association on the total amount paid under paragraphs (1) to (4), inclusive, of subdivision (a), if it is determined through alternative dispute resolution that the assessment levied by the Association was not correctly levied.

5.16. Capital Contributions to the Association. Upon acquisition of record title to a Condominium from Declarant, each Owner of a Condominium in the Project shall contribute to the capital of the Association an amount equal to one-sixth (1/6th) of the amount of the then Annual Assessment for that Condominium as determined by the Board. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom to the Association or to Declarant if Declarant has previously advanced such funds to the Association.

ARTICLE VI

6. Property Easements and Rights of Entry.

6.1. Easements.

(a) Access. The Owners of Units 610 and 612 shall have an easement of ingress to and egress from their Units over that portion of Unit 614 shown and described as "4.00' Access Easement" on the Condominium Plan. The Owners of Unit 612 shall have an easement of ingress to and egress from their Unit over that portion of Unit 610 shown and described as "4.00' Access Easement" on the Condominium Plan. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by all Owners and their guests, tenants and invitees residing on or temporarily visiting the Property, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Condominium in the Project.

(b) Encroachments. The Owners of contiguous Residences shall have a reciprocal easement appurtenant to each of the Residences over the Residences for the purpose of (1) accommodating any existing encroachment of any wall of any Improvement, and (2) maintaining the same and accommodating authorized construction, reconstruction, repair, shifting, movement or natural settling of the Improvements or any other portion of the Project housing their respective Units.

6.2. Rights of Entry.
The Board of Directors shall have a limited right of entry in and the interior of all Units for the purpose of inspecting the Project, and taking whatever corrective action may be deemed necessary or proper by the Board of Directors consistent with the provisions of this Declaration. However, such entry upon the interior of a Unit shall be made, except to effect emergency repairs or other emergency measures, only after three (3) days prior written notice to the Owner of such Unit and after authorization of two-thirds (2/3rds) of the Board of Directors. Nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property or Improvements required to be maintained or repaired by the Owners. Nothing in this Article VI shall in any manner limit the right of the Owner to exclusive occupancy and control over the interior of his Unit. However, an Owner shall permit a right of entry to the Board of Directors or any other person authorized by the Board of Directors, as reasonably necessary, such as in case of any emergency originating in or threatening his Unit, whether the Owner is present or not. Any damage caused to a Unit by such entry by the Board of Directors or by any person authorized by the Board of Directors shall be repaired by the Association as a Common Expense of the Association. Furthermore, an Owner shall permit other Owners, or their representatives, to enter his Residence for the purpose of performing required installations, alterations or repairs to the mechanical or electrical services to a Residence, provided that such requests for entry are made in advance and entry is made at a time reasonably convenient to the Owner whose Unit is to be entered; and provided further that the entered Unit is left in substantially the same condition as existed immediately preceding such entry. In case of an emergency, such right of entry shall be immediate. Any damage caused to a Unit by such entry by an Owner or its representatives shall be repaired by such Owner. Upon receipt of reasonable notice from the Association (which shall in no event be less than fifteen (15) days nor more than thirty (30) days each Owner shall vacate his Unit in order to accommodate efforts by the Association to perform any other maintenance or repairs pursuant to the Declaration. The Board shall have the right of entry to the Units and the right to remove Owners from their Units, as necessary, to accomplish its duties as provided herein. The cost of performing any such maintenance or repair shall be a Common Expense of the Association; however, each Owner shall bear his own costs of temporary relocation. If the Association acts to eradicate any wood destroying pests or organisms, then the procedure established in Section 2.6 shall control.

ARTICLE VII

7. Residence and Use Restrictions.
All of the Property shall be held, used and enjoyed subject to the following limitations and restrictions and the exemptions of Declarant set forth in this Declaration.

7.1. Single Family Residences.
That portion of the Unit comprising the "residential elements" shall be used as a residence for a single Family and for no other purpose. An Owner may rent his Unit to a single Family provided that the Unit is rented pursuant to a lease or rental agreement which is (a) in writing, (b) for a term of at least seven (7) days, and (c) subject to all of the provisions of this Declaration.

7.2. Parking and Vehicular Restrictions.

(a) Authorized Vehicles. The following vehicles are Authorized Vehicles: motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two-wheel motorcycles, and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Properties intended for parking of motorized vehicles.

(b) Prohibited Vehicles. The following vehicles are Prohibited Vehicles: recreational vehicles (e.g., motorhomes, travel trailers, camper vans, boats, etc.), commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step-vans, concrete trucks, etc.), buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Board.

(c) General Restrictions. Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Unit and kept within the Property shall be parked in the Garage/Parking Space to the extent of the space available; provided that each Owner shall ensure that any Garage/ Parking Space accommodates at least the number of Authorized Vehicles for which it was originally constructed. No repair, maintenance or restoration of any vehicle shall be conducted on the Property.

(d) Parking Regulations. The Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas not assigned to individual Units, including without limitation designating "parking," "guest parking," and "no parking" areas thereon; and shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Properties pursuant to California Vehicle Code Section 22658.2 or other applicable statute. If the Board fails to enforce any of the parking or vehicle use regulations, the City may, but need not, enforce such regulations in accordance with state and local laws and ordinances.

7.3. Nuisances.

No noxious or offensive activities shall be carried on upon the Property or on any public street abutting or visible from the Property. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residence and its contents, shall be placed or used in any such Residence. Noisy or smoky vehicles, large power equipment and large power tools, off-road motor vehicles or items which may unreasonably interfere with television or radio reception of any Owner in the Project and objects which create or emit loud noises or noxious odors, shall not be located, used or placed on any portion of the Property or on any public street abutting or visible from the Property, or exposed to the view of other Owners without the prior written approval of the Architectural Committee. The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner shall permit or cause anything to be done or kept upon the Property or on any public street abutting or visible from the Property which may increase the rate of insurance on Units or on the Property, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Owners, nor commit or permit any nuisance thereon or violate any law on any public street abutting or visible from the Property. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Residence. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of children and other family members or persons residing in or visiting his Unit. Any damage to the Common Area personal property of the Association, or property of another Owner, caused by such children or other family members shall be repaired at the sole expense of the Owner of the Unit where such children or other family members or persons are residing or visiting.

7.4. Signs.

No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Property or on any public street abutting or visible from the Property, or shown or displayed from any Residence, without the prior written consent of the Architectural Committee, provided, however, that the restrictions of this Section shall not apply to any sign or notice of customary and reasonable dimension which states that the Residence is for rent or sale, so long as it is consistent with the standards promulgated by the Architectural Committee in accordance with Section 4.2 hereof. Such sign or notice may be placed within a Unit, and may also be placed upon the Common Area with the prior written approval of the Architectural Committee; provided that the location of such sign or notice on the Common Area shall be within an area specifically established by the Committee for such purpose. Notwithstanding the foregoing, nothing contained in this Section shall be construed in such manner as to permit the maintenance of any sign which is not in conformance with any ordinance of the City.

7.5. Antennas/Satellite Dishes.

No television or radio poles, antennae, satellite dishes, other than those originally installed by the Original Declarant, shall be constructed, erected or maintained on or within the Project; provided however, the foregoing language shall not be construed to limit the installation or use of video or television antennas within the Project, including a satellite dish (hereafter referred to as "Antenna"), that is of a size and type consistent with Civil Code Section 1376, or any successor statute, provided the Owner submits an application to the Architectural Control Committee and obtains the approval thereof in accordance with the procedures set forth in Article IV herein. Notwithstanding the foregoing, neither the Architectural Committee nor the Board of Directors shall impose or enforce any restrictions on Antennas which are inconsistent with the requirements set forth in Section 207 of the Telecommunications Act of 1996 (47 U.S.C. Section 303 et. seq.), any regulations issued pursuant thereto, and/or any successor statute.

7.6. Inside and Outside Installations.
No outside installation of any type, including but not limited to clotheslines, shall be constructed, erected or maintained on any Residence, excepting antennae installed by Declarant as a part of the initial construction of the Property and except as may be installed by, or with the prior consent of the Architectural Committee. The type and color of all exposed window coverings shall be subject to the prior written approval of the Architectural Committee. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Residence shall be commenced without the prior written approval of the Architectural Committee. Nothing shall be done in any Unit or in, on or to the Common Area which will or may tend to impair the structural integrity of any building in the Property or which would structurally alter any such building except as otherwise expressly provided herein. There shall be no alteration, repair or replacement of wall or floor coverings within Units which may diminish the effectiveness of the sound control engineering within the buildings in the Project. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Project for labor or materials alleged to have been furnished or delivered to the Project or any Condominium Unit for such Owner and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

7.7. Animal Regulations.
No livestock, reptiles, insects, poultry or other animals of any kind shall be raised, bred or kept in any Residence except that usual and ordinary domestic dogs, cats, fish, and birds inside bird cages may be kept as household pets within any Residence provided that they are not kept, bred or raised therein for commercial purposes or in unreasonable quantities or sizes. As used in the Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per Residence; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The Board shall have the right to limit the size of pets and may prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Property must on a leash held by a person capable of controlling the animal. Furthermore, any Owner shall be liable to each and all remaining Owners, their families, guests and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Property by such Owner or by members of his family, his tenants or his guests; and it shall be the duty and responsibility of each such Owner to clean up after such animals which have used any portion of the Property or public street abutting or visible from the Property. Notwithstanding the foregoing, in accordance with Civil Code Section 1360.5., no portion of the Restrictions shall prohibit the Owner of a Condominium from keeping at least one (1) "pet" within the Project, subject to reasonable rules and regulations of the Association. The language included in Civil Code Section 1360.5 may not be construed to affect any other rights provided by law to an Owner of a Condominium to keep a pet within the Project. The term "pet" shall mean any domesticated bird, cat, dog, aquatic animal kept within an aquarium, or other animal as agreed to between the Association and the Owner. If the Association implements a rule or regulation restricting the number of pets an Owner may keep, the new rule or regulation shall not apply to prohibit an Owner from continuing to keep any pet that the Owner currently keeps in his or her Condominium if the pet conforms with the previous rules or regulations relating to pets.

7.8. Business or Commercial Activity.
No part of the Property shall ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including without limitation any activity for which the provider is compensated in any way or receives any form of consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license; except Declarant, its successors and assigns may use any portion of the Property for a model home site and display and sales offices in accordance with Article VII hereof. The provisions of this Section 7.8 shall not preclude any of the above-described activities without external evidence thereof, provided that all of the following conditions are fulfilled: (a) such activities are conducted in conformance with all applicable governmental ordinances; (b) the patrons or clientele of such activities do not visit the Unit or park automobiles or other vehicles within the Property; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from the outside of the boundaries of the Unit; (d) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (e) such activities are consistent with the residential character of the Property and conform with the provisions of this Declaration.

7.9. Rubbish Removal.
Trash, garbage, or other waste shall be disposed of by residents of the Project only by depositing the same into trash containers designated for such use by the Board of Directors. No portion of the Property shall be used for the storage of building materials, refuse or any other materials. There shall be no exterior fires. The cost of trash collection shall be borne by the Owner of each Condominium.

7.10. Further Subdivision.
Except as otherwise provided herein, no Owner shall physically or legally further subdivide his Unit in any manner, including without limitation, the division of his Unit or his Condominium into time-share estates or time-share uses; provided, however, that this provision shall not be construed to limit the right of an Owner to (1) rent or lease all of his Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration; (2) to sell his Condominium; or (3) to transfer or sell any Condominium to more than one Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. Any failure by the lessee of the Unit to comply with the terms of this Declaration or the Rules and Regulations shall constitute a default under the lease or rental agreement. Notwithstanding the foregoing, no Unit in the Project may be partitioned or subdivided without the prior written approval of the Beneficiary of any first Mortgage on that Unit. This Section may not be amended without the prior written approval of the Beneficiaries of at least seventy-five percent (75%) of the first Mortgages of Condominiums in the Project.

7.11. Drainage.
There shall be no interference with or alteration of the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Architectural Committee. For the purpose hereof, "established" drainage is defined as the drainage which exists at the time of the first Close of Escrow for the sale of a Condominium, or that which is shown on any plans approved by the Architectural Committee.

7.12. Water Supply System.
No individual water supply or water softener system shall be permitted in any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of any applicable water district, the City, and all other applicable governmental authorities. Any sewage disposal system shall be installed only after approval by the Architectural Committee and any governmental health authority having jurisdiction.

ARTICLE VIII

8. Insurance.

8.1. Duty to Obtain Insurance: Types.

(a) Public Liability. The Board shall cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), with such limits as may be considered acceptable to Fannie Mae (not less than $2 million covering all claims for personal injury and property damage arising out of a single occurrence), insuring against liability for bodily injury, death and property damage arising from the activities of the Association and its Members, with respect to the Common Area.

(b) Fire and Casualty Insurance. The Board shall also cause to be obtained and maintained fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Area and those portions of the Units consisting of all fixtures, installations or additions comprising a part of the buildings housing the Units and all built-in or set-in appliances, cabinets and initial basic floor coverings, as initially installed or replacements thereof in accordance with the original plans and specifications for the Project, or as installed by or at the expense of the Owners.

(c) Fidelity Bonds. Fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling funds of the Association, including, but not limited to, officers, directors, trustees, employees and agents of the Association and employees of the Manager of the Association, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Condominiums in the Project, plus reserve funds.

(d) Insurance Required by Fannie Mae, GNMA ,FHLMC. The Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond coverage meeting the insurance and fidelity bond requirements for condominium projects established by Fannie Mae, GNMA and FHLMC, so long as any of which is a Mortgagee or Owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by Fannie Mae, GNMA, and FHLMC, as applicable.

(e) Other Insurance. The Board of Directors shall purchase such other insurance, as necessary, including but not limited to, errors and omissions, directors, officers and agents liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability and vandalism insurance, fidelity bonds and worker's compensation, and such other risks as shall customarily be covered with respect to condominium projects similar in construction, location and use.

(f) Beneficiaries. Such insurance shall be maintained for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured subject, however, to loss payment requirements as set forth herein.

8.2. Waiver of Claims Against Association.
As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said Persons.

8.3. Right and Duty of Owners to Insure.
It is the responsibility of each Owner to provide insurance on the personal property and upon all other property and improvements within the Unit for which the Association has not purchased insurance in accordance with Section 8.1 hereof. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability for damage to person or property occurring inside his individual Unit or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Associating, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are applied.

8.4. Notice of Expiration Requirements.
If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice, and every other Person in interest who requests such notice of the insurer. In addition, fidelity bonds shall provide that they may not be canceled or substantially modified without ten (10) days prior written notice to any insurance trustee named pursuant to Section 8.6 and to each Fannie Mae servicer who has filed a written request with the carrier for such notice.

8.5. Insurance Premiums.
Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Annual Assessments levied by the Association and collected from the Owners. That portion of the Annual Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the Reserve Fund, to be used solely for the payment of premiums of required insurance as such premiums become due.

8.6. Trustee for Policies.
The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy shall be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. A record of all claims made shall be kept by the Association. All insurance proceeds under any such policies as provided for in Section 8.1 of this Article shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in Article X of this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 8.4 of this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

8.7. Actions as Trustee.
Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance, in a manner satisfactory to Beneficiaries of seventy-five percent (75%) of the first Mortgages held by first Mortgagees who have filed requests under Section 9.4. Duplicate originals or certificates of all policies of fire and casualty insurance maintained by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who have requested the same in writing.

8.8. Annual Insurance Review.
The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance referred to in Section 9.1 above. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on the Property except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

8.9. Required Waiver.
All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

(a) subrogation of claims against the Owners and tenants of the Owners;

(b) any defense based upon coinsurance;

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

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

(e) any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;

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

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

(h) any denial of an Owner's claim because of negligent acts by the Association or other Owners; and

(i) prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

ARTICLE IX

9. Destruction of Improvements.

9.1. Restoration of the Property.
Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Property, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article IX hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Architectural Committee have been approved in writing by sixty-seven percent (67%) of the Owners and by the Beneficiaries of fifty-one percent (51%) of first Mortgages upon the Condominiums. If the amount available from the proceeds of such insurance policies for such restoration and repair is at least eighty-five percent (85%) of the estimated cost of restoration and repair, a Reconstruction Assessment shall be levied by the Board of Directors to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than eighty-five percent (85%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("Conditions to Reconstruction") have first been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Property is approved by the affirmative vote or written consent of sixty-seven percent (67%) of the Owners and by the written consent of the Beneficiaries of fifty-one percent (51%) of the first Mortgages on the Condominiums in the Project; and (b) within six (6) months after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("Reconstruction Certificate"). If either of the Conditions to Reconstruction does

not occur following a destruction for which insurance proceeds available for restoration and repair are less than eighty-five percent (85%) of the estimated cost of restoration and repair, it shall be conclusively presumed that the Owners have determined not to proceed with restoration and repair and not to allow the Board to levy a Reconstruction Assessment, in which case the Owners may proceed as provided in Section 9.2 below.

9.2. Sale of Property and Right to Partition. No Owner shall have the right to partition of his interest in the Condominium and there shall be no judicial partition of the Project, or any part thereof, except as provided in Section 1359(b) of the California Civil Code as amended or in any successor statute. For purposes of Subsection 4 of said Section 1359(b), partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 9.1 above have failed to occur; and (b) within six (6) months after the date on which destruction occurred restoration or repair has not actually commenced; and (c) the Owners of sixty-seven percent (67%) of the Condominiums in the Project approve the partition by vote or written consent. In such event, the Association, acting through a majority of the Board, shall prepare, execute and Record, as promptly as practical, a certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Project for the benefit of the Owners, and such other documents and instruments as may be necessary for the Association to consummate the sale of the Property at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately prior to such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Project. The Board is hereby authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. Notwithstanding the foregoing, the balance then due on any valid

encumbrance of record shall be first paid in order of priority before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing herein shall be deemed to prevent partition of a cotenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner whether by deed, gift, devise, or by operation of law, for their own benefit and for the Units and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Project and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

9.3. Interior Damage.
With the exception of any casualty or damage insured against by the Association pursuant to Section 8.1 of this Declaration restoration and repair of any damage to the interior of any individual Residence, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Residence so damaged. In the event of a determination to rebuild the Property after partial or total destruction, as provided in this Article IX, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Committee as provided herein.

9.4. Notice to Owners and Listed Mortgagees.
The Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Area, shall promptly notify all Owners and Beneficiaries, insurers and guarantors of first Mortgages on Condominiums in the Project who have filed a written request for such notice with the Board. The Board, immediately upon having knowledge of any damage or destruction affecting a Unit, shall promptly notify any Beneficiary, insurer or guarantor of any Mortgage encumbering such Unit who has filed a written request for such notice with the Board.

ARTICLE X

10. Eminent Domain.
The term "taking" as used in this Article shall mean condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent domain. The Board shall represent the Owners, in any proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Unit Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article X.

10.1. Project Condemnation.
If there is a taking of an interest in all or part of the Project such that the ownership, operation and use of the Project in accordance with the provisions of this Declaration is substantially and adversely affected, and within one hundred twenty (120) days after the effective date of the taking the Owners of Units (a) not taken, or (b) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition prior to the taking (collectively, the "Remaining Units") do not by affirmative vote of at least one-third of their voting power approve the continuation of the Project and the repair, restoration and replacement to the extent feasible of the Common Area and the Remaining Units, then the Board shall proceed with the sale of that portion of the Project which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 10.2.

10.2. Condemnation of Common Area.
If there is a taking of (a) all or any portion of the Common Area, or any interest therein, other than the taking of an undivided interest therein taken as a result of the taking of a Condominium then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

10.3. Condemnation of Condominiums.
If there is a taking of a Condominium, the award in condemnation shall be paid to the Owner of the Condominium; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

10.4. Condemnation of Portions of Units.

(a) Minor Takings Within Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration of such Units can be accomplished at a cost less than or equal to the sum of (A) the amount of the condemnation awards for such takings plus (B) any amounts the Owners of the taken Units wish to contribute to restoration plus (C) an amount less than or equal to five percent (5%) of the Budgeted gross expenses of the Association for that Fiscal Year (collectively, the "Allowable Cost"), then the Board shall contract for such restoration and levy a Reconstruction Assessment in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners' contributions, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards in excess of the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decreases in the fair market values of their Condominiums; provided, however, that such awards shall first be applied to the balance then due on any Mortgages encumbering such Owners' Condominiums, in order of priority.

(b) Minor Takings Exceeding Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a Special Meeting of the Members. If more than fifty percent (50%) of the Members are represented at such Special Meeting, either in person or by proxy, and a majority of the votes cast at such Special Meeting are in favor of levying a Reconstruction Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units wish to contribute to such restoration, then the Board shall contract for such restoration and levy a Reconstruction Assessment, and the condemnation awards Owners' contributions and Reconstruction Assessment shall be applied to such restoration.

(c) Major Takings. If the requisite approval is not obtained at the Special Meeting referred to in Section 10.4(b), or if there is a taking of a portion of one or more Units such that the Units are not capable of being restored such that the intended use of the Units as residential dwellings is not substantially and adversely affected, then the award in condemnation shall be paid to the Owners of the taken Units; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units shall become part of the Property, and the Owners of such taken Units, by acceptance of the award allotted to them in takings proceedings, hereby relinquish (i) to the Association such remaining portions of the taken Units and (ii) to the other Owners, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area. Each Owner relinquishing his interests pursuant to this Section shall, at the request of the Board and at the expense of the Association, execute and acknowledge such deeds and other instruments which the Board deems necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit or Residence shall not be liable for assessments under this Declaration which accrue on or after the date such Owner accepts his condemnation award.

10.5. Portions of Awards in Condemnation Not Compensatory for Value of Real Property.
Those portions of awards in condemnation which do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

10.6. Notice to Owners and Mortgagees.
The Board, upon learning of any taking affecting a material portion of the Property, or any threat thereof, shall promptly notify all Owners and those Beneficiaries, insurers and guarantors of Mortgages on Condominiums in the Project who have filed a written request for such notice with the Association. The Board, upon learning of any taking affecting a Unit, or any threat thereof, shall promptly notify any Beneficiary, insurer or guarantor of a Mortgage encumbering such Unit who has filed a written request for such notice with the Association.

ARTICLE XI

11. Rights of Mortgagees.
Notwithstanding any other provisions of this Declaration, no amendment or violation of this Declaration shall operate to defeat or render invalid the rights of the Beneficiary under any Deed of Trust upon one (1) or more Condominiums made in good faith and for value, provided that after the foreclosure of any such Deed of Trust such Condominium(s) shall remain subject to this Declaration, as amended. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Condominium, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage. For purposes of any provision of this Declaration or the other Restrictions which require the vote or approval of a specified percentage of first Mortgagees, such vote or approval shall be determined based upon one (1) vote for each Condominium encumbered by each such first Mortgagee. In order to induce FHLMC, GNMA and Fannie Mae to participate in the financing of the sale of Condominiums within the Project, the following provisions are added hereto (and to the extent the added provisions conflict with any other provisions of the Restrictions, these added provisions shall control):

(a) Each Beneficiary, insurer and guarantor of a first Mortgage encumbering one (1) or more Condominiums, upon filing a written request for notification with the Board, is entitled to written notification from the Association of:

(1) any condemnation or casualty loss which affects either a material portion of the Project or the Unit(s) securing the respective first Mortgage; and

(2) any delinquency of sixty (60) days or more in the performance of any obligation under the Restrictions, including without limitation the payment of assessments or charges owed by the Owner(s) of the Unit(s) securing the respective first Mortgage, which notice each Owner hereby consents to and authorizes; and

(3) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond maintained by the Association; and

(4) any proposed action of the Association which requires consent by a specified percentage of first Mortgagees.

(b) Each Owner, including each first Mortgagee of a Mortgage encumbering any Condominium who obtains title to such Condominium pursuant to the remedies provided in such Mortgage, or by foreclosure of the Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Restrictions.

(c) Each first Mortgagee of a Mortgage encumbering any Condominium which obtains title to such Condominium, pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage, shall take title to such Condominium free and clear of any claims for unpaid assessments or charges against such Condominium which accrued prior to the time such Mortgagee acquires title to such Condominium in accordance with Section 5.10.

(d) Unless at least sixty-seven percent (67%) of the first Mortgagees or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(1) by act or omission seek to abandon or terminate the Property; or

(2) change the pro rata interest or obligations of any Condominium in order to levy assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Condominium in the Common Area; or

(3) partition or subdivide any Condominium Unit; or

(4) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. (The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Area under this Declaration, and the granting of exclusive easements to Owners over portions of the Common Area to conform the boundaries of the Common Area to the as-built location of Improvements installed or constructed by Declarant shall not be deemed a transfer within the meaning of this clause); or

(5) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, the exterior appearance or the maintenance of the Units or the Common Area; or

(6) fail to maintain or cause to be maintained Fire and Extended Coverage insurance on insurable Common Area as provided in Article VIII of this Declaration; or

(7) use hazard insurance proceeds for losses to any Condominium property (i.e., Improvements to the Units or Common Area) for other than the repair, replacement or reconstruction of such condominium property, subject to the provisions of Article IX of this Declaration; or

(8) change the method of determining the obligations, assessments, other charges which may be levied any Owner.

(e) All Beneficiaries, insurers, and guarantors of first Mortgages, upon written request to the Association shall have the right and guaranty request to:

(1) examine current copies of the Association's books, records and financial statements and the Restrictions during normal business hours; and

(2) require the Association submit an annual audited financial statement without expense to the entity requesting the statement; and

(3) receive written notice of all meetings of Owners; and

(4) designate in writing a representative who shall be authorized to attend all meetings of Owners.

(f) All Beneficiaries, insurers and guarantors of first Mortgages, upon written request, shall be given thirty (30) days' written notice prior to the effective date of (1) any proposed, material amendment to the Restrictions or Condominium Plans; (2) any termination of an agreement for professional management of the Property following any decision of the Owners to assume self-management of the Project; and (3) any proposed termination of the Property as a condominium project.

(g) The Reserve Fund described in Article V of this Declaration must be funded by regular scheduled monthly quarterly, semi-annual or annual payments rather than by large special assessments.

(h) The Board shall secure and cause to be maintained in force at all times a fidelity bond for any Person handling funds of the Association, including, but not limited to employees of the professional Manager.

(i) The Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the FHLMC, Fannie Mae or GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Condominiums. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of their residential Condominiums, if such agencies approve the Property as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Each Owner hereby authorizes his Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Condominium.

(j) When professional management has been previously required by a Beneficiary, insurer or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of sixty-seven percent (67%) of the voting power of the Association and the Beneficiaries of fifty-one percent (51%) of the first Mortgages of Condominiums in the Project.

(k) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XII

12. Duration and Amendment.

12.1. Duration.
This Declaration shall continue in full force for a term of fifty (50) years from the date of Recordation hereof, after which the term shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination satisfying the requirements of an amendment to this Declaration as set forth in Section 12.2 is Recorded. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant Membership in the Association, as long as this Declaration shall continue in full force and effect.

12.2. Termination and Amendment.

(a) Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association at which a proposed amendment is to be considered. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than sixty-seven percent (67%) of the voting power of the Members of the Association provided that the specified percentage of the voting power of the Association necessary to amend a specified Section or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision.

(b) In addition to the required notice and consent of Members provided above, the Beneficiaries of fifty-one percent (51%) of the first Mortgages on all the Condominiums in the Project who have requested the Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees must approve any amendment to this Declaration which is of a material nature, as follows:

(1) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers or guarantors of first Mortgages as provided in Articles V, VIII, IX, X, XI and XII hereof.

(2) Any amendment which would necessitate a Mortgagee after it has acquired a Condominium through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(3) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Condominium not being separately assessed for tax purposes.

(4) Any amendment relating to the insurance provisions as set out in Article VIII hereof, or to the application of insurance proceeds as set out in Article IX hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(5) Any amendment which would or could result in partition or subdivision of a Condominium Unit in any manner inconsistent with the provisions of this Declaration.

(6) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Condominium is proposed to be sold, transferred, or otherwise conveyed.

(7) Any amendment concerning:

(A) Voting rights;

(B) Rights to use the Common Area;

(C) Reserves and responsibility for maintenance, repair and replacement of the Common Area;

(D) Boundaries of any Units;

(E) Owners' interests in the Common Area;

(F) Convertibility of Common Area into Units or Units into Common Area;

(G) Leasing of Units;

(H) Establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage;

(I) Annexation or deannexation of real property to or from the Property; or

(J) Assessments, assessment liens, or the subordination of such liens.

(c) Termination of this Declaration shall require approval by the Members as provided in subsection (a) of this Section 12.2. No such termination shall be effective unless it is also approved in advance either by fifty-one percent (51%) of the Beneficiaries of the first Mortgages on all of the Condominiums in the Project (if said termination is proposed by reason of the substantial destruction or condemnation of the Project) or by sixty-seven percent (67%) of such Beneficiaries (if said termination is for reasons other than such substantial destruction or condemnation).

(d) Each Beneficiary of a first Mortgage on a Condominium in the Project which receives proper written notice of a proposed amendment or termination of this Declaration by certified or registered mail with a return receipt requested shall be deemed to have approved the amendment or termination if the Beneficiary fails to submit a response to the notice within thirty (30) days after the Beneficiary receives the notice.

(e) A copy of each amendment shall be certified by at least two (2) officers of the Association, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by two (2) officers of the Association that the requisite number of Owners and mortgagees have either voted for or consented in writing to any amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Mortgagees has been obtained.

(f) Notwithstanding any other provisions of this Section 12.2, at any time prior to the first Close of Escrow for the sale of a Condominium within the Project, Declarant may unilaterally amend or terminate this Declaration by Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant.

(g) Notwithstanding any other provisions of this Section 12.2, for so long as Declarant owns any portion of the Property, Declarant may unilaterally amend this Declaration by Recording a written instrument signed by Declaration in order to conform this Declaration to the requirements of Fannie Mae, GNMA or FHLMC then in effect.

ARTICLE XIII

13. General Provisions.

13.1. Enforcement of Restrictions.

(a) Violations Identified by the Association. If the Board determines that there is a violation of any provision of the Restrictions, or the Architectural Committee determines that an Improvement which is the maintenance responsibility of an Owner is in need of installation, maintenance, repair, restoration or painting, then the Board shall give written notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) the length of time the Owner has to remedy the violation including, if applicable the length of time the Owner has to submit plans to the Architectural Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Architectural Committee.

If an Owner does not perform such corrective action as is required by the Board and the Architectural Committee within the allotted time, the Board, after Notice and Hearing, may undertake to remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. Such Special Assessment shall be subject to enforcement and collection by the Board in accordance with the procedures provided for in this Declaration.

If the violation involves nonpayment of any type of Assessment, then the Board shall be entitled to collect such delinquent Assessment pursuant to the procedures set forth in Article V.

(b) Violations Identified by an Owner. In the event that an Owner alleges that another Owner, his family, guests or tenants, is violating the Restrictions (other than nonpayment of any type of Assessment), the Owner must first submit the matter to the Board before the complaining Owner may resort to a court of law for relief with respect to the alleged violation.

(c) Legal Proceedings. Failure to comply with any of the terms of the Restrictions by an Owner, his family, guests, employees, invitees or tenants, shall be grounds for relief, which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; provided, however, that the procedures established in Sections 13.1 (a) and (b) above must first be followed, if they are applicable.

(d) Limitation on Expenditures. The Association shall not incur litigation expenses, including without limitation attorneys' fees, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings without the approval of a majority of the voting power of the Association, excluding the voting power of any Owner who would be a defendant in such proceedings. Such approval shall not be necessary if the legal proceedings are initiated to (ii) enforce the use restrictions contained in Article VIII hereof, (ii) enforce the architectural control provisions contained in Article IV hereof, or (iii) collect any unpaid assessments levied pursuant to this Declaration.

(e) Schedule of Fines. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner for the failure of such Owner, or of a resident of or visitor to such Owner's Unit, to comply with any provisions of the Restrictions. Such fines or penalties may only be assessed by the Board after Notice and Hearing.

(f) No Waiver. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision, or any other provision hereof.

(g) Right to Enforce. The Board, any Owner (not at the time in default hereunder), or Declarant (so long as Declarant is an Owner) shall be entitled to enforce the Restrictions as described in this Article. Each Owner shall have a right of action against the Association for the Association's failure to comply with the Restrictions. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive.

(h) Attorneys Fees. Any judgment rendered in any action or proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and costs of court.

13.2. Severability.
The provisions hereof shall be deemed independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

13.3. Interpretation.
The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the creation and operation of a residential condominium development and for the maintenance of Common Area, and any violation of this Declaration shall be deemed to be a nuisance. The Article and Section heading have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the other, unless the context dictates otherwise.

13.4. Mergers or Consolidations.
Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Property, together with the covenants and restrictions established upon any other property, as one plan.

13.5. No Public Right or Dedication.
Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use.

13.6. Nonliability and Indemnification.

(a) General Limitation. Except as specifically provided in the Restrictions or as required by law, no right, power, or responsibility conferred on the Board or the Architectural Committee by this Declaration, the Articles or the Bylaws shall be construed as a duty, obligation or disability charged upon the Board, the Architectural Committee, any member of the Board or of the Architectural Committee, or any other officer, employee or agent of the Association. No such Person shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's acts or omissions within what such Person reasonably believed to be the scope of his Association duties ("Official Acts"), except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. No such Person shall be liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct.

(b) Damages Limitation. In accordance with Civil Code Section 1365.7, a volunteer Board member or volunteer Association officer, as defined in subdivision (a) of Civil Code Section 1351, which manages a common interest development which is exclusively residential, shall not be personally liable in excess of the coverage of insurance specified below to any person who suffers injury, including without limitation bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all of the following conditions are satisfied:

(1) The Board member or officer is a tenant of a Unit or an Owner of no more than two (2) Units;

(2) The act or omission was performed within the scope of the Board member's or officer's Association duties;

(3) The act or omission was performed in good faith;

(4) The act or omission was not willful, wanton or grossly negligent; and

(5) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim was made one (1) or more policies of insurance which shall include coverage for (A) general liability of the Association and (B) individual liability of officers and Board members for negligent acts or omissions in that capacity; provided, that both types of coverage are in the amount of at least five hundred thousand dollars ($500,000.00) if the common interest development consists of 100 or fewer separate interests or at least one million dollars ($1,000,000.00) if the common interest development consists of more than 100 separate interests.

A Board member or Association officer who at the time of the act or omissionwas the Declarant or received direct or indirect compensation as an employee from Declarant or from a financial institution that purchased a Condominium at a judicial or nonjudicial foreclosure of a Mortgage is not a volunteer for purposes of this Section 13.6 (b). The payment of actual expenses incurred by a Board member or Association officer does not affect the member's or officer's status as a volunteer for purposes of this Section 13.6(b).

(c) Indemnification. The Association shall pay all expenses incurred by, and satisfy any judgment or fine levied against, any person as a result of any action or threatened action against such person to impose liability on such person for his Official Acts, provided that:

(1) The Board determines that such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Association;

(2) In the case of a criminal proceeding, the Board determines that such person had no reasonable cause to believe his conduct was unlawful; and

(3) In the case of an action or threatened action by or in the right of the Association, the Board determines that such person acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Any determination of the Board required under this Section 13.6 (c) must be approved by a majority vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, such determination may be made by the vote or written consent of a majority of a quorum of the Members of the Association voting at a meeting of the Association called for such purpose, provided that the person to be indemnified shall not be entitled to vote. Payments made hereunder shall include amounts paid and expenses incurred in settling any such action or threatened action. This Section 13.6(c) shall be construed to authorize payments and indemnification to the fullest extent now or hereafter permitted by applicable law. The entitlement to indemnification hereunder shall inure to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any person entitled to such indemnification.

13.7. Notices.
Except as otherwise provided in this Declaration, notice to be given to an Owner shall be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one or more co-owners of a Condominium or to any general partner of a partnership owning a Condominium shall be deemed delivery to all co-owners or to the partnership, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address shall have been furnished, to the street address of such Owner's Unit. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Board of Directors in which case the notice provisions of the Bylaws shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners.

13.8. Constructive Notice and Acceptance.
Every person who owns, occupies or acquires any right, title estate or interest in or to any Condominium or other portion of the Property does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof.

ARTICLE XIV

14. Managing Agent.

14.1. Written Disclosures of Prospective Managing Agent. In accordance with Civil Code Section 1363.1, a prospective management agent of a common interest development shall provide a written statement to the Board of Directors of the Association of a common interest development as soon as practicable, but in no event more than ninety (90) days, before entering into a management agreement which shall contain all of the following information concerning the managing agent:

(1) The names and business addresses of the owners or general partners of the managing agent. If the managing agent is a corporation, the written statement shall include the names and business addresses of the directors and officers and shareholders holding greater than ten percent (10%) of the shares of the corporation.

(2) Whether or not any relevant licenses such as architectural design, construction, engineering, real estate, or accounting have been issued by the State of California and are currently held by the persons specified in paragraph (1). If a license is currently held by any of those persons, the statement shall contain the following information:

(A) What license is held.

(B) The status of that license.

(C) The name of the licensee appearing on that license.

(3) Whether or not any relevant professional certifications or designations such as architectural design construction, engineering, real property management, or accounting are currently held by any of the persons specified in paragraph (1), including, but not limited to, certified property manager or professional association manager. If any certification or designation is held, the statement shall include the following information;

(A) What the certification or designation is and what entity issued it.

(B) The status of that certification or designation.

(C) The names in which the certification or designation is held.

14.2. Definition of "managing agent".
As used in Civil Code Section 1363.1, a "managing agent" is a person or entity, who for compensation or, in expectation of compensation, exercises control over the assets of a common interest development. A "managing agent" does not include any of the following:

(1) A full-time employee of the Association.

(2) Any regulated financial institution operating within the normal course of its regulated business.

14.3. Handling of Association Funds by Managing Agent.
A managing agent of a common interest development who accepts or receives funds belonging to the Association shall deposit all such funds that are not placed into an escrow account with a bank, savings association, or credit union or into an account under the control of the Association, into a trust fund account maintained by the managing agent in a bank, savings association, or credit union in California. All funds deposited by the managing agent in the trust fund account shall be kept in California in a financial institution, as defined in Section 31041 of the Financial Code which is issued by the federal government, and shall be maintained there until disbursed in accordance with written instructions from the Association entitled to the funds.

(a) At the written request of the Board of Directors of the Association, the funds the managing agent accepts or receives on behalf of the Association shall be deposited into an interest-bearing account in a bank, savings association, or credit union in California, provided all of the following requirements are met:

(1) The account is in the name of the managing agent as trustee for the Association or in the name of the Association.

(2) All of the funds in the account are covered by insurance provided by an agency of the federal government.

(3) The funds in the account are kept separate, distinct, and apart from the funds belonging to the managing agent or to any other person or entity for whom the managing agent holds funds in trust except that the funds of various Associations may be commingled as pursuant to paragraph (c) hereafter.

(4) The managing agent discloses to the Board of Directors of the Association the nature of the account, how interest will be calculated and paid, whether service charges will be paid to the depository and by whom, and any notice requirements or penalties for withdrawal of funds from the account.

(5) No interest earned on funds in the account shall inure directly or indirectly to the benefit of the managing agent or his or her employees.

(b) The managing agent shall maintain a separate record of the receipt and disposition of all funds described in this section, including any interest earned on the funds.

(c) The managing agent shall not commingle the funds of the Association with his or her own money or with the money of others that he or she receives or accepts, unless all of the following requirements are met:

(1) The managing agent commingled the funds of various Associations on or before February 26, 1990, and has obtained a written agreement with the Board of Directors of each Association that he or she will maintain a fidelity and surety bond in an amount that provides adequate protection to the Associations as agreed upon by the managing agent and the Board of Directors of each Association.

(2) The managing agent discloses in the written agreement whether he or she is deriving benefits from the commingled account or the bank, credit union, or savings institution where the moneys will be on deposit.

(3) The written agreement provided for pursuant to this Article includes, but is not limited to, the name and address of the bonding companies, the amounts of the bonds, and the expiration dates of the bonds.

(4) If there are any changes in the bond coverage or the companies providing the coverage, the managing agent discloses the fact to the Board of Directors of each affected Association as soon as practical, but in no event more than ten (10) days after the change.

(5) The bonds assure the protection of the Association and provide the Association at least ten (10) days notice prior to cancellation.

(6) Completed payments on behalf of the Association are deposited within twenty-four (24) hours or the next business day and do not remain commingled for more than ten (10) calendar days.

(d) The prevailing party in an action to enforce this Article shall be entitled to recover reasonable legal fees and court costs.

(e) As used in this Article, a "managing agent" is a person or entity, who for compensation or, in expectation of compensation, exercises control over the assets of the Association. However, a "managing agent" does not include a full-time employee of the Association or a regulated financial institution operating within the normal course of business, or an attorney at law acting within the scope of his or her license.

(f) As used in this Article, "completed payment" means funds received which clearly identify the account to which the funds are to be credited.

ARTICLE XV

15. Causes of Action in Tort.

15.1. Lawsuits Against the Association. In accordance with Civil Code Section 1365.9, any cause of action in tort against any owner of a separate interest arising solely by reason of an ownership interest as tenant in common in the Common Area of a Common Interest Development shall be brought only against the Association and not against the individual owners of the Separate Interests, as defined in Civil Code Section 1351 (1) if both of the insurance requirements in paragraphs (1) and (2) are met:

(1) The Association maintained and has in effect for this cause of action one or more policies of insurance which include coverage for general liability of the Association and (2) the coverage described in paragraph (1) is in the following minimum amounts:

(i) At least two million dollars ($2,000.000.00) if the Common Interest Development consists of one hundred (100) or fewer Separate Interests; or

(ii) At least three million dollars ($3,000,000.00) if the Common Interest Development consists of more than one hundred (100) Separate Interests.

ARTICLE XVI

16. Civil Code Section 1352.5.

16.1. Prohibition on Restrictive Covenants.
In accordance with Civil Code Section 1352.5 (a), this Declaration shall not include a restrictive covenant in violation of Section 12955 of the Government Code.

16.2. Role of Board of Directors.
In accordance with Civil Code Section 1352.5 (b), the Board of Directors of the Association, without the approval of the owners, shall amend this Declaration, if it includes a restrictive covenant prohibited by this section, to delete the restrictive covenant, and shall restate this Declaration without the restrictive covenant but with no other change to the Declaration.

16.3. Enforcement of Section 16.2.
In accordance with Civil Code Section 1352 (c), if after providing written notice to the Association requesting that the Association delete a restrictive covenant that violates Civil Code Section 1352 (a), and the Association fails to delete the restrictive covenant within ten (10) days of receipt of the notice, the Department of Fair Employment and Housing, the City of San Diego, or any person may bring an action against the Association for injunctive relief to enforce Civil Code Section 1352 (a).

ARTICLE XVII

17. DISPUTE RESOLUTION PROCEDURE.

17.1. DISPUTE WITH DECLARANT PARTIES.
The dispute resolution procedure, included in this Article XVII, is implemented for the Project in accordance with the purposes of the Federal Arbitration Act (9 U.S.C. Sections 1-16, inclusive) (the "Act"). The Act is designed to encourage the use of alternative methods of dispute resolution in order to avoid costly and lengthy court proceedings. The dispute resolution procedure included herein shall be interpreted and enforced as authorized by the Act. In interpreting this Section, the Parties shall follow federal court rulings which provide, without limitation, that the Act: (1) is a congressional declaration of a liberal federal policy which favors arbitration agreements, notwithstanding substantive or procedural state policies to the contrary, (2) requires that federal and state courts rigorously enforce agreements to arbitrate, and (3) requires that the scope of arbitrable issues be resolved in favor of arbitration. This Section shall be interpreted in accordance with Allied-Bruce Terminix Companies, Inc., v. Dobson, 115 S. Ct. 834 (1995), and other federal court rulings. Any reference in this Section to a California Code Section is not to be interpreted as a waiver of rights created under the Act.

Any disputes (each, a **"Dispute"**) between any Owners, and Declarant, or any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of the Declarant (collectively **"Declarant Parties"**) arising under this Declaration or relating to the Project, shall be subject to the following procedures:

17.1.1 Notice.
Any Person with a Dispute shall give written notice of the Dispute by personal or mail service, as authorized by Code of Civil Procedure Section 415.10, 415.20, 415.21, 415.30 or 415.40 to the party to whom the Dispute is directed (**"Respondent"**) which describes the nature of the Dispute and provides for a proposed remedy (the **"Dispute Notice"**).

17.1.2 Right to Inspect and Correct.

Commencing on the date the Dispute Notice is delivered to the Respondent and continuing until the date the Dispute is resolved, the Respondent and its representatives shall have the right to: (i) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, (ii) enter the Project to inspect any portion thereof that is the subject of the Dispute, and (iii) conduct inspections and tests (including destructive or invasive) in any manner deemed appropriate by the Respondent. If Respondent elects to take any corrective action, Respondent and its representatives shall be provided full access to the Project to take and complete the corrective action. Respondent is not obligated to take any corrective action. Respondent, with the consent of Declarant, has the right to select the corrective action Respondent believes is appropriate. The right to inspect and correct granted herein is in addition to the rights granted in California Civil Code Section 1375 (**"Calderon Act"**). If applicable, the procedures established in the Calderon Act may be implemented before, during or after the procedure provided for herein is implemented.

17.1.3 Mediation.

If the Dispute is not resolved within ninety (90) days after receipt by the Respondent of the Dispute Notice, any party may submit the Dispute to mediation by delivering a request for mediation (**"Mediation Notice"**) in the same manner allowed for delivery of the Dispute Notice. The Dispute shall be mediated pursuant to: (i) the American Arbitration Association (**"AAA"**) mediation procedures in existence when the Dispute Notice is delivered, as modified herein, or (ii) the mediation procedures of any successor to the AAA in existence when the Dispute Notice is delivered, as modified by this Section, or (iii) mediation procedures approved by the parties or any entity offering mediation services that is acceptable to the parties to the Dispute (**"Parties"**). Except as provided in Section 17.1.5, no Person shall commence litigation regarding a Dispute without complying with this Section.

(a) Selection of Mediator.

The mediator shall be selected within sixty (60) days from delivery of the Mediation Notice. The mediator shall be selected by mutual agreement of the Parties. If the Parties cannot agree on a mediator, the mediator shall be selected by the entity which provides the mediation service. No person shall serve as a mediator in any Dispute in which the Person has a financial or personal interest in the result of the mediation, except with the written consent of all Parties. Before acceptance of an appointment, a prospective mediator shall disclose any circumstances which may create a presumption of bias or may prevent a prompt commencement of the mediation process.

(b) Position Letter; Pre-Mediation Conference. Within sixty (60) days after selection of the mediator, each party to the Dispute shall submit letter ("Position Statement") which contains: (i) a description of the position of the party concerning the issues that need to be resolved, (ii) a detailed description of the alleged defects at issue, (iii) a suggested plan with regard to repair, remediation, or correction. A pre-mediation conference may be scheduled by the mediator. All Parties shall attend the pre-mediation conference unless otherwise mutually agreed. The mediation shall be commenced within twenty (20) days after submittal of all Position Statements. The mediation shall be concluded within fifteen (15) days after commencement of the mediation unless (a) the mediator extends the term of the mediation or (b) the Parties, by mutual agreement, agree to extend the term of the mediation. The mediation shall be held within San Diego County or at another location acceptable to all of the Parties.

(c) Conduct of Mediation. The mediator may conduct the mediation in the manner the mediator determines to be most appropriate in order to achieve the purpose of settlement of the Dispute. The mediator may conduct either joint or separate meetings with the Parties. The mediator may make oral or written recommendations for settlement. The mediator may also seek and obtain expert advice about technical aspects of the Dispute, subject to agreement by the Parties with regard to the obtaining of the expert advice and payment by the Parties of the costs of the expert advice. The mediator shall not have the authority to impose a settlement on the Parties.

(d) Application of Evidence Code.

Section 1115 to Section 1128, inclusive, of the California Evidence Code shall apply to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be governed by these Sections, including those which preclude use of material in future proceedings and those which provide for confidentiality of material.

(e) Parties Permitted at Mediation.
Persons other than the Parties, their liability insurers, Declarant, attorneys for the Parties, the liability insurers and Declarant and the mediator may attend mediation sessions only with the person of the Parties and the consent of the mediator. Declarant has the right to attend the mediation session even if Declarant is not one of the Parties.

(f) Record.
There shall be no stenographic, video or audio record of the mediation process.

(g) Expenses.
Each Party shall be responsible for its own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation, including fees charged by the mediator and the cost of any proof or expert advice requested by the mediator, shall be borne equally by each of Declarant and the Declarant Parties to whom the Dispute is directed, unless otherwise agreed. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

Any of the Parties may file a lawsuit if a Dispute remains unresolved after the mediation required by Section 17.1.3 is completed. All lawsuits regarding Disputes must be resolved by general judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 to 645.1, inclusive, as modified by this Subsection. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. No party shall be required to participate in the judicial reference proceeding if all parties against whom such party would have necessary or permissive cross-claims or counterclaims will not or cannot be joined in the judicial reference proceeding. The general referee shall have the authority to try all issues of fact and law and to report a statement of decision to the court. The referee shall be the only trier of fact and law in the reference proceeding, and shall have no authority to further refer any issues of fact or law to any other Person unless: (a) all parties to the judicial reference proceeding consent or (b) the referee determines that a conflict of interest or similar situation has arisen which would make it inappropriate for the referee to act as the trier of fact or law concerning an issue or matter. In the second alternative, an alternative judicial referee shall be selected in accordance with this Subsection solely for resolving or rendering a decision concerning the issue or matter involved in the conflict.

(a) Place.
The proceedings shall be heard within San Diego County.

(b) Referee.
The referee shall be a retired judge who served on the Superior Court of the State of California in San Diego County with substantial experience in the type of matter in dispute and without any relationship to the Parties or interest in the Project, unless the Parties agree otherwise. The parties to the judicial reference proceeding shall meet to select the referee not later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. Any dispute regarding selection of the referee shall be resolved by the court in which the complaint is filed.

(c) Commencement and Timing of Proceeding.
The referee shall commence the proceeding at the earliest convenient date and without undue delay.

(d) Pre-hearing Conference.

The referee may require pre-hearing conferences.

(e) Discovery.
The parties to the judicial reference proceeding shall be entitled only to limited discovery, which shall consist of the exchange of the following: (i) witness lists, (ii) expert witness designations, (iii) expert witness reports, (iv) exhibits, (v) reports of testing or inspections, and (vi) briefs. Any other discovery authorized in the California Code of Civil Procedure shall be permitted by the referee upon a showing of good cause or based on the consent of all parties to the judicial reference proceeding.

(f) Motions.
The referee shall have the power to hear and dispose of motions, including motions relating to discovery, provisional remedies, demurrers, motions to dismiss, motions for judgment on the pleadings and summary judgment and/or adjudication motions, in the same manner as a trial court judge. The referee shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(g) Record.
A confidential stenographic record of the hearing shall be made except as may be necessary for post-hearing motions and any appeals.

(h) Statement of Decision.
The referee's statement of decision shall contain an explanation of the factual and legal basis for the decision pursuant to California Code of Civil Procedure Section 632. The decision of the referee shall stand as the decision of the court. Once the statement of the decision is filed with the clerk of the court, judgment may be entered thereon in the same manner as if the Dispute had been tried by the Court.

(i) Remedies.
The referee may grant all legal and equitable remedies and award damages in the judicial reference proceeding.

(j) Post-hearing Motions.

The referee may rule on all post-hearing motions in the same manner as if a trial judge.

(k) Appeals.
The decision of the referee shall be subject to appeal in the same manner as if the Dispute had been filed with the Court.

(l) Expenses.
Except as the referee may so order otherwise, or as the parties may otherwise agree: (i) each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding and (ii) all other expenses of the judicial reference proceeding, including the cost of the stenographic record shall be shared equally by the parties to the judicial reference proceeding. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

17.1.5 Statute of Limitations.
Nothing in this Section 17.1 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Declarant Parties and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's right under any applicable statute of limitations, so long as no further steps in processing the action are taken, except those authorized in this Section 17.1.

17.1.6 Agreement to Dispute Resolution; Waivers of Jury Trial.
DECLARANT AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 17.1 TO RESOLVE ALL DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. DECLARANT, THE ASSOCIATION, AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 17.1, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JURY PURSUANT TO THE FEDERAL ARBITRATION ACT. THIS SECTION 17.1 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

17.1.7 Civil Code Section 1354.

Section 17.1 governs only the resolution of Disputes ~~with~~ Declarant Parties and shall not affect the subject matter of such Disputes. Unless the subject matter of a Dispute expressly involves enforcement of the Restrictions, such Dispute shall not be governed by the provisions of California Civil Code Section 1354, or any successor statute. Enforcement of Section 17.1 shall not entitle the prevailing party in any Dispute with a Declarant Party to recover attorneys' fees or costs.

ARTICLE XVIII

18. Documentation to be provided Prospective Purchaser.

18.1. Owner Requirements of Civil Code Section 1368. In accordance with Civil Code Section 1368, the Owner of a Separate Interest, other than an Owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the Separate Interest or execution of a real property sales contract therefor, as defined in Civil Code Section 2985, provide the following to the prospective purchaser:

(1) a copy of the governing documents of the common interest development, including any operating rules, and including a copy of the association's articles of incorporation, or if not incorporated, a statement from an authorized representative of the association, that the association is not incorporated.

(2) If there is a restriction in the Restrictions limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Civil Code Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Civil Code Section 51.3 and a statement specifying the applicable provision of Civil Code Section 51.3.

(3) A copy of the most recent documents distributed pursuant to Civil Code Section 1365.

(4) A true statement in writing from an authorized representative of the Association as to the amount of the Association's current regular and special assessments and fees, as well as any assessments levied upon an Owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the statement, are or may be made a lien upon the Owner's interest in a common interest development pursuant to Civil Code Section 1367 or 1367.1.

(5) A copy or a summary of any notice previously sent to the Owner pursuant to subdivision (h) of Section 1363 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the Association's right to enforce the governing documents against the Owner of the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require an Association to inspect an Owner's separate interest.

(6) A copy of the preliminary list of defects provided to each member of the Association pursuant to Section 1375, unless the Association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the Association complies with Section 1375.1. Disclosure of the preliminary list of defects pursuant to this paragraph shall not waive any privilege attached to the document. The preliminary list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made.

(7) A copy of the latest information provided for in Section 1375.1.

(8) Any change in the Association's current regular and special assessments and fees which have been approved by the Association's Board of Directors, but have not become due and payable as of the date disclosure is provided pursuant to this Article.

18.2 Association Requirements of Civil Code Section 1368.
In accordance with Civil Code Section 1368, upon written request, the Association shall, within ten (10) days of the mailing or delivery of the request, provide the Owner of a Separate Interest with a copy of the requested items specified in paragraphs 18.1. (1) to (8), inclusive. The Association may charge a fee for this service, which shall not exceed the Association's reasonable cost to prepare and reproduce the requested items. The Association shall not impose or collect any assessment, penalty, or fee in connection with a transfer of title or any other interest except the Association's actual costs to change its records and that authorized by this Section 18.2.

18.3. Failure to comply with Article XVIII.
Any person or entity who willfully violates this Article XVIII, in accordance with Civil Code Section 1368, shall be liable to the purchaser of a separate interest which is subject to Civil Code Section 1368, for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred ($500.00). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

18.4 Validity of Transfer.
Nothing in this Article XVIII affects the validity of title to real property transferred in violation of this Article XVIII.

18.5. Additional Owner Requirements.
In addition to this requirements of this section, an Owner transferring title to a separate interest shall comply with applicable requirements of Civil Code Sections 1133 and 1134.

ARTICLE XIX

19. Requirements of Civil Code Section 1361.5.

19.1. Prohibitions on Restriction of Access. In accordance with Civil Code Section 1361.5, except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, the Association may not deny an Owner or occupant physical access to his or her "separate interest", as defined in Article I, Section 1.43 herein, either by restricting access through the common areas to the Owner's separate interest or by restricting access solely to the Owner's separate interest.

ARTICLE XX

20. Requirements of Civil Code Section 1366.2

20.1. Recordation of Statement of Relevant Information. In order to facilitate the collection of annual assessments, special assessments, transfer fees and similar charges, the Board of Directors of the Association is authorized to record a statement or amended statement identifying relevant information for the Association. This statement may include any or all of the following information:

(a) The name of the Association as shown in the conditions, covenants and restrictions or the current name of the Association, if different.

(b) The name and address of a managing agent or treasurer of the Association or other individual or entity authorized to receive assessments and fees imposed by the Association.

(c) A daytime telephone number of the authorized party identified in paragraph (2) if a telephone number is available.

(d) A list of separate interests subject to assessment by the Association, showing the assessor's parcel number or legal description, or both, of the separate interests.

(e) The recording information identifying the Declaration or Declaration of Covenants, Conditions, and Restrictions governing the Association.

(f) If an amended statement is being recorded, the recording information identifying the prior statement or statements which the amendment is superceding.

The San Diego County Recorder is authorized to charge a fee for recording the document described in subdivision (a), which fee shall be based upon the number of pages in the document and the recorder's per-page recording fee.

21. Requirements of Civil Code Section 1363.6.

21.1. Statement by Common Interest Development Association to Secretary of State.
To assist with the identification of common interest developments, each Association, whether incorporated or unincorporated, shall submit to the Secretary of State, on a form and for a fee not to exceed thirty dollars ($30.00) that the Secretary of State shall prescribe, the following information concerning the Association and the development that it manages:

(a) A statement that the Association is formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.

(b) The name of the Association.

(c) The street address of the Association's onsite office, or, if none, of the responsible officer or managing agent of the Association.

(d) The address and either the daytime telephone number or e-mail address of the President of the Association, other than the address, telephone number, or e-mail address of the Association's onsite office or managing agent of the Association.

(e) The name, street address, and daytime telephone number of the Association's managing agent, if any.

(f) The county, and if an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.

(g) If the development is in an unincorporated area, the city closest in proximity to the development.

(h) The nine-digit ZIP Code, front street, and nearest cross street of the physical location of the development.

(i) The type of common interest development, as defined in subdivision (c) of Section 1351, managed by the Association.

(j) The number of separate interests, as defined in subdivision (1) of Section 1351, in the development.

The Association shall submit the information required by this section within 90 days after the filing of its original Articles of Incorporation, and thereafter at the time the Association files its biennial statement of principle business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.

The Association shall notify the Secretary of State of any change in the street address of the Association's onsite office or of the responsible officer or managing agent of the Association in the form and for a fee prescribed by the Secretary of State, within 60 days of the change.

This Declaration is dated October 31, 2005 for identification purposes.

WESTBOURNE CONDOMINIUMS, L.L.C.,
A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Cairncross

Its: General Manager

"Declarant"

11351

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On 11-9-05, 2005 before me, the undersigned, a Notary Public in and for said State, personally appeared **Steve Cairncross** and personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public in and for said State

PATTY L. YBARRA
Commission # 1342819
Notary Public - California
San Diego County
My Comm. Expires Feb 9, 2006

SUBORDINATION

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated May 12, 2004 and recorded on May 20, 2004 as Instrument No. 2004-0460803 in the Official Records of San Diego County, California (the "Deed of Trust"), which Deed of Trust is by and between WESTBOURNE CONDOMINIUMS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, as Trustor, TEMECULA VALLEY BANK, N.A., as Trustee, and TEMECULA VALLEY BANK, N.A., as Beneficiary, hereby expressly said Deed of Trust and its beneficial interest thereunder to the foregoing DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR 610-614 WESTBOURNE VILLAS ("Declaration") and to maintenance and other easements to be conveyed to the Association in accordance with the Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Property by foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration, and any recorded amendments thereto, which shall remain in full force and effect.

Dated: October 31, 2005.

By: Maureen Ellerman jc
TEMECULA VALLEY BANK, N.A.

Its: First Vice President

11353

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On 11-9-05, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Maureen Ellermeyer and personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

Notary Public in and for said State

PATTY L. YBARRA
Commission # 1342819
Notary Public - California
San Diego County
My Comm. Expires Feb 9, 2006