

CHICAGO TITLE COMPANY

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WHEN RECORDED, RETURN TO:
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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THE CABLE BUILDING LOFTS HOMEOWNERS ASSOCIATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration"), is made as of June 10 1997, by HILLTOP ASSOCIATES, LLC, a California limited liability company ("Declarant").

RECITALS

This Declaration is made in contemplation of the following facts and circumstances:

A. Declarant is the owner of certain real property in San Diego, California, described on Exhibit A, attached hereto and incorporated herein by this reference.

B. Declarant intends to develop the Property as a condominium project, as defined in California Civil Code § 1351(f), pursuant to the provisions of the Davis-Stirling Common Interest Development Act. The condominium project is a Common Interest Development in accordance with California Civil Code §1353(a). The Property is the subject of a "Condominium Plan" (as defined below). The development of the Property as a condominium project will be consistent with any overall development plans submitted to and approved by the California Department of Real Estate and the U.S. Department of Veterans Affairs.

C. The condominium project shall be referred to as the "Project." The Project will consist of The Parking Areas and other common facilities located on the Property, as well as thirty seven (37) Condominiums, which are indicated on the Condominium Plan.

D. The Owner of a Condominium in the Project will receive title to his individual Unit plus an undivided one thirty-seventh (1/37th) interest as tenant in common in the Common Area located within the Project, excluding those portions of the Parking Areas which shall be conveyed to the Association, as described below.

E. Prior to the First Conveyance Date, the Declarant shall convey to the "Association" (as defined below) its entire right, title and interest in and to the Parking Areas, excepting therefrom those portions of the Parking Areas which are designated as Exclusive Use Common Areas. The Owner of each Condominium shall have appurtenant to their respective Condominium a membership in the Association, which shall administer and control all of the Common Area within the Project.

F. Declarant intends by the recordation of this Declaration and the Condominium Plan for the Project in the Office of the County Recorder for San Diego County, California, to meet the requirements of California Civil Code § 1352, and to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Condominiums located upon the Property and the Owners thereof.

G. Declarant hereby establishes by this Declaration a plan for the ownership of real property estates consisting of the individual ownership of the area of space contained in each Unit as well as the co-ownership, as tenants in common and as herein set forth, of the Common Areas (excluding those portions of the Parking Areas which shall be owned by the Association).

EFFECT OF DECLARATION

Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, equitable servitudes, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Project, and every part thereof, in accordance with the plans for its improvement and the division thereof into Condominiums. All of said declarations, limitations, covenants, conditions, restrictions, equitable servitudes, and easements shall constitute enforceable equitable servitudes, covenants and easements which shall run with the land and shall be binding upon Declarant and its respective successors, assigns and grantees, and all parties having or acquiring any right, title or interest in or to any part of the Project. Each Owner (including Declarant, with respect to any unsold Units within the Project) shall be subject to all of the rights and duties set forth in the Condominium Documents.

ARTICLE I
DEFINITIONS

1. "Articles" shall mean and refer to the Articles of Incorporation of THE CABLE BUILDING LOFTS HOMEOWNERS ASSOCIATION, as the same may be amended or restated from time to time.

2. "Assessment" shall mean and refer to that portion of the cost of performing the Association's obligations under the Condominium Documents including, but not limited to, the cost of maintaining, improving, repairing, operating and managing the Project, which is to be paid by each Owner, as determined by the Association.

3. "Association" shall mean and refer to THE CABLE BUILDING LOFTS HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit corporation.

4. "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

5. "Bylaws" shall mean and refer to the Bylaws of the Association, as the same may be amended from time to time.

6. "Commercial Units" shall mean and refer to those Units which are designated for commercial use on the Condominium Plan, and which shall be used for any commercial purpose allowed under applicable zoning and other land use regulations which may exist from time to time with respect to the Project.

7. "Building" shall mean and refer to the building located on the Property, which contains the Units.

8. "Common Area" shall mean and refer to the entire common interest development which encompasses the Project, except the separate interests shown as Units on the Condominium Plan, and shall include, without limitation, the Parking Areas.

9. "Common Expenses" means and includes the actual and estimated expenses of operating the Project and any reasonable reserve for such purposes as are permitted hereunder, as found and determined by the Board, and all sums designated common expenses by or pursuant to the Condominium Documents.

10. "Common Interest" shall mean and refer to the proportionate undivided interest as tenant in common in the Common Area, which is appurtenant to each Unit as set forth in this Declaration.

11. "Condominium" shall mean and refer to an estate in real property, as defined in California Civil Code § 1351(f). The ownership of each Condominium shall include the ownership of: (a)

a Unit, the boundaries of which are described on the Condominium Plan in sufficient detail to locate all boundaries thereof; (b) the respective undivided interest in the Common Area, except for those portions of the Parking Areas which will be conveyed to the Association hereunder; (c) membership in the Association; (d) a nonexclusive easement for ingress, egress, and support over all of the Common Area; and (e) certain Exclusive Use Common Areas, as identified and defined herein and in the Condominium Plan. Each Unit shall be a separate freehold estate consisting of the space described and defined in Article II, Paragraph 1.a. Each Unit includes all portions of the structure so described and the air-space so encompassed.

12. "Condominium Documents" shall mean and refer to this Declaration, the Exhibits, if any, attached hereto, the Articles, the Bylaws, and the rules and regulations for the Members as established from time to time.

13. "Condominium Plan" shall mean and refer to a plan consisting of: (a) a description or survey map of the Project, which shall refer to or show monumentation on the ground; (b) 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 Unit; and, (c) a certificate consenting to the recordation of the Condominium Plan pursuant to the Davis-Stirling Common Interest Development Act, signed and acknowledged by the record owner of fee title to the Property. The certificate shall also be signed and acknowledged by the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage, encumbering the Project. Owners of mineral rights, easements, right-of-ways, and other nonpossessory interests shall not need to sign the Condominium Plan. The Condominium Plan may be amended or revoked by a subsequently acknowledged and recorded instrument executed by all the persons whose signatures were required to record the Condominium Plan originally.

14. "Declarant" shall mean and refer to HILLTOP ASSOCIATES, LLC, a California limited liability company, its successors and assigns, as designated in a written instrument executed and acknowledged by Declarant and filed for record in the Official Records of San Diego County, California. A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation of a then existing Declarant encumbering all or any portion of the Property, which beneficiary has acquired any such portion of the Property by foreclosure, power of sale, or deed in lieu of such foreclosure or power of sale.

15. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

16. "Exclusive Use Common Area" shall mean and refer to those portions of the Common Area set aside for the exclusive use of one or more, but fewer than all, of the Owners. Said Exclusive Use Common Areas shall be appurtenant to the Units and shall include patios, balconies, storage spaces, and parking spaces. Additionally, any doorsteps, stoops, porches, exterior doors, door frames, and hardware incident thereto, screens and windows or other fixtures designed to serve a Unit, including, but not limited to, HVAC systems located on the roof of the Building and which service any individual Unit, but located outside the boundaries of such Unit, are Exclusive Use Common Areas allocated exclusively to that Unit.

17. "First Conveyance Date" shall mean and refer to the date that the first Condominium is conveyed by Declarant in the Project under authority of a Public Report approved by the California Department of Real Estate ("DRE") to a person unaffiliated with Declarant or any of its constituent members.

18. "Institutional Lender" shall mean and refer to any bank, savings and loan association, savings bank, insurance company, mortgage company, federal or state agency, or other financial institution or company holding a recorded First Mortgage on any Condominium in the Project.

19. "Living Unit" shall mean and refer to those Units which are designated for residential use on the Condominium Plan, and which may be used for live/work purposes in accordance with the provisions hereof.

20. "Member" shall mean and refer to a Person entitled to membership in the Association as provided herein. Whenever "Member" or "Membership" is used in this Declaration for the purpose of determining quorums, percentages, or minimum or maximum numbers for voting, as specified in this Declaration, all Persons who are Members because of their joint ownership of a particular Condominium shall be counted as one (1).

21. "Mortgage" shall mean and refer to a deed of trust as well as a mortgage. A "First Mortgage" shall mean a Mortgage which is recorded and which has first priority over all other Mortgages, and which was made in good faith and for value.

22. "Mortgagee" shall mean and refer to a beneficiary, holder or mortgagee under a Mortgage.

23. "Mortgagor" shall mean and refer to a trustor or mortgagor under a Mortgage.

24. "Owner" shall mean and refer to the record holder or holders of title, if more than one (1), of a Condominium in the Project. Owner shall include any Person having a fee simple title

to any Condominium and a purchaser under a recorded installment land sales contract, but shall exclude Persons having any interest merely as security for the performance of an obligation. Whenever "Owner" is used in this Declaration for the purposes of determining quorums, percentages, or minimum or maximum numbers for voting, as specified in this Declaration, all the Owners of a particular Condominium shall be counted as one (1).

25. "Parking Area" shall mean and refer to the exterior parking areas (both reserved and unreserved) in the Project indicated on the Condominium Plan, which shall be conveyed to and owned by the Association in accordance with this Declaration (except for any Exclusive Use Common Areas located within such Parking Area).

26. "Person" shall mean and refer to a natural person, a corporation, a partnership, a trustee, or other legal entity.

27. "Project" shall mean and refer to the Property, including all structures and improvements erected or to be erected thereon.

28. "Sewer and Storm Drain Systems" shall mean those private sewer and water systems which shall serve the Project.

29. "Unit" shall mean and refer to a separate freehold estate as defined in Civil Code Sections 1351(f)(1) and 1351(f)(2) and shall consist of the separate interest in space shown by the plans and specifications for each of the Living Units and Commercial Units set forth and described on the Condominium Plan.

30. "VA" shall mean and refer to the U.S. Department of Veterans Affairs, its successors and assigns.

ARTICLE II
DIVISION OF PROPERTY AND
CREATION OF PROPERTY RIGHTS

1. Division of Project: The Project shall be divided as follows:

a. Units: Each of the Commercial Units and the Living Units, as separately shown, numbered and designated (including a description of the boundaries thereof) in the Condominium Plan for the Property consists of the space, improvements and fixtures bounded by and contained within the interior surfaces of the perimeter walls, floors, roofs, windows, doors for such Unit. Each Unit includes both the portions of the Building so described and the air-space so encompassed. If any portion of the Common Area encroaches upon any Unit as a result of the construction,

reconstruction, repair, shifting, settlement or movement of any portion of the Project, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. In interpreting deeds and the Condominium Plan, the then existing physical boundaries of a Unit, whether in its original state or as reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or the Condominium Plan, regardless of settling or lateral movement of the Building and regardless of any minor variance between boundaries shown on the Condominium Plan or deed, and those of the Building.

b. Common Area: The entire Project, less the Units.

c. Exclusive Use Common Areas: The patios, balconies, storage spaces, and parking spaces designated as "Exclusive Use Common Areas" on the Condominium Plan are hereby set aside and allocated for the exclusive use of the Owners of the Unit to which they are made appurtenant on the Condominium Plan or to which they are otherwise conveyed by Declarant. Those parking spaces and storage spaces designated as Exclusive Use Common Areas on the Condominium Plan which are not specifically allocated to Units shall be deemed set aside and allocated for the exclusive use of the Owners of the Unit with which they are originally conveyed (or leased) by the Declarant, in its sole discretion. Each of such parking spaces and storage spaces shall be permanently maintained for such purpose and not converted for any other use at any time. Any Exclusive Use parking spaces and(or) storage spaces that are not assigned to Units on the Condominium Plan and which remain unconveyed by the Declarant upon the date that the last Condominium is conveyed in the Project shall be deemed held by and automatically conveyed to the Association which shall hold the same as a part of the Common Area and the Association may assign and/or otherwise use the same from time to time as it deems fit. Declarant shall execute such documents as may be reasonably necessary to evidence the jurisdiction and control of the Board over any such parking spaces and(or) storage spaces which have not become appurtenant to any Condominium after the completion of conveying all Condominiums in the Project by Declarant to Owners.

d. No Separate Conveyance of Interests: Fee title to the respective Units conveyed to each Owner and the respective undivided interest in the Common Area and Exclusive Use Common Areas appurtenant thereto shall not be separated or separately conveyed.

2. Partition Prohibited: Except as provided in this paragraph, and in accordance with California Civil Code §1359, the Common Area shall remain undivided, and there shall be no judicial partition thereof. Nothing in this paragraph shall be deemed to prohibit partition of a cotenancy in a Condominium. The Owner of

a Unit in the Project may maintain a partition action as to the entire Project as if the Owners of all of the Units in the Project were tenants in common in the entire Project in the same proportion as their interests in the Common Area. The court shall order partition under this subdivision only by sale of the entire Project and only upon a showing of one of the following:

a. More than three (3) years before the filing of the action, the Project was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the Project has not been rebuilt or repaired substantially to its state prior to the damage or destruction.

b. Three-fourths or more of the Project is destroyed or substantially damaged and Owners of Units holding in the aggregate more than a 50% interest in the Common Area oppose repair or restoration of the Project.

c. The Project has been in existence more than fifty (50) years, is obsolete and uneconomic, and Owners of Units holding in the aggregate more than a 50% interest in the Common Area oppose repair or restoration of the Project.

Notwithstanding anything to the contrary set forth in the Condominium Documents and except as provided by statute in the case of condemnation or substantial loss to the Units and(or) the Common Area of the Project, unless at least sixty-seven percent (67%) of the Institutional Lenders (based upon one (1) vote for each First Mortgage owned) or of the Owners (other than the Declarant) give their prior written approval, the Association shall not be entitled to partition or subdivide any Condominium. The Association is hereby granted (subject to the provisions below) an irrevocable power of attorney to sell the Project for the benefit of all the Owners thereof when the partition of the Owners' interests in the Project may be had pursuant to this paragraph 2. The power of attorney herein granted may be exercised by any two (2) members of the Board who are hereby authorized to record a certificate of exercise in the Office of the San Diego County, California, Recorder, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith; provided, however, that said power of attorney shall not apply to the Secretary of the United States Department of Veterans Affairs, an officer of the United States of America.

3. Use of Common Area: Each Owner shall have a nonexclusive right and easement, for itself and its invitees, licensees and designees, for ingress, egress, and support and for reasonable enjoyment and use over and across and within the Common Area, including, without limitation the right to unrestricted ingress and egress to his or her Unit. The foregoing right and easement shall be appurtenant to and shall not be conveyed or otherwise transferred separately from each Owner's respective Condominium and

shall be deemed to be conveyed or encumbered with each such respective Condominium even though the description in the instrument of conveyance or encumbrance may refer only to fee title to the Condominium. Each Owner shall additionally be entitled to reasonable access to the Common Area for the purpose of maintaining the internal and external telephone, cable television and security system wiring, and any HVAC system, serving their respective Condominium. The access shall be subject to the consent of the Association, whose approval shall not be unreasonably withheld, and which may include the Association's approval of any wiring or HVAC system upon the exterior of the Common Area, and other conditions as the Association determines reasonable.

4. Restrictions on Use of Common Area: Each Owner's use of the Common Area shall be subject to:

a. The right of the Association to adopt rules and regulations relating to, without limitation, the use of and access to and from the Common Area.

b. The right of the Association to impose monetary penalties, temporary suspensions of an Owner's rights as a Member of the Association or other appropriate discipline for failure to comply with the Condominium Documents;

c. The right of the Association to dedicate or transfer all or substantially all of its assets, including all or any part of the Common Area, to any public agency, authority or utility, for such purposes and subject to such conditions as may be agreed to by the Members. Notwithstanding any contrary provision in the Condominium Documents, no such dedication or transfer shall be effective unless an instrument signed by one hundred percent (100%) of the Members agreeing to such dedication or transfer has been recorded; and,

d. The right of the Association (with the assent of two-thirds (2/3) of each class of Members) to borrow money for the purpose of improving the Common Area and in aid thereof, and with the assent of two-thirds (2/3) of each class of Members, hypothecate any or all real or personal property owned by the Association. After conversion of the Class B Membership to Class A Membership, the actions herein requiring Membership approval shall require the vote or written consent of: (i) two-thirds (2/3) of the voting power of the Members of the Association; and, (ii) two-thirds (2/3) or more of the voting power of Members of the Association other than Declarant.

e. The exclusive right of each Owner to use their respective Exclusive Use Common Areas.

5. Use of Units: Subject to the provisions of the Condominium Documents (including, without limitation, the sound

attenuation standards set forth herein or adopted by the Architectural Committee) and applicable provisions of law, the Owner of a Unit may do the following:

a. Make any improvements or alterations within the boundaries of his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion(s) of the Project and, with respect to Living Units, are not visible from the outside of the Living Unit.

b. Modify his Unit at his own expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of such Unit for the purposes of this paragraph if such Unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(i) The modifications shall be consistent with applicable building code requirements.

(ii) The modifications shall be consistent with the intent of otherwise applicable provisions of the Condominium Documents pertaining to safety or aesthetics.

(iii) Any modifications external to the Unit shall not prevent reasonable passage by other Owners or residents, and shall be removed by the Owner when such Unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

(iv) Any Owner who intends to modify his Unit pursuant to this paragraph shall submit his plans and specifications to the Architectural Committee provided herein for review to determine whether the modifications will comply with the provisions of this paragraph. The Architectural Committee shall not deny approval of the proposed modifications under this paragraph without good cause. Each Owner shall also, to the extent necessary, submit their plans and specifications for approval to the City of San Diego Building Department. Any other change to a Unit shall be subject to and only upon the provisions of the Condominium Documents and applicable provisions of law.

6. Reservation of Easement: Declarant hereby reserves a nonexclusive right and easement, for itself and its successors, assigns, invitees, licensees, agents, contractors and subcontractors, for ingress and egress over and across the Common Area in order to conduct sales, marketing and other related development activities with respect to the Project, including, without limitation, holding events and benefits for promotional and

other purposes which will be open to the public. By the acceptance of the deed for their respective Condominium, each Owner acknowledges and agrees that: (a) it shall neither take any action nor do any act which shall interfere with such sales, marketing and other related development activities, including, without limitation, restricting public access to the Common Area; and, (b) such development activities may include having construction and (or) grading equipment and vehicles and associated work personnel crossing over and otherwise utilizing the Common Area, as well as permitting public access over the driveways and Parking Areas of the Project for the purpose of conducting sales and marketing activities, and other events and benefits for promotional and other purposes which will be open to the public.

7. Changes in Common Areas: Notwithstanding any other provisions of this Declaration or the Condominium Documents to the contrary, the Declarant or any Owner shall have the right to alter or modify any of the Common Areas in connection with its remodeling or combining of one or more Units owned by such party, provided that: (i) all plans and specifications for such work and all contractors and suppliers to be hired in connection therewith shall have first been approved by the Architectural Committee; (ii) such modifications or alterations shall be consistent with applicable building code requirements; and (iii) such modifications or alterations do not impair or interfere with the structural integrity or mechanical systems or lessen the support of any portions of the Project.

8. Conversion of Commercial Units: Declarant and all of the Owners acknowledge that a portion of the Property has been set aside for commercial purposes. Declarant, in its sole discretion, may elect to convert such Commercial Units for residential use. In such case all other Owners shall cooperate with Declarant and take such actions and execute such agreements, instruments and other documents as may be necessary, in the opinion of Declarant, to cause the Commercial Units to be converted to Residential Units, which shall thereafter remain subject to all of the provisions and conditions of this Declaration relating to ownership, use and occupancy of Residential Units.

ARTICLE III
ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND
VOTING RIGHTS

1. Association to Manage Common Area: The management and maintenance of the Common Area shall be vested in the Association in accordance with the Condominium Documents on and after the First Conveyance Date. At such time, Declarant shall immediately turn over to the Association the responsibility for maintaining, at the

sole cost and expense of the Association, the Common Area. The Declarant and the Association shall cooperate with each other and take whatever acts and execute any agreements which may be necessary for the transfer of such maintenance responsibilities. The Owners of all the Condominiums agree that the administration of the Project shall be in accordance with the provisions of the Condominium Documents.

2. Membership: The Owner of a Condominium shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. Membership shall be in accordance with the Condominium Documents.

3. Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of the Condominium to which it is appurtenant, and then only to the purchaser of such Condominium. Any attempt to make a prohibited transfer is void. In the event the Owner of any Condominium should fail or refuse to transfer the Membership registered in his name to the purchaser of his Condominium, the Association shall have the right to record the transfer upon its books and thereupon the old Membership outstanding in the name of the seller shall be null and void. Within three (3) days of the transfer of any Condominium, the transferor and transferee thereof must each notify the Board of Directors of the transfer; for any transfer to be effective, other than a foreclosure or other transfer in lieu thereof under a First Mortgage, the Association must be able to issue a certificate stating that all assessments are paid current for that Condominium to the Association.

4. Membership Classes and Voting Rights:

a. Class A Membership: Class A Members shall be all Owners (with the exception of the Declarant while Class B Membership is in existence). Each Condominium shall be entitled to one (1) vote. When more than one (1) person holds an interest in any Condominium, all such persons shall be Members, however, the vote for such Condominium shall be exercised as the majority of such persons among themselves determine. In no event shall more than one (1) vote be cast with respect to any Condominium, and in no event shall the vote of any Condominium be split. The Owner (or valid proxy) exercising the vote for any Condominium at a meeting shall be conclusively presumed to be voting in the manner determined by the majority of the Owner(s) of that Condominium, unless the Association is otherwise notified in writing prior to the meeting or an objection is made by another Owner of that Condominium from the floor of the meeting.

b. Class B Membership: The Class B Member shall be the Declarant, who shall be entitled to vote as follows: voting shall

be the same as for Class A Memberships, except that the Class B Member shall have three (3) votes for each Condominium owned by it. The Class B Membership shall be irreversibly converted to Class A Membership and shall cease to exist on the occurrence of whichever of the following is first in time:

(i) The date when the total outstanding votes held by Class A Members equal the total outstanding votes held by the Class B Member; or,

(ii) The second anniversary of the issuance of the final public report for the Project;

(iii) The fourth anniversary of the issuance of the original public report for the Project.

Whenever there is no Class B Membership, provisions of this Declaration which require action by both classes of the voting Membership shall require the stated action by Class A Members only. While the two class voting structure is still in effect, none of the Condominium Documents may be amended without the vote or written assent of the applicable percentage prescribed herein or therein, of the voting power of each class of Membership.

5. Budgets and Financial Statements: The following financial and related information shall be regularly prepared and distributed by the Board to all Members as follows:

a. A proforma operating budget for the immediately ensuing fiscal year consisting of at least the following information shall be distributed not less than forty-five (45) days and not more than sixty (60) days prior to the beginning of the fiscal year.

(i) Estimated revenue and expenses on an accrual basis.

(ii) A summary of the Association's reserves based upon the most recent review or study conducted by the Board pursuant paragraph 2 of Article V, which shall be printed in bold type and shall include:

(1) An estimate of the current replacement costs of, the estimated remaining life of, and the estimated useful life of each major component of the Common Areas and facilities for which the Association is responsible, and the methods of funding to defray the costs of repair, replacement or additions to such major components.

(2) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain such

major components as of the end of the fiscal year in which such study is prepared.

(3) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain the major components as of the end of the fiscal year in which such study is prepared.

(4) The percentage that the amount determined for purposes of subparagraph (c) above is of the amount determined for purposes of subparagraph (b) above.

(iii) A statement as to whether the Board has determined or anticipates that the levy of one or more special Assessments will be required to repair, replace, or restore any major component of the Common Areas and facilities for which the Association is responsible, or to provide adequate reserves therefor.

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

(v) In lieu of the distribution of the proforma operating budget required by this subparagraph a., the Board of Directors may elect to distribute a summary of the statements to all its Members with a written notice that the budget is available at the business office of the Association or at another suitable location within the boundaries of the Project and that copies will be provided upon request and at the expense of the Association. If any Member requests a copy of the budget to be mailed to the Member, the Association shall provide the copy to the Member by first-class United States mail at the expense of the Association and delivered within five days. The written notice that is distributed to each of the Association Members shall be in at least 10-point bold type on the front page of the summary of the statement.

b. A balance sheet, as of the accounting date which is the last day of the month closest in time to six (6) months from the First Conveyance Date, and an operating statement for the period from the date of the First Conveyance Date to said accounting date, shall be distributed within sixty (60) days after said accounting date. This operating statement shall include a schedule of Assessments received and receivable identified by the number of the Condominium and the name of the individual or entity assessed.

c. A report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the Association's fiscal year:

(i) A balance sheet as of the end of the fiscal year;

(ii) An operating (income) statement for that fiscal year; and,

(iii) A statement of changes in financial position for the fiscal year.

d. A copy of a review of the report referred to in subparagraph c., above, shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the Association exceeds \$75,000.00. Any such review shall be distributed to the Owners within one hundred twenty (120) days after the close of each fiscal year in which it is required.

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

f. A statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of Assessments against Members (including the recording and foreclosing of liens against individual Condominiums) of the Association shall be annually delivered to the Members during the sixty (60)-day period immediately preceding the beginning of each Association fiscal year.

6. Special Voting Rights for Owners of Commercial Units: Notwithstanding any other provisions hereof to the contrary, no changes shall be made to the Project or the Condominium Documents which would materially, adversely affect the ownership and (or) use of the Commercial Units without the consent of a majority of the Owners of Commercial Units.

ARTICLE IV MAINTENANCE AND ASSESSMENTS

1. Creation of the Lien and Personal Obligations of Assessments: The Declarant, for each Condominium within the Project, hereby covenants, and each Owner of any Condominium by

acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, without deduction or offset, (a) regular Assessments (payable in equal monthly installments), and (b) special Assessments for improvements as hereafter set forth, such Assessments to be established and collected as hereafter provided. Each regular and special Assessment, together with interest, late charges, and reasonable costs of collection (including attorneys' fees) incurred by the Association in collecting any delinquent Assessment(s) shall be a charge and a lien upon the Condominium against which each such Assessment is made, the lien to become effective upon recordation of a Notice of Delinquent Assessment. Each such Assessment, together with interest, late charges, and reasonable costs of collection (including attorneys' fees) incurred by the Association in collecting any delinquent assessment(s) shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall pass to an Owner's successors in title or interest unless expressly assumed by them or required by applicable law. No Owner of a Condominium may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Condominium.

The regular Assessments for the Condominiums shall commence upon the first day of the first calendar month following the close of escrow for the first sale of a Condominium by Declarant. Regular and special Assessments chargeable to or payable for each unsold Condominium in the Project shall be charged to, paid by, and shall be a debt of Declarant, subject to the provisions of any maintenance or subsidy agreement entered into between the Association and Declarant.

The Association, through the Board of Directors, shall provide notice by first class mail to the Members of any increase in regular or special Assessments not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due.

2. Purpose of Assessments: The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Project and for the improvement and maintenance of the Common Area for the common good of the Project or such other purpose, such as to reimburse the Association for a cost incurred by it as a result of the actions of a particular Member, as is specified herein. The Association shall establish and maintain an adequate reserve fund out of the regular Assessments, which reserves shall only be used for repair, restoration, replacement or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace or maintain and for which the reserve fund was established. Any other use of such reserves shall require the vote or written

assent of seventy five percent (75%) of the voting power of the Association.

3. Determining Annual Assessments: Within the time periods prescribed herein, the Board of Directors shall determine the operating budget for the Association for the next succeeding fiscal year. The operating budget shall include all expenses of the Association, and an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Area, which fund shall be maintained out of regular Assessments rather than by special Assessments. The amount so determined (less any surplus expected to be on hand from the prior year's operating budget) shall be the total Project annual regular Assessment. The Board may appoint a Finance Committee to assist in the determination of the operating budget. Notwithstanding anything to the contrary set forth in the Condominium Documents and except as provided by statute in case of condemnation or substantial loss to the Units and(or) the Common Area of the Project, the Association shall not be entitled to change the pro rata interest or obligations of any individual Condominium for the purpose of levying Assessments or charges unless at least sixty-seven percent (67%) of the Institutional Lenders (based upon one (1) vote for each First Mortgage owned) or of the Owners (other than Declarant) have given their prior written approval.

4. Special Assessments:

a. In addition to the regular Assessments authorized above, the Association may levy, in any Assessment year, special Assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a improvement upon the Common Area (including fixtures and personal property related thereto), or any unallocated taxes pursuant to Article IV, Paragraph 11 below or as provided for herein, provided that any such Assessment shall have the vote or written assent as provided below. Any special Assessment (other than pursuant to subparagraph 4.b. below) for a purpose other than as set forth in this subparagraph shall require the vote or written assent of seventy five percent (75%) of the voting power of the Association.

b. The Association may also levy (without the vote or written assent of the Members) a special Assessment(s) against any individual Member(s) for a purpose specified in this Declaration including, but not limited to, to reimburse the Association for costs incurred in bringing that Member and his Condominium into compliance with provisions of the Condominium Documents, which special Assessment(s) may be levied only upon the vote of the Board of Directors after notice and opportunity for a hearing which satisfy the requirements of California Corporations Code §7341, as set forth in Article XII of the Bylaws. Notwithstanding the foregoing, the foregoing special Assessment(s) pursuant to this

subparagraph will not be characterized or treated as an Assessment which may become a lien against a Member's Condominium enforceable by sale of that Condominium in accordance with the provisions of §§ 2924, 2924(b) and 2924(c) of the California Civil Code.

5. Total Project Annual Regular and Special Assessment:

a. In addition to any other limitations placed on the Board by the Condominium Documents, the Board may not impose, except as provided in this paragraph, a regular Assessment that is more than twenty percent (20%) greater than the regular Assessment for the Association's preceding fiscal year nor shall the Board impose special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the approval of Owners casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with § 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code; provided, however, that no annual increases in regular Assessments shall be imposed unless the Board has complied with its obligations under paragraph 5.a. of Article III with respect to such fiscal year or has obtained the approval of Owners as described above. The provisions of this paragraph do not limit Assessment increases (regular or special) for the following purposes:

(i) An extraordinary expense required by an order of the court.

(ii) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety on the Project is discovered; and(or),

(iii) 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 budget referenced in Article III, paragraph 5.a.

However, prior to the imposition or collection of an Assessment under subparagraphs (i), (ii) and(or) (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members of the Association along with notice of the Assessment.

b. The Board of Directors may fix the total Project annual regular Assessment at an amount not in excess of the maximum amount permitted by the preceding paragraph without the vote or assent of the Members.

6. Rate of Assessment: Except as otherwise provided for herein, both regular and special Assessments shall be allocated to each of the Units within the Project in accordance with the allocations set forth in the budget for the Project approved by the California Department of Real Estate, which allocations are based upon both the number of Units in the Project and the respective square footages of the various types of Units within the Project. Regular assessments shall be collected on a monthly basis or as otherwise determined by the Board. The Common Area shall be exempt from Assessments. A special Assessment against Members to raise funds for the rebuilding or major repair of a portion of the structural Common Area shall be levied on the basis set forth in Article VIII, paragraph 12.b. A special Assessment against an individual Member(s) for a purpose specified herein relating only to such individual Member(s), such as to reimburse the Association for costs incurred in bringing the Member and his Condominium into compliance with the provisions of the Condominium Documents shall be assessed only against that Member and his Condominium. All Assessments shall be paid at such place as the Board of Directors shall from time to time designate.

7. Certificate: The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, or its agent, setting forth whether the Assessments on a specified Condominium have been paid. A properly executed certificate of the Association as to the status of Assessments on a Condominium is binding upon the Association as of the date of its issuance. Each Owner shall obtain such a certificate prior to the conveyance of their Condominium.

8. Nonpayment of Assessments; Recording of Lien: If any Assessment (regular or special) is not paid within five (5) days after the due date, a late charge, equal to 10% of the amount of the delinquent Assessment, shall be assessed with respect to and must be paid relative to such delinquent Assessment. In addition to the foregoing, if any Assessment is not paid within thirty (30) days of its due date, such delinquent Assessment, plus any late charges and reasonable costs of collection (including attorneys' fees), shall bear interest at a rate of twelve percent (12%) per annum, commencing 30 days after such due date, until paid. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Condominium. If an Assessment is so delinquent, then the Association may also recover reasonable costs incurred in collecting the delinquent Assessment (including reasonable attorneys' fees) together with interest thereon as provided above.

The Board of Directors may cause to be recorded as to any delinquent Assessment in the Official Records of San Diego County, California, a Notice of Delinquent Assessment, which shall comply with the requirements of California Civil Code § 1367(b). Such

Notice of Delinquent Assessment shall be signed by a member of the Board of Directors. Said Notice of Delinquent Assessment shall also be deemed to secure all of the items referenced in the preceding paragraph which shall become due or be incurred relative to the Condominium after the recordation of the same and until the completion of the enforcement of the lien or the payment of the full amount secured by the lien, or any other satisfaction to be made in connection therewith.

9. Subordination of the Lien to First Deeds of Trust and First Mortgages; Notice of Default: The lien for Assessments provided for herein shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Condominium shall not affect said lien for Assessments, except that, the sale or transfer of any Condominium pursuant to a judicial or non-judicial foreclosure under a First Mortgage or an exercise of the power of sale under a First Mortgage shall extinguish the lien of such Assessments (but not the personal obligation) as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve the Owner of such Condominium from liability for any Assessments thereafter becoming due or from the lien thereof.

Where the Mortgagee of a First Mortgage of record or other purchaser of a Condominium obtains title to the same as a result of a judicial foreclosure, or an exercise of the power of sale under said First Mortgage, such acquirer of title, and its successor 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 acquirer.

Upon request, the Association shall provide any Institutional Lender who holds the First Mortgage on a Condominium with prompt written notification of any default by the Owner of such Condominium in the performance of such Owner's obligations under the Condominium Documents, when such default is not cured within sixty (60) days of its occurrence.

10. Priorities; Enforcement; Remedies: When a Notice of Delinquent Assessment has been recorded, the amounts reflected in and by said Notice of Delinquent Assessment shall constitute a lien on the Condominium subject thereto, which lien shall be prior and superior to all other liens recorded subsequent to the Notice of Delinquent Assessment except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and, (b) the lien or charge of any First Mortgage.

The lien reflected by such Notice of Delinquent Assessment may be enforced by sale by the Association, its attorney, or any other person authorized to make the sale including, but not limited to, any trustee named in the Notice of Delinquent Assessment or a trustee substituted pursuant to California Civil Code § 2934a.;

provided, however, that no proceeding or action shall be instituted to foreclose such lien, either judicially or under the power of sale granted herein, until notice of intention to proceed to foreclose the lien shall have been delivered by the Board of Directors to the Owner of the Condominium affected by such lien at least thirty (30) days prior to the commencement of any such action or proceeding, and such sale shall be conducted in accordance with the provisions of §§ 2924-2924h of the California Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

The Association, acting on behalf of the Owners, shall have the power to bid for such Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses and attorneys fees shall be maintainable without foreclosing or waiving the lien securing the same.

Subject to the provisions of the Bylaws, the Board may suspend the voting rights and right to use the recreational facilities of a Member who is in default in payment of any Assessment.

In the event the delinquent Assessments and all other Assessments which have become due and payable with respect to a Condominium together with all interest, late charges, and reasonable costs of collection (including attorneys' fees) which have accrued on such amounts are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, executed in a manner similar to that required hereunder for a Notice of Delinquent Assessment stating the satisfaction and release of such lien.

11. Separate Taxes and Assessments: Each Owner shall execute such documents and take such actions as may be reasonably required, as determined by the Board of Directors, to obtain separate assessments for any taxes, assessments, or charges which may under local law become liens prior to the First Mortgage on a Condominium. In the event any of the aforestated taxes, assessments or charges are for any reason not separately levied upon the Condominium responsible therefor, then such taxes, assessments or charges shall be paid by the Board of Directors and thereupon a special Assessment may be levied by the Association in the amount of such taxes, assessments or charges against the Condominium(s) responsible for such taxes, assessments or charges.

12. Contributions to Capital: Upon acquisition of record title to a Condominium from Declarant, each Owner shall contribute to the capital of the Association an amount equal to two monthly installments of the regular Assessments for that Condominium. Such amount shall be deposited by such Owner into the purchase and sale escrow for said Condominium and upon closing disbursed therefrom

to the Association and, unless paid to Declarant as described below, placed in a working capital account and used to fund the Association's reserves. Prior to the expiration of six months after the close of the first sale of a Condominium by Declarant in the Project pursuant to a Public Report, Declarant shall deposit with the Association an amount equal to two monthly installments of the then regular Assessments for any and all Condominiums which are the subject of such Public Report and which have been completed and not yet sold within the Project. Upon close of escrow of any such Condominium for which the Declarant prepaid an amount equal to two months regular Assessments, escrow shall remit to the Association the amount equal to two months regular Assessments which have been collected from the Owner purchasing such Condominium from Declarant, and the Association shall promptly pay such amount to Declarant. Declarant shall not use the capital fund described herein to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficiency while it is in control of the Association.

13. Monetary and/or Maintenance Subsidy Agreements: Declarant shall have the right, but not the obligation, to enter into one or more monetary and/or maintenance subsidy agreements and/or agreements for deferral of assessments pending completion of improvements (collectively, "Subsidy Agreement") with the Association to reduce or abate assessments. Any such Subsidy Agreement shall be enforceable only if reduced to writing and executed by two authorized corporate officers of Declarant and such Subsidy Agreement shall be acceptable to the DRE.

14. Declarant's Temporary Exemption: Notwithstanding any other provision of the Condominium Documents which may be or appear to be to the contrary, Declarant shall be exempted from the payment of that portion of the regular Assessments and Special Assessments for unsold Units, which is for the purpose of defraying expenses directly attributable to the existence and the use of the unsold Units, including, without limitation, expenses, if any, attributable to exterior maintenance, walkway and carport lighting, refuse disposal, cable television, and domestic water and other utilities supplied to the unsold Units (but specifically excluding reserves, which shall continue to be paid by Declarant until such Units are sold), which exemption and limitation shall continue for all such unsold Units until the sale and(or) occupation or use of such Unit(s). Such exemption and limitation shall not deprive Declarant of any voting rights with respect to the Units to which the exemption and limitation applies. Upon termination of the Maintenance Agreement to be entered into between the Association and Declarant, Declarant shall thereafter pay assessments in accordance with the requests of the Declarants and the other Condominium Documents.

ARTICLE V
DUTIES AND POWERS OF THE ASSOCIATION;
RESTRICTIONS ON BOARD ACTIONS;
ASSOCIATION MAINTENANCE

1. Powers: In addition to the powers enumerated in the Condominium Documents or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the right, authority and obligation on and after the First Conveyance Date, through its Board of Directors, to:

a. Maintain, repair, replace, restore, operate and manage, at the sole cost and expense of the Association, all of the Common Area, all facilities, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association, and establish an adequate reserve fund for repair, replacement and restoration thereof.

b. Obtain, for the benefit of the Common Area, all gas and electric service, refuse collection, and janitorial service, and obtain, for the benefit of the Common Area and all of the Condominiums, all water service. In connection therewith, the Association shall have the right to engage an independent company to provide submeter monitoring and billing services for the Project in accordance with Article VI, subparagraph 1.b. below.

c. Subject to the provisions of Article II, Subparagraph 1.b., grant easements where necessary for utilities, roads, services and sewer facilities over the Common Area to serve the Common Area and the Condominiums.

d. Secure and maintain: (i) fidelity bond coverage to protect against dishonest acts on the part of the directors, managers, trustees, employees and volunteers responsible for handling funds belonging to or administered by the Association; (ii) insurance for the protection of its directors and officers from personal liability in the management of the Association's affairs; (iii) a "multi-peril" type policy of property insurance on those portions of the Project to be insured by the Association; (iv) a comprehensive policy of public liability insurance covering all of the Common Area and the commercial spaces and public ways in the Project; (v) workers' compensation insurance (if necessary); and, (vi) such other policy or policies of insurance as the Board of Directors deems necessary or desirable in protecting the interest of the Association and its Members.

e. Employ, at its option, a manager or other persons or contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association. Notwithstanding anything in the Condominium Documents to the contrary, any agreement for professional management of the

Project or any other contract providing for services by the Declarant must provide for termination by either party, without cause or payment of a termination fee, on thirty (30) days written notice and have a maximum contract term of one (1) year, renewable with the consent of the Association and the management agent.

f. Discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof by way of special Assessment to the Member(s) responsible for the existence of said lien.

g. Adopt reasonable rules and regulations not inconsistent with this Declaration relating to the use of the Common Area, all facilities located thereon, and the conduct of Owners and their tenants and guests with respect to the Common Area.

h. Enforce all applicable provisions of the Condominium Documents and all other related instruments or documents with respect to the ownership, management or control of the Project, and in so doing exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Membership by the provisions of the Condominium Documents. In no event, however, shall the Board (or the Association) cause a forfeiture or abridgement of an Owner's right to full use and enjoyment of his Unit on account of the failure by the Owner to comply with the provisions of Condominium Documents except through the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of such Owner to pay its Assessments.

i. Prepare annual reports, balance sheets and operating statements for the Association, as set forth herein.

j. As to the Board, elect officers for the Association.

k. Impose (subject to the provisions of the Bylaws) monetary penalties, temporary suspensions of an Owner's rights as a Member of the Association or other appropriate discipline for failure to comply with the Condominium Documents; provided, however, any such monetary penalty shall not be characterized or treated as an Assessment which may become a lien against an Owner's Condominium enforceable by a sale of that Condominium in accordance with the provisions of §§ 2924(b) and 2924(c) of the California Civil Code.

l. As to the Board, fill a vacancy on the Board of Directors, except for a vacancy created by the removal of a Board member.

m. Pay for pest control, state franchise taxes, and other costs and expenses with respect to the Association, and

street cleaning, and other necessary charges, costs and expenses with respect to the Common Area, subject to the limitations set forth below.

n. Enter into contracts for the furnishing of goods or services for the Common Area or Association, subject to the limitations set forth below.

o. Delegate its powers to officers or employees of the Association, to such extent and in such manner as the Board of Directors may from time to time reasonably determine.

p. Enter upon any privately owned Condominium as necessary in connection with construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common subject to the limitations set forth herein and, except in the case of an emergency, only after prior notice.

q. Subject to compliance with Section 1354 of the California Civil Code, institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to: (i) enforcement of the Project Documents; (ii) damage to Common Areas; (iii) damage to the separate interests which the Association is obligated to maintain or repair; or (iv) damage to the separate interests which arises out of, or is integrally related to, damage to the Common Areas or separate interests that the Association is obligated to maintain or repair.

2. Duties: In addition to such duties as are imposed upon it by the provisions of the Condominium Documents or elsewhere provided for herein, it shall be the duty of the Association, through the Board of Directors, to:

a. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote.

b. Delegate duties to officers, agents and employees of this Association.

c. With respect to Assessments:

(i) fix the amount of the annual regular Assessment against each Condominium at least forty-five (45) days in advance of each annual Assessment period;

(ii) send written notice of the annual regular Assessment against each Condominium to the Owner(s) of such

Condominium at least thirty (30) days in advance of the initial levy of the same; and,

(iii) foreclose the lien against any Condominium for which Assessments are not paid within sixty (60) days after the due date or to bring an action at law against the Owner(s) personally obligated to pay the same.

d. Furnish, within a reasonable time following demand by any person and subject to the payment of all outstanding Assessments, a certificate signed by an officer of the Association stating that all Assessments on a specified Condominium have been paid.

e. Cause to be maintained a membership register, including mailing addresses and telephone numbers, books of account, and minutes of meetings of the Members, of the Board, and of committees of the Board, and shall make such items available for inspection and copying by any Member of the Association or by his duly appointed representative at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or such other place upon the Property as the Board shall prescribe.

f. Review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.

g. Make arrangements with the financial institutions where the Association has its reserve accounts such that the signatures of at least two persons, who shall be members of the Association's Board of Directors or, one officer who is not a member of the Board of Directors and a member of the Board of Directors, shall be required for the withdrawal of monies from the Association's reserve accounts.

h. Not less frequently than quarterly:

(i) Cause a current reconciliation of the Association's operating accounts to be made and review the same.

(ii) Cause a current reconciliation of the Association's reserve accounts to be made and review the same.

(iii) Review the current year's actual reserve revenues and expenses compared to the current year's budget.

(iv) Review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts.

(v) Review an income and expense statement for the Association's operating and reserve accounts.

i. Coordinate management and maintenance of the Project pursuant to the provisions of this Declaration.

j. Pay, prior to delinquency, all real property taxes and assessments for which the Association is liable.

k. The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash-flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one (1) year of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Project, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special Assessment to recover the full amount of the expended funds within the time limits required by this paragraph. This special Assessment is subject to the limitation imposed by paragraph 5.a. of Article IV, unless the special Assessment is to pay for legal costs associated with litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain. The Board may, at its discretion, extend the date the payment on the special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid special Assessment.

When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of the Association of that decision in the next available mailing to all Members pursuant to Section 5016 of the California Corporations Code, and of the availability of an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members of the Association at the Association's office.

1. At least once every three (3) years the Board shall cause a study of the reserve account requirements of the Project to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the Association for any fiscal year. The Board shall review the study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The study required by this paragraph shall at a minimum include:

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

(ii) Identification of the probable remaining useful life of the components identified in subparagraph a. as of the date of the study.

(iii) An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified in subparagraph (i) during and at the end of its useful life.

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

3. Restrictions: The Board of Directors, on behalf of the Association, shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Association residing in Members other than Declarant:

a. Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year, which expenditures exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

b. Selling during any fiscal year property of the Association.

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

d. Expending in excess of \$10,000.00 of the funds designated as reserve account funds.

e. Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:

(i) A management contract, the terms of which have been approved by the VA;

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

(iii) Prepaid casualty and(or) liability insurance policies of not to exceed three (3) years duration, provided that the policies permit short rate cancellation by the insured;

(iv) Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years duration provided that the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(v) Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five (5) years duration provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(vi) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five (5) years duration provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more; and

(vii) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one year without cause, penalty, or other obligation upon ninety (90) days written notice of termination to the other party.

f. Filling a vacancy on the Board of Directors created by the removal of a Board member.

In addition to the foregoing restrictions, any withdrawal of funds from the Association's reserve account shall require the signature of either two (2) members of the Board or one member of the Board and an officer of the Association who is not also a member of the Board.

4. Additional Maintenance: If the need for maintenance, repair or restoration of any area subject to maintenance by the Association is caused through the willful or negligent act of any Owner, his invitees, licensees or tenants, the cost of such maintenance, repair or restoration in excess of insurance proceeds payable to the Association for such maintenance, repair or restoration shall be payable, upon demand, by such Owner to the Association for application. The foregoing charge shall not be characterized or treated as an Assessment which may become a lien against the subject Owner's Condominium enforceable by a sale of that Condominium in accordance with the provisions of §§ 2924, 2924(b) and 2924(c) of the California Civil Code.

5. Use of Recreational Facilities: The Association shall have the right to limit by the enactment of Rules and Regulations the number of an Owner's guests who may use the recreational facilities, and to limit the days and duration of permitted use of such facilities.

6. Inspection Obligation:

a. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations set forth in paragraph 3 of this Article) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair, and physical condition of the Project. For so long as Declarant holds a majority of the voting power in the Association, the costs of such inspection shall be paid by Declarant. Thereafter, the costs of the inspection obligation imposed upon the Association hereunder shall be approved on an annual basis by the Board prior to commencement of such inspections.

b. The inspectors shall inspect all component parts of the Project including, but not limited to, structural components, parking areas, driveways, and walkways, and landscaping. If any of the contractors or subcontractors responsible for constructing any component part of the Project provide the Association with the maintenance criteria, maintenance manuals, or warranty requirements, such inspectors shall additionally assist the Association with compliance with same. The Association shall be responsible for meeting all requirements under such maintenance manuals, maintenance criteria, or warranty requirements.

c. During the first year following the First Conveyance Date, such inspections shall take place at least once every three (3) months (or more often if required by any maintenance manual, maintenance criteria, or warranty requirements). During the next two (2) years such inspections shall take place every six (6)

months and thereafter such inspections shall take place at least annually. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify all items of maintenance or repair which either require current action by the Association or will need further review and analysis. Such written reports shall specifically include a review of all irrigation and drainage systems on the Project. The Board shall report the contents of such written reports to the Members of the Association at the next meeting of the Members following receipt of such written reports and shall include such written reports in the minutes of the Association. Subject to the provisions of subparagraph d., the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

d. The Association shall cause the Declarant, (or its designee), to receive ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide the Declarant (or its designee) with a copy of all written reports prepared by the inspectors. In the event, based upon such inspection, any items are identified by the inspector as being the result of construction defects or other matters for which the Declarant or any contractor, subcontractor, architect, materialman, or similar individual or entity could be held liable (collectively, "construction defect"), the Association shall request, in writing (a copy of which shall be delivered to Declarant or its designee), that the Declarant or such responsible individual or entity take all necessary steps to remedy such construction defect. The party receiving such written request shall, if it elects to take action relative to such request be given reasonable access to the Project and an opportunity to take all action and do all things necessary to remedy such situation; provided, however, that neither Declarant nor any other party shall be deemed obligated to remedy such defects merely as a result of such inspection report or the receipt of notice hereunder.

ARTICLE VI UTILITIES

1. Owners' Rights and Duties: The rights and duties of Owner(s) with respect to the Sewer and Storm Drain Systems, and all other sanitary sewer, water, electricity, gas, cable television and telephone lines and connections and(or) heating conduits, ducts and flues shall be as follows:

a. Whenever sanitary sewer, water, electricity, gas, cable television and(or) telephone lines and(or) connections, storm drains, and(or) heating conduits, ducts, and(or) flues or any other utility installations are installed within the Project, including, without limitation, the Sewer and Storm Drainage Systems or any HVAC systems which service any individual Unit, which lines, connections, conduits, drains, ducts and(or) flues, or any portion thereof, lie within the Common Area or in or upon a Condominium owned by someone other than the Owner of the Condominium served by said lines, connections, conduits, drains ducts and(or) flues, the Association and the affected Owner shall have the right, and are hereby granted a nonexclusive easement to the full extent necessary therefor, to enter upon the Common Area or Condominium(s) and(or) to have the utility companies enter upon the Common Area or Condominium(s) in or upon which said lines, connections, conduits, drains, ducts and(or) flues, or any portion thereof, lie, to repair, replace and generally maintain said lines, connections, conduits, drains, ducts and(or) flues as and when necessary.

b. In the event of an emergency, the Association and the affected Owner shall have the right to immediate access to the Common Area and(or) the Condominium in or upon which said lines, conduits, drains, ducts and(or) flues, or any portion thereof, are located.

Whenever sanitary sewer, water, electricity, gas, cable television and(or) telephone lines and(or) connections, storm drains and(or) heating conduits, drains, ducts, and(or) flues or any other utility installations are installed within the Project, including, without limitation, the Sewer and Storm Drain Systems, which lines, connections, conduits, drains, ducts and(or) flues (or any portion thereof) serve more than one (1) Condominium, the Owner of each Condominium served by said lines, connections, conduits, ducts and(or) flues shall be entitled to the full use and enjoyment of such portions of the same as service his Condominium. The Association shall have the right (but shall not be obligated) to install submeters to monitor usage of all common gas, water, sewer and other utilities servicing more than one Unit and(or) the Common Area, and to cause the individual Owners to be billed each month for their respective portions of such utility charges. In connection therewith, the Association may engage an independent company to install submeters and monitor utility usage, and to generate monthly invoices to the Owners for such usage. The Association shall cause any such invoices to be sent to the Owners and all monies due thereunder shall be collected by the Association monthly and paid to the appropriate utility company. To the extent permitted under law, the Association shall have the right to treat all invoices sent to Owners for utility service, and sums due thereunder, as assessments and shall have all of the enforcement, collection and foreclosure powers with respect thereto as provided in Article IV hereof.

c. Each Owner shall maintain any present or future laterals and(or) storm drainage lines located within its Condominium which connect to the Sewer and Water Drain Systems; provided, however, that each Owner shall indemnify and hold harmless each and every other Owner from all damages to each other Owner's sewer lateral or storm drains caused by such Owner's willful misconduct or negligence.

2. Association's Duties: The Association shall maintain all utility installations located in the Common Area, including, without limitation, the Sewer and Storm Drain Systems, but excluding those installations maintained by utility companies, public, private, or municipal and individual phone systems serving Condominiums. The Association shall pay for all water, gas and electric service, refuse collection, and janitorial service supplied to or for the Common Area. Included within the Sewer and Storm Drain Systems is a storm drain located in the northwest corner of the Project, which serves to drain certain portions of the Parking Area. The Association shall clean such drain of debris regularly and the pipes connected thereto approximately once per year.

ARTICLE VII USE RESTRICTIONS

In addition to all of the other provisions and conditions contained herein, the use of the Project and each Condominium therein shall be subject to the following:

1. Residential Use: Except for the Commercial Units of the Project designated on the Condominium Plan, all Condominiums shall be used for no purpose other than residential purposes by the Owners and their invitees, licensees or tenants; provided, however, that the Living Units may be used for live/work purposes as long as such uses are in conformance with local governmental ordinances, are merely incidental to use of the subject Residential Unit as a single family residence, and do not disturb or interfere with the quiet enjoyment of the Project by any other Owners. In addition, Declarant and its agents may use any Condominium(s) in the Project owned by Declarant and the Common Area and all or any part of the recreational facilities in the Project for a model site or sites and(or) a display and sales office during the development of the Project. The use of the Common Area by Declarant and its agents shall not unreasonably interfere with the use thereof by the Class A Members of the Association and shall not continue on or after a date five (5) years after the First Conveyance Date. If a business is conducted from a Condominium in accordance with this subparagraph, then proper business licenses must be obtained and a copy submitted to the Association and the management company, if

any, for their records. Such business shall not in any way affect the appearance or parking situation of the Project. The lease by an Owner of his Condominium for residential purposes shall not be deemed to constitute a nonresidential use by such Owner.

2. Nuisances: No noxious or offensive activities shall be carried on upon any Condominium or in any part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to, or which may in any way interfere with the quiet enjoyment of any of the Owners of his respective Condominium, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building. Each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations and requirements of any governmental agency or authority with respect to the occupancy and use of any Condominium.

3. Vehicle Restrictions: No trailer, camper, mobile home, commercial vehicle, utility or other truck (other than standard size pickup truck or van), inoperable automobile, boat, aircraft or similar equipment shall be permitted to remain upon any area within the Project, other than temporarily within an Owner's parking space(s) (which is defined as being less than two (2) successive days and less than four (4) total days in any calendar month), or for the purpose of loading or unloading. No Owner, nor any member of his family, nor his tenants, guests, invitees, agents, licensees, servants or employees shall park or cause to be parked any vehicle in such a manner as to impede or prevent ready access to any entrance or exit of any building or any of the parking spaces designated in the Condominium Plan. No Owner shall permit any member of his family, or his guests, tenants, agents, licensees, servants or employees to use any of the parking spaces, the exclusive use of which have been assigned to another Owner. Commercial vehicles shall not include sedans or standard size pickup trucks or vans which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive, as determined by the Board. No automobile, recreational vehicle or equipment, commercial vehicle or any other motorized vehicle may be dismantled, rebuilt, repaired, serviced or repainted in the Project.

4. Rental of Condominium: An Owner shall be entitled to rent their respective Condominium subject to the restrictions set forth in Article VII, paragraph 1. above. Any rental or leasing agreement shall be in writing, shall provide that the lease or rental is subject to the Condominium Documents and shall provide that any failure to comply with any provisions of the Condominium Documents shall be a default under the terms of the rental or lease agreement. No Owner may lease such Owner's Condominium for hotel,

motel or transient purposes. Any lease which is either for a period of fewer than seven (7) days or pursuant to which the lessor provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes. Any Owner who shall lease his or her Condominium shall be responsible for assuring compliance by such Owner's lessee with the Condominium Documents.

5. Signs: No sign or billboard of any kind shall be displayed to the public view in the Project with the following exceptions:

a. signs as may be required by legal proceedings, or the prohibition of which is precluded by law;

b. signs, flags, banners, mannequins, statues and other identifying features as may be used by Declarant or its sales agents in connection with the development of the Project and the sale and marketing of portions thereof;

c. signs on the Project which Declarant deems necessary for the construction of any improvements and identification signs regarding financing and construction;

d. signs on the Project as may be required for traffic control and regulation of open areas therein;

e. identification signs on the Project as may be deemed appropriate by the Board to designate facilities within the Project;

f. signs to designate commercial or live/work uses within the Project or any Units therein (including names and business names); provided, however, that such signs shall be placed only in designated areas at or near the entrance to the Units and shall be subject to the approval of the Architectural Committee.

Notwithstanding the foregoing, in accordance with the provisions of California Civil Code Section 713, or any successor law or statute, an Owner may display on the Owner's Condominium not more than one "for sale" or "for lease" sign per Condominium so long as such sign shall comply with any customary and reasonable standards promulgated by the Board or Architectural and Architectural Committee as to the size, color, shape or other qualifications for permitted signs.

6. Nuisance; Hazards and Waste: No noxious or unreasonably offensive trades or activities shall be carried on upon any Condominium, or Common Area or any part of the Project and nothing shall be done thereon which may be, or may become a nuisance, disturbance or unreasonable embarrassment to the Project, or which shall, unreasonably, interfere with the use of each of the Owners of his respective Condominium, or which shall, in any way, increase

the rate of insurance, or which constitutes a violation of any law, ordinance or regulation, now or hereafter in effect, imposed by any governmental entity having jurisdiction over the Project. No hazardous, toxic or contaminated materials which are regulated by any federal, state or local agency shall be stored, placed or used on the Project. Within ten (10) days of receipt of written notice from the Association specifying any item which creates such an insurance hazard or constitutes such waste, the Owner shall cause such item to be removed at such Owner's sole cost and expense. In the event such item is not timely removed, the Association may enter upon such Condominium or Common Area, remove or cause to be removed such item and assess the Owner the amount of all costs and expenses therefore.

7. Temporary Structures: No trailer, mobile home, tent, shack or other outbuildings shall be kept upon the Project or in any street within the Project except in connection with work or construction diligently pursued.

8. Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Condominium except that a total of two (2) domestic cats, dogs, or other household pets weighing no more than one hundred (100) pounds each may be kept within each Condominium, provided they are not kept, bred, or maintained for any commercial purpose, and provided further that the Association shall have the right, in its sole discretion, to ban any so-called "aggressive breeds" such as pit bulls or rottweilers from the Project. Notwithstanding the foregoing, no animals or fowl may be kept on the Condominiums which, in the good faith judgment of the Board result in an unreasonable annoyance or are obnoxious to residents in the Project. No pet or other animal shall be permitted on the Common Area except as allowed by Association rules. The Owner of any pet or animal shall be responsible for the immediate removal and clean-up of such animal's waste in the Project and Common Area. The Owner of any pet or animal shall at no times allow such animal to run unrestrained on the Project or the streets, sidewalks or pathway areas of the Project and the Common Area and the Owner of such pets shall at all times have full and complete control over such animal. The Board shall have the right, after notice and hearing, to remove animals from the Project which it finds constitute a continuing unreasonable nuisance to Owners.

9. Oil and Mineral Rights: No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted by any Owner upon or in any Condominium nor, shall oil wells, tanks, tunnels, or mineral excavations or shafts be installed upon the surface of any real property within five hundred (500) feet below the surface of such properties. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted by any Owner upon any Condominium. No Owner shall use a Condominium to

explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind.

10. Unightly Items: All weeds, rubbish, debris, or unsightly materials or objects of any kind shall be regularly removed from the Condominiums and shall not be allowed to accumulate thereon. No outdoor clotheslines shall be permitted on the Project. All refuse containers, woodpiles, storage areas, machinery and equipment shall be prohibited upon any Condominium unless obscured from view of adjoining streets, lots, Condominiums, alleys, the Project or Common Area nearest such portion from a height of six (6) feet or less and shall comply with any restrictions or standards promulgated by the Board or Architectural Committee.

11. Antennae: No television, radio, satellite dish or other electronic antennae or device of any type having a diameter or diagonal measurement of greater than 36 inches shall hereafter be erected, constructed, placed or permitted to remain on the Project, or upon any of the buildings constructed on any portion of the Project. In addition, the Association or the Architectural Committee may impose reasonable restrictions on the installation or use of a television, radio, satellite dish or other electronic antennae or device that has a diameter or diagonal measurement of 36 inches or less, in accordance with California Civil Code Section 1376. Except as installed by the Declarant no cable, television or radio system or other equipment for the purpose of emitting or receiving or distributing any form of electro-magnetic emission in any form shall be permitted on the Project.

12. Drainage: All drainage of water from any Condominium or Common Area and the improvements thereon shall drain or flow as set forth below.

a. Any such water may drain or flow into adjacent streets or alleys and shall not be allowed to drain or flow upon, across, or under adjoining lots, Condominiums, the Project or Common Area unless an easement for such purpose is granted.

b. All slopes or terraces on any Condominium, Project or Common Area shall be maintained so as to prevent any erosion thereof upon adjacent streets or adjoining property.

13. No Obstruction: There shall be no obstruction of the Common Area except as permitted herein. Nothing shall be placed or stored in the Common Area (other than Storage Areas designated on the Condominium Plan), except as allowed by the express permission of the Board.

14. Rubbish: No portion of the Project shall be used or maintained as a dumping ground for rubbish. No oil or other refuse shall be allowed to enter storm drains.

15. Compliance With Laws, Etc: No Owner shall permit anything to be done or kept in a Condominium that violates any laws, ordinances, statutes, rules or regulations of any local, county, state or federal body.

16. Fires: There shall be no exterior fires on the Common Area, except barbecue fires contained within receptacles provided or approved by the Board of Directors.

17. No Subdivision of Lots: No Condominium shall be further subdivided nor shall less than all of any such Condominium be conveyed by an Owner thereof. No easement or other interest in a Condominium shall be given without the prior written approval of the Architectural Committee.

18. Windows: No window opening visible from the street or the Common Area shall have affixed to it or be otherwise lined with any non-transparent foil, paper or similar material. No temporary window covering shall be placed on any windows within the Project for more than 10 days.

19. Clothes Lines: No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

20. Power Equipment and Car Maintenance: No power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the Project, except with prior written approval of the Board.

21. Liability of Owners for Damage to Common Area: The Owner of each Condominium shall be liable to the Association for all damages to the Project or Common Area or improvements thereon caused by such Owner or his invitees, licensees or tenants, except for that portion of said damage, if any, fully covered by insurance, to the extent that such Owner would be legally responsible under the laws of the State of California. Notwithstanding the foregoing, the Association shall not hold the Owner liable for damage to the Common Area or improvements thereon caused by such Owner or his invitees, licensees or tenants, until the Board has conducted a hearing, upon ten (10) days prior written notice to the affected Owner, to determine whether such damage was in fact caused by said Owner or his invitees, licensees or tenants.

22. Personal Injury: In the event of personal injury or property damage sustained by any person while physically within the Unit of any Owner and in the further event any other Owner shall be sued or a claim made against him for injury or damage, the Owner

of the Condominium in which the injury or damage occurs shall indemnify and hold harmless all such other Owners and the Association against which a claim may be made and shall further defend all such other Owners and the Association, at his own expense (to the extent such expense is not covered by his insurance) in the event of litigation of the claim; provided, however, that, such protection shall not extend to any other Owner whose own negligence or willful misconduct may have caused or contributed to the cause of the injury or damage.

23. Patio, Deck and(or) Balcony Restrictions: Wherever a patio deck and(or) balcony is attached to a Unit, the Owner shall not have the right, without the prior written approval of the Board or its designee, to paint, alter, remodel or enclose, any such patio deck and(or) balcony, and then only in a manner which does not impair the uniform appearance of such patio deck and(or) balcony in comparison with other patios decks and(or) balconies within the Project. Each Owner of a Unit which has a patio, deck and(or) balcony attached to it shall have the right to furnish such patio deck or balcony with outdoor furniture in keeping with the architecture of the Project and reasonable family use, and shall keep such deck or balcony in a clean and sanitary condition. In no event shall any wearing apparel, garments, linens, towels, laundry, laundry boxes, bicycles, tools, equipment, motorcycles, or any other unsightly objects of any kind whatsoever be placed or stored on a patio, deck or balcony where they may be seen by other Owners from their Units, their patios, decks or balconies, or when using the Common Areas, or by the public in general.

24. Floor Covering: All floor areas within Condominiums shall be covered with materials designed and installed for the purpose of minimizing noise transmission above the level designated by the Architectural Committee and all flooring materials shall conform to the guidelines therefore established by the Architectural Committee. Any Owner who intends to install hard flooring materials within its Unit shall submit to the Architectural Committee, for its prior approval, specifications for all such hard surface flooring materials prior to installation in such Owner's Unit. No Owner may alter any approved flooring materials without the prior consent of the Architectural Committee. It shall be the responsibility of individual Unit Owners to insure that they comply with the requirements and restrictions set forth herein. Failure on the part of an Owner of a Unit to insure that flooring material and installation procedures adhere to these requirements and restrictions shall subject the Owner to penalties which shall include removal, at said Owner's sole expense, of any flooring material that is in violation of the requirements and restrictions set forth herein.

25. Exterior Lighting: All private outdoor lighting within the Project shall be shaded and adjusted to fall on the Unit where such lights are located.

26. No Hot Tubs: No Owner shall install in any Condominium any jacuzzi, hot tub or spa unless approved in writing by the Committee and provided that the Owner shall obtain a proper building permit prior to installing a jacuzzi, hot tub or spa.

27. No Timeshare: A Condominium may not be divided or conveyed upon any form of time increment basis (commonly referred to as "time sharing").

28. Roof Areas: The Owners and their invitees, licensees and tenants shall be prohibited at all times from occupying or using in any manner or for any purpose any of the roof areas within the Project, and access to such areas shall be prohibited except for the purpose of maintenance or repair.

29. Odorous Matter: No Person shall omit odorous matter upon or about the Project in such quantity as to be readily detectable outside the physical boundaries of the space within which such odor was generated.

30. Air Pollution: No air pollutants or contaminates sufficient to create a nuisance shall be discharged, and no processes which by their nature are likely to cause air pollution shall be undertaken or permitted unless there is available an adequate, economically feasible method of controlling the omission or contaminates, and such controls are applied.

31. Special Use Restrictions for Commercial Units: In addition to any and all conditions and restrictions set forth above, the following conditions shall apply with respect to the Commercial Units.

a. The Commercial Units shall be used only for professional office and studio uses which do not entail retail traffic or, in the determination of the Board, place an undue burden on any of the common utilities and facilities within the Project. Examples of appropriate commercial uses include: (i) professionals such as lawyers, doctors and accountants; (ii) graphic artists, designers and photographers; (iii) architectural firms; and (iv) computer software designers and consultants. In any case, the Board of Directors shall have the right to approve or disapprove any proposed commercial uses within the Commercial Units.

b. Notwithstanding any other provisions of the Declaration to the contrary, upon obtaining all proper permits from the City of San Diego and any other governmental or administrative agencies the Owners of the Commercial Units shall have the right to install signs above the gated entrance located on the south side of the Project, which signs shall be subject to the approval of the Architectural Committee as to size, shape and color.

c. The Owners of the Commercial Units Nos. _____ shall cause all visitors and employees to enter the Project through the exterior entryways for such Commercial Units, and not through the Common Areas of the Project. The Owners of Commercial Units Nos. _____ shall be provided with access for their visitors and employees through a control gate to be located within the Common Area, which will be maintained and monitored by the Association.

d. Only the Owners of the Commercial Units and the immediate employees of the businesses conducted thereon shall be entitled to use the recreational areas within the Common Areas and(or) the parking spaces which are appurtenant to the Commercial Units.

ARTICLE VIII GENERAL PROVISIONS

1. Enforcement: The Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity (subject to the provisions of paragraph 7 below), all restrictions, conditions, covenants, equitable servitudes, reservations, liens, easements, and charges now or hereafter imposed by the provisions of the Condominium Documents, including, without limitation, the right on the part of the Owners to bring an action against the Association to enforce the provisions of the Condominium Documents and in such action shall be entitled to recover reasonable attorneys' fees and costs. Failure of the Association or any Owner to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

2. Mortgagee Protection: Notwithstanding any and all provisions of this Declaration to the contrary, the following provisions are added hereto (and to the extent these added provisions pertaining to the rights of Mortgagees conflict with any other provisions of this Declaration, these added provisions shall control):

a. Each holder, insurer and guarantor of a First Mortgage encumbering any Condominium in the Project, upon filing a written request for notification with the Board, which shall contain the name and address of the Mortgagee as well as the unit number or address of the Condominium on which it holds a First Mortgage, shall be entitled to written notification from the Association of (i) any default by the mortgagor of the Condominium in the performance of the mortgagor's obligations under this Declaration, the Articles or the Bylaws, which default is not cured within thirty (30) days after the Association learns of the default, (ii) that the Board has become aware of any taking or

threatened taking of any portion of the Common Area, (iii) any condemnation or casualty loss that offsets either a material portion of the Project or the unit securing its First Mortgage; (iv) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (v) any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

b. Every Owner, including every first Mortgagee, which obtains title to a Condominium pursuant to the remedies provided in a First Mortgage, or pursuant to foreclosure of a First Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal," if any such "right of first refusal" is ever contained in this Declaration or in any supplemental Declaration or in any other recorded document, and any such "right of first refusal" shall not impair the rights of a first Mortgagee to: (i) foreclose or take title to a Condominium pursuant to remedies of the First Mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of a default by a Mortgagor; (iii) sell or lease a Condominium acquired by a First Mortgage.

c. Any first Mortgagee which obtains title to a Condominium as a result of the exercise of a power of sale or a judicial foreclosure (but not a deed in lieu of foreclosure) involving a default under a First Mortgage shall take title to the Condominium free and clear of any claims for unpaid Assessments or charges against the Condominium which accrued prior to the time such holder acquires title to the Condominium, except for claims for a pro rata share of such assessments or charges to all Condominiums including the mortgaged Condominium, and except for assessment liens as to which a notice of delinquent assessment was recorded prior to the mortgage.

d. Except as provided by statute, in case of condemnation or substantial loss to the Condominiums or Common Area, unless at least sixty-seven percent (67%) of the first Mortgagees (based upon one vote for each First Mortgage owned) of Condominiums in the Project have given their prior written approval, neither the Association nor the Members shall:

(i) Subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law to the contrary, by act or omission seek to abandon or terminate the Project or abandon, partition, subdivide, encumber, sell or transfer the Common Area or the improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided above shall not be deemed a transfer within the meaning of this clause);

(ii) Change the method of determining the obligations, Assessments or other charges which may be levied against Members, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) Materially amend, or add to, the provisions of this Declaration, the Articles or Bylaws which establish, provide for, govern or regulate any of the following: (An amendment or addition to such documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only.)

- (1) Voting rights and procedures;
- (2) Increases in Assessments that raise the previously assessed amount by more than 25%; the method of determining Assessments or other charges; the levying and enforcement of Assessment liens, the priority of assessment liens and(or) and the subordination of any liens arising therefrom to the liens of first Mortgagees;
- (3) the reduction or change in the requirements for creating and maintaining reserve funds to be used for maintenance, repair and replacement of the Common Area;
- (4) The required types and coverages of insurance policies and fidelity bonds, and the entitlement to proceeds thereof;
- (5) The rights of Members to use the Common Area;
- (6) Responsibility for maintenance and repair of the Common Area;
- (7) Any provisions for the express benefit of holders, insurers or guarantors of first Mortgages that encumber any Condominium in the Project; and
- (8) Imposition of any restrictions on the right of an Owner to sell, lease or transfer his Condominium; and,
- (9) Reallocation of interests in any of the Common Areas, or rights to use thereof;
- (10) Redefinition of the boundaries of any Living Units;
- (11) Convertibility of Living Units into Common Areas, or vice versa;

(12) Expansion or contraction of the Project, or the addition, or withdrawal of property to or from the Project;

(13) Any provisions requiring professional management, including, without limitation, a decision to establish self-management if professional management had been required previously by the Condominium Documents or an eligible Mortgagee;

(14) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified herein;

(15) Termination of the legal status of the Project after substantial destruction or condemnation occurs;

(16) Hazard or fidelity insurance requirements.

Any first Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within 30 days after notice of the proposed addition or amendment shall be deemed to have approved such request, provided the notice has been delivered to the first Mortgagee by certified or registered mail, return receipt requested.

(iv) Use hazard insurance proceeds for losses to any portion of the Project for other than repair, replacement, or reconstruction of the Project.

e. All holders, insurers and guarantors of First Mortgages, upon written request, shall have the right to (i) examine the books and records of the Association during normal business hours; (ii) require from the Association the submission of audited annual financial reports and other financial data which audited financial reports shall be available within 120 days following the Association's fiscal year-end; (iii) receive written notice of all meetings of the Members; and, (iv) designate in writing a representative to attend all such meetings.

f. Each Owner hereby authorizes the first Mortgagee of a first Mortgage on his Condominium to furnish information to the Board concerning the status of the First Mortgage and the loan which it secures.

g. No provision of this Declaration, the Bylaws, or the Board Rules and Regulations shall be construed to grant priority to any Owner or other Person over the rights of a first Mortgagee pursuant to its Mortgage in the event of a distribution to an Owner of insurance proceeds or condemnation awards for losses to or a taking of any of the Common Area.

3. Additionally, for so long as any lender holds a security interest in that portion of the Project owned by Declarant for purposes of securing Declarant's obligation to repay a loan, any portion of the proceeds of which are used to finance construction of the Project, no amendment to be valid without such lender's prior written consent.

4. Term: The restrictions, conditions, covenants, equitable servitudes, reservations, liens, easements and charges of this Declaration shall run with and bind the Project and all parts thereof and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Condominium, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by the Owners of a majority of the Condominiums, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate this Declaration.

5. Amendments: Declarant shall have the unilateral right, at any time prior to the First Conveyance Date, to amend or otherwise modify this Declaration. While the two-class voting structure is in effect, and subject to Article III, section 6 hereof, this Declaration may be amended by an instrument in writing signed by at least seventy-five percent (75%) of the voting power of each class of Members of the Association. After the conversion of the Class B Membership in the Association to Class A Membership, and subject to Article III, section 6 hereof, this Declaration may be amended by an instrument in writing signed by: (a) at least seventy-five percent (75%) of the total voting power of the Association; and, (b) at least seventy-five percent (75%) of the voting power of Members of the Association other than Declarant. If the two-class voting structure provided for herein is still in effect in the Association, none of the governing instruments for the Association may be amended without the vote or written assent of a prescribed percentage of the voting power of each class of Membership.

Nothing in this paragraph shall be deemed to restrict the ability of an Owner(s) or the Association to petition the Superior Court in San Diego County to reduce the percentage of affirmative votes necessary to amend this Declaration in accordance with the provisions of California Civil Code §1356. Notwithstanding anything herein to the contrary, the percentage of the voting power necessary to amend a specific clause or provision of the Condominium Documents shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision.

Any amendment provided for under this paragraph 5 shall be effective only after: (i) the proposed amendment has been distributed to all of the Owners of Units in the Project by first-class mail, postage prepaid, or personal delivery not less than 15 days and not more than 60 days prior to any approval being solicited; (ii) obtaining the approval of the requisite percentage of Owners as provided by this paragraph, as well as the approval of the requisite percentage of first Mortgagees, if necessary, and that fact having been certified in a writing, executed and acknowledged by an officer of the Association; and (iii) the amendment has been recorded in the Office of the County Recorder of San Diego.

6. Claims Relating to Construction of the Project: Any action, claim, or other dispute (collectively, "Claim") by the Association against the Declarant, its successors and assigns, and(or) any contractor, subcontractor, architect, materialman, or other person or entity involved in the planning, development, or construction of the Project or any component part thereof based upon a Claim for defects in the design or construction of the Project, shall be subject to compliance with all of the provisions and conditions of California Civil Code Section 1375. In addition, any such Claim by any individual Owner of a Lot or Condominium shall be subject to the following:

a. The Owner shall deliver written notice of the nature of such Claim to the Declarant and any other involved person or entity within one (1) year of the date of the Owner becoming aware of the existence of such Claim, or the facts giving rise to such Claim. For purposes of this subparagraph knowledge of such Claim shall be deemed to exist, without limitation, upon the identification of such Claim, or facts relating thereto, in a report prepared by an inspector in accordance with the provisions of paragraph 6 of Article V.

In the event of any recovery of damages, costs or expenses by the Association or any Owner based directly or indirectly upon a Claim for defects in design or construction of the Project, the proceeds thereof shall be used solely by the Association and(or) the Owners for attorneys fees and other litigation costs and expenses and to correct or repair the defects which were the subject of the action or proceeding in which such damages, costs or expenses were recovered.

b. If the Declarant, or other involved party, so elects within one hundred twenty (120) days of the date of receipt of such written notice, it shall be provided with access to the Property and a reasonable opportunity and time period to cure or otherwise resolve such Claim.

7. Dispute Resolution:

a. Unless the applicable time period for commencing the action would run within 120 days, prior to filing a civil action by either the Association or by an Owner solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a Claim for monetary damages, other than Assessments, not in excess of \$5,000, related to the enforcement of the Condominium Documents, the parties shall endeavor in accordance with California Civil Code Section 1354 to submit such dispute to alternative dispute resolution such as mediation or arbitration. The procedure for such alternative dispute resolution shall be as set forth in California Civil Code Section 1354.

b. Subject to any specific requirements under California Civil Code Section 1354 to the contrary, any Claims with respect to the enforcement or interpretation of this Declaration shall be submitted to binding arbitration and shall be settled in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the time demand for arbitration is made. The arbitration shall take place in San Diego, California before a single arbitrator. The parties incorporate herein the provisions of California Code of Civil Procedure section 1283.05 with respect to any such arbitration. The decision of the arbitrator, including the determination of the amount of any damages suffered, if any, shall be conclusive, final, and binding upon all of the parties, their heirs, executors, administrators, successors, assigns, officers, directors, and shareholders, as applicable. Notwithstanding the foregoing, the arbitrator shall in no event award punitive damages, which form of damages are hereby waived. Judgment upon the decision of the arbitrator may be entered in any court of competent jurisdiction. The cost of such arbitration (including any attorneys' fees) shall be borne by the non-prevailing party (as determined by the arbitrator).

c. Members shall be annually provided with a summary of the provisions of Section 1354 of the California Civil Code specifically referencing such section, which summary shall include the language set forth in subsection 1354(i). Such summary shall be provided either at the time the proforma budget required hereunder is distributed to the Members or in the manner specified in California Corporations Code Section 5016.

8. Encroachment Easements: Each Owner of a Condominium within the Project is hereby declared to have an easement over all adjoining Condominiums and the Common Area for the purpose of accommodating any minor encroachment not exceeding one (1) foot due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachments as

long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful misconduct of said Owner. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Condominium agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be easements for the maintenance of said encroachments so long as they shall exist.

9. Owner's Right and Obligation to Maintain and Repair:

a. Each Owner shall be responsible for maintaining his Unit. Such responsibility shall include, but not be limited to, the maintenance and repair of all interior building surfaces, the interior of his Unit and all appliances (whether built-in or freestanding) within his Unit. Nothing herein stated shall disallow the Board from providing for periodic washing of the exterior of windows. Each Owner shall also be responsible for the maintenance and repair of the plumbing, electrical, and heating systems and air condition systems servicing his Unit and located either within or without the outside perimeter of the exterior walls, floors and ceilings thereof, including television cable equipment and connections, any solar and/or other water heating equipment, so long as those systems are used exclusively by such Owner and not in common. Each Owner shall also be responsible for the maintenance of the interior surface (but not the structure) of any patio, deck, balcony or storage area which he has the exclusive right to use, and shall make repairs and perform such maintenance in such manner as shall be deemed necessary in the judgment of the Board to preserve the attractive appearance thereof, protect the value thereof and to maintain the established system of drainage. The Association shall, however, maintain structural parts of each deck, patio, balcony or storage area improvement installed by Declarant, including each wall, fence, floor, railing or roof (other than interior surfaces which shall be Owner maintained) bordering each deck, patio, balcony or storage area. The Board and its agents shall, after giving reasonable notice, have the right to enter any patio, deck, balcony or storage area to inspect the established system of drainage located thereon, provided that the Association repairs any damage which might result from such inspection. No Owner shall in any way interfere with the established system of drainage and, notwithstanding any other provision herein, the Owners shall take reasonable precautions to prevent the accumulation of water inside or outside of its Unit, and the Exclusive Use Common Areas appurtenant thereto, including, without limitation, cleaning any clogged drains within the Units and Exclusive Use Common Areas. The "established system of drainage" refers to elevations of the patios, decks and balconies as constructed by Declarant and any drainage facilities installed by Declarant or otherwise located within the Project.

b. In the event an Owner fails to maintain the areas as set forth above, and the plumbing, electrical and heating systems thereof as provided above or make repairs thereto in such manner as shall be deemed necessary in the judgment of the Board to preserve the attractive appearance thereof and protect the value thereof, the Board shall give written notice to such Owner, stating with particularity the work of maintenance or repair which the Board finds to be required and requesting that the same be carried out within a period of thirty (30) days from the giving of such notice. In the event the Owner fails to carry out such maintenance or repair within the period specified by the notice, the Board shall cause such work to be done and shall assess the costs thereof to such Owner. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, floors and entry doors bounding his Unit.

10. Association Right of Entry: For the purpose of performing the maintenance of the Common Area or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association's agents or employees shall have the right to enter any Living Unit or upon any portion of the Common Area to effect emergency repairs. For other than emergency repairs, the Association's agents or employees shall have the right to enter any Unit or any portion of the Common Area to effect repairs, improvements, replacements or maintenance which the Association, after approval by two-thirds (2/3) vote of the Board, reasonably deems necessary. Such entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by and at the expense of the Association. Further, such entry for other than emergency repairs shall be made only after not less than twenty four (24) hours notice has been given to the Owner.

11. Insurance:

a. The Association shall obtain and continue in effect a "multi-peril" type policy of property insurance on those insurable improvements and structures in the Project, providing, as a minimum, fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use, on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) thereof. If there is a steam boiler in operation in connection with such portions of the Project, there must be in force boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing as a minimum \$100,000.00 per accident per location. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket"

policy of flood insurance on such portions of the Project must be maintained to the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended. The insurance provided for under this subparagraph a. must meet the following provisions and limitations:

(i) Such policies must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Project is located. Such clause must be endorsed to provide that any proceeds shall be payable to the Association for the use and benefit of Mortgagees, as their interest may appear, or must be otherwise endorsed to fully protect the interests of the Institutional Lenders. Said clause must further provide that the insurance carrier shall notify all of the Institutional Lenders (or trustees) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

(ii) Each such policy must be written by an insurance carrier which has a financial rating by Best's Insurance Reports of Class B/VI or better. A carrier which has a financial rating by Best's Insurance Reports of Class V shall be acceptable, provided said carrier has a general policy holder's rating of at least A. Each carrier must be specifically licensed or authorized by law to transact business within the state in which the Project is located.

(iii) Such policies are unacceptable where: (a) under the terms of the carrier's charter, bylaws or policy, contributions may be made against an Owner or an Institutional Lender (or its designee); or, (b) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or, (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent an Institutional Lender or owner from collecting insurance proceeds.

(iv) The name of the insured under the policy must be stated in form and substance similar to the following: "THE CABLE BUILDING LOFTS HOMEOWNERS ASSOCIATION, for the use and benefit of the individual Owners."

If any of the above-described Project improvements, fixtures or equipment are damaged by fire or other casualty, the insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with the original plans and specifications therefor, subject to the provisions of Article VIII, Paragraph 11 below. Any excess insurance shall be deposited to the general funds of the Association. In no event, except as provided by statute in case of condemnation or substantial loss to the Units and(or) the Common Area of the Project, shall the pro rata interest or obligations of any Living Unit for

purposes of allocating distributions of hazard insurance proceeds be altered by the Association without the prior written approval of at least two-thirds (2/3) of the Institutional Lenders (based on one (1) vote for each First Mortgage Owned) or of the Owners (other than Declarant).

b. The Association shall obtain and continue in effect a comprehensive policy of public liability insurance covering all of the Common Area, and the commercial spaces and public ways in the Project. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use and shall be in amounts of not less than Two Million Dollars (\$2,000,000.00) per occurrence, for personal injury and(or) property damage. Each such policy of public liability insurance shall name Declarant as additional named insureds.

c. If necessary the Association shall obtain and continue in effect workers' compensation insurance.

d. The Association shall obtain and continue in effect fidelity coverage to protect against dishonest acts on the part of the directors, managers, trustees, employees and volunteers responsible for handling funds belonging to or administered by the Association. In addition to any other FNMA or FHLMC requirements, such coverage shall meet the following provisions and limitations:

(i) Such fidelity bonds shall name the Association as the named insured;

(ii) Such fidelity bonds shall be written in an amount equal to at least three months of assessments on all Units in the Project, plus the amount of the reserves stated in the budget;

(iii) Such fidelity bonds shall contain an appropriate endorsement to cover any persons who serve without compensation if the policy would not otherwise cover such individuals.

e. The Association shall obtain and continue in effect insurance for the protection of its officers and directors from personal liability in the management of the Association's affairs.

f. Premiums for insurance procured by the Association shall be a common expense to be included in the regular Assessments levied by the Association, and the portion of such payments necessary for such premiums may be held in a separate account of

the Association and used solely for the payment thereof as such premiums become due.

g. Owners are obligated to obtain individual casualty insurance covering the contents of their Condominium.

h. The amount, term and coverage of any policy required hereunder (including the type of endorsements, the amount of the deductible, the named insureds, the loss payees, standard mortgage clauses, and notices of changes or cancellations) shall satisfy the minimum requirements imposed for this type of project by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor thereto. If the FNMA or FHLMC requirements conflict, the more stringent requirement shall be met. If FNMA and FHLMC do not impose requirements on any policy required hereunder, the term, amount and coverage of such policy shall be no less than that which is customary for similar policies on similar projects in the area. Each Owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including without limitation, representing the Owners in any proceeding, negotiation, settlement or agreement.

Any insurance maintained by the Association shall contain "waiver of subrogation" as to the Association and its officers, directors and members, the Owners and occupants of the Units (including Declarant) and Mortgagees, and, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The Association shall periodically (and not less than once every three (3) years) review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

No Owner shall separately insure the improvements on his or her lot against loss by fire or other casualty covered by any insurance carried by the Association. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance. Any Owner can insure his or her personal property against loss and obtain any personal liability insurance that he or she desires. In addition, any improvements made by an Owner within his or her Unit may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements".

12. Destruction of Common Area Improvements:

a. In the event of partial or total destruction of any building or improvement in the Project (including damage due to wood destroying pests or organisms, which situation will be governed by the provisions of California Civil Code § 1364), the Board of Directors shall promptly (i) ascertain the cost of reconstruction by obtaining fixed price bids from two (2) reputable contractors, including the obligation to obtain a performance bond, and (ii) determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the applicable insurer of the building. The decision as to whether reconstruction will take place will be made as follows:

(i) The Board of Directors shall meet and determine whether the portion of the estimated cost to reconstruct not covered by insurance is less than \$150,000.00. Such cost shall hereinafter be referred to as the "Acceptable Range of Reconstruction Cost." If the bids obtained under this paragraph 12 are within the Acceptable Range of Reconstruction Cost, the Board of Directors shall cause reconstruction to take place as promptly as practical and shall levy a special reconstruction Assessment against the Owners at such time and in such aggregate amount as the Board of Directors determines is necessary to cover the costs of reconstruction in excess of insurance proceeds. Said aggregate special reconstruction Assessment shall be divided among the Owners upon the basis of the ratio of the square footage of the floor area of the Unit to be assessed to the total square footage of all of the Units. The partially or totally destroyed building shall be reconstructed to substantially conform to the Condominium Plan. If the Board of Directors in good faith determines that the bids submitted under this paragraph is not within the Acceptable Range of Reconstruction Cost, the Board of Directors shall proceed according to subparagraphs b. and d. of this paragraph.

(ii) The foregoing determinations shall be made by the Board of Directors as soon as possible. However, if for any reason such determinations cannot be made within sixty (60) days of the date of destruction, it shall be deemed that it has been initially determined that the insurance proceeds do not satisfy the requirements of the Acceptable Range of Reconstruction Cost, and the Board of Directors shall immediately call a meeting of the Owners pursuant to subparagraphs b. and d. of this paragraph.

b. If the Board of Directors determines that the insurance proceeds do not satisfy the requirements of the Acceptable Range of Reconstruction Cost, the Board of Directors shall call a meeting of all of the Owners in the Project by mailing notice of such determination and of the meeting to each Owner at his address as shown on the records of the Association. Such meeting shall be held not less than fourteen (14) days and not more than twenty-one (21) days after the Board of Directors makes the

determination that the cost of reconstruction was not within the Acceptable Range of Reconstruction Cost. Any Owner of a Condominium may dispute the finding of the Board of Directors that the cost of reconstruction was not within the Acceptable Range of Reconstruction Cost by submitting to the Board of Directors, before the date set for the meeting of the Owners, a bid from a reputable contractor, including the obligation to obtain a performance bond, the total of which bid is within the Acceptable Range of Reconstruction Cost. If a submitted bid is found by the Board of Directors to be reasonable, the Board of Directors shall cause special reconstruction Assessments to be levied as set forth in subparagraph a. of this paragraph. The Board of Directors may reschedule any meeting called pursuant to this subparagraph in order to consider such a submitted bid. If the Board of Directors, in good faith, reasonably determines that any bid submitted under this subparagraph does not reasonably reflect the anticipated reconstruction cost it shall proceed according to subparagraph c. of this paragraph.

c. If the determination of the Board of Directors that the cost of reconstruction was not within the Acceptable Range of Reconstruction Cost is not challenged by the submission of a bid in the manner set forth in subparagraph b. of this paragraph, or if such bid is rejected in the manner set forth in subparagraph b. of this paragraph, the meeting of the Owners called by the Board of Directors shall take place as scheduled. The Owners may, by a vote or written consent of not less than two-thirds (2/3) of the voting power of each class of Members of the Association, determine to proceed with the reconstruction. If the Owners so determine to reconstruct the partially or totally destroyed building, the Board of Directors shall levy a special reconstruction Assessment against the Owners at such time and in such aggregate amount as the Board of Directors determines is necessary to cover the costs of reconstruction in excess of insurance proceeds. Said aggregate special reconstruction Assessment shall be divided among the Owners upon the basis of the ratio of the square footage of the Unit to be assessed to the total square footage of all Units to be assessed.

d. In the event that the Owners determine at the meeting referenced in paragraph c. not to reconstruct such building(s), then, after deducting from the insurance proceeds any costs of removal of damaged structures and cleaning of the area, the insurance proceeds shall be paid to the Association and deposited into a trust account for the benefit of the Owners and First Mortgagees. Any such proceeds shall be distributed based upon the relative fair market value of the Units and in accordance with the formula that is used to determine each Owner's individual interest in the Common Area.

e. The Board of Directors shall have full authority to negotiate in good faith with representatives of the insurer of the

totally or partially destroyed building and to make settlement with the insurer for less than full insurance coverage on the damage to the building. Any settlement made by the Board of Directors in good faith shall be binding upon all Owners and the Board, to the extent the same is not covered by insurance proceeds, the Board may use the funds of the Association to defend themselves against a claim relating to the propriety of such a settlement. Insurance proceeds shall be paid into a trust account in a bank selected by the Board of Directors, and funds shall be disbursed from the trust account pursuant to the orders of the Board of Directors.

f. Notwithstanding anything in this paragraph 12 to the contrary, and except as provided by statute in case of condemnation or substantial loss to the Units and(or) the Common Area of the Project, unless at least sixty-six and two-thirds percent (66 2/3%) of the Institutional Lenders (based on one (1) vote for each First Mortgage owned) or of the Owners (other than the Declarant) have given their prior written consent, the Association shall not use hazard insurance proceeds for losses to any Condominium property (whether to Units or to the Common Area) for other than the repair, replacement or reconstruction of such Condominium property.

g. Notwithstanding any provision in the Condominium Documents to the contrary, no Owner or other party shall be entitled to priority over the rights of an Institutional Lender pursuant to its Mortgage with respect to the distribution to such Owner of insurance proceeds for losses to Units and(or) the Common Area.

13. Condemnation:

a. The Association shall have the power and authority to represent each of the Owners in any proceedings, negotiations, settlements or agreements in connection with any pending or threatened condemnation. Except as provided by statute, in case of condemnation or substantial loss to the Units and(or) the Common Area of the Project, in no event shall the pro rata interest or obligations of a Unit, for purposes of allocating distributions of condemnation awards, be altered by the Association without the prior written approval of at least sixty-six and two-thirds percent (66 2/3%) of the Institutional Lenders (based on one (1) vote for each First Mortgage owned) or of the Owners (other than the Declarant).

b. Notwithstanding any provision in the Condominium Documents, no Owner or other party shall have priority over the rights of an Institutional Lender pursuant to its Mortgage with respect to a distribution to such Owner of condemnation awards for losses to or a taking of any portion of the Units and(or) the Common Area.

c. Any proceeds or awards received in connection with an actual or threatened condemnation shall be paid to the Association and deposited into a trust account for the benefit of the Owners and First Mortgagees. A condemnation award affecting all or a part of the structural Common Area of the Project which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Project shall be distributed among the affected Owners and their respective Mortgagees based upon the relative fair market value of their Units and in accordance with the formula that is used to determine each Owner's individual interest in the Common Area, as determined by an independent appraiser retained by the Association for such purpose, immediately prior to such condemnation.

14. Limitation of Restrictions on Declarant: Declarant is undertaking to establish residential dwellings and commercial spaces and incidental improvements upon the Project. The completion of that work, and the sale, rental, and other disposal of Condominiums is essential to the establishment and welfare of the Project as an integrated community. In order that said work may be completed and the Project be established as a fully occupied residential community as rapidly as possible until all of the Condominiums in the Project have been sold or until that date which is seven (7) years from the First Conveyance Date, nothing in this Declaration shall be understood or construed to:

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

b. Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Project, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing the Project as a residential/commercial community and marketing the Condominiums and commercial space therein; or,

c. Prevent Declarant from conducting on any part of the Project its business of completing said work, and of establishing a plan of Condominium ownership; or

d. Prevent Declarant from maintaining such sign or signs on any parts of the Project as may be necessary in the reasonable discretion of Declarant; or

e. Prevent Declarant from leasing all or any number of the Condominiums to residential or commercial users of its choosing.

15. Architectural Committee:

a. An Architectural Committee ("Committee") shall consist of three (3) members.

b. The Declarant shall appoint all of the original members of the Committee and all replacements until the first anniversary of the Original Conveyance Date. Thereafter, the Declarant shall have the right to appoint a majority of the Members of the Committee until ninety percent (90%) of the Condominiums in the overall Project have been sold or until the fifth anniversary of the Original Conveyance Date, whichever occurs first.

c. Notwithstanding anything herein to the contrary, after the first anniversary of the Original Conveyance Date, the Board shall have the power to appoint at least one (1) member to the Committee. Such right shall exist until ninety percent (90%) of the Condominiums in the overall Project have been sold or until the fifth anniversary date of the Original Conveyance Date, whichever occurs first. Thereafter, the Board shall have the power to appoint all of the members of the Committee.

d. Members appointed to the Committee by the Board shall be from the Membership of the Association. Members appointed to the Committee by the Declarant need not be Members of the Association.

e. The Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) Members thereof shall constitute an act by the Committee. The Committee shall keep and maintain a record of all actions taken by it at such meeting or otherwise. The Members of the Committee shall be entitled to reimbursement for reasonable expenses incurred by them in the performance of any Committee function, and shall have the right to impose and collect reasonable fees on a non-discriminatory basis for all functions performed.

f. The Committee may, from time to time, adopt, amend and repeal, by majority vote, rules and regulations to be known as Architectural Committee Rules and Guidelines. The Architectural Rules and Guidelines shall interpret and implement the provisions hereof by setting forth the standards and procedures for Committee review and guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended by the Committee for use in the Project, but the Architectural Rules and Guidelines shall not be in derogation of the minimum standards required by this Declaration.

g. The approval of the Committee of any plans, drawings or specifications for any work done or proposed, or for any other

matter requiring the approval of the Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

h. Neither the Committee nor any Member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (i) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or, (iii) the development of any real property within the Project. Without in any way limiting the generality of the foregoing, the Committee, or any Member thereof, may, but is not required to, consult with or hear the views of any Member of the Association with respect to any plans, drawings, specifications or any other proposal submitted to the Committee.

i. The Association shall indemnify and hold harmless the Committee and each Member thereof from and against all obligations, liabilities, damages, losses, and costs (including, without limitation, reasonable attorney's fees and costs) arising in any way from any claims, demands or actions of any kind taken against the Committee or any of the Members thereof, in connection with this Declaration or any of the acts or actions which the Committee may undertake pursuant to the Declaration.

16. Owners' Compliance: Each Owner, tenant and(or) occupant of a Condominium shall comply with the provisions of the Condominium Documents and the decisions and resolutions of the Association or its duly authorized representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall constitute the basis for an action to recover sums due for damages, or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Condominium Documents shall be deemed to be binding on all Owners of Condominiums, their successors and assigns.

17. Materialmen and Mechanic's Liens: In the Project, no labor performed or services or materials furnished with the consent of, or at the request of, an Owner or his agent or his contractor shall be the basis for the filing of a lien against any other property of any other Owner in the Project unless such other Owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Common Area, if duly authorized by the Association, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner of any Condominium may remove his Condominium from a lien

against two (2) or more Condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by the lien which is attributable to his Condominium.

18. Required Documents upon Transfer: In accordance with California Civil Code §1368, any Owner, other than an Owner subject to the requirements of §11018.6 of the California Business and Professions Code, shall, as soon as practicable before transfer of title to his Condominium or execution of a real property sales contract therefor, provide the following to the prospective purchaser:

- a. A copy of the Condominium Documents.
- b. A copy of the most recent financial statement distributed pursuant to paragraph 5. of Article III, above.
- c. 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 the Owner and his Condominium 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 date of the statement, are or may be made a lien upon the Owner's Condominium pursuant to Article IV, above.
- d. Any change in the Association's current regular and special Assessments and fees which have been approved by the Board, but have not become due and payable as of the date disclosure is provided pursuant to this paragraph.

Upon written request, the Association shall, within 10 ten (10) days of the mailing or delivery of the request, provide the Owner with a copy of the requested items specified in subparagraphs a., b., and c. of the preceding paragraph. 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 paragraph.

19. Notices: Except as may otherwise be provided by specific provisions of the Condominium Documents, any notice permitted or required by the Condominium Documents may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, certified or registered mail, addressed to each person at the current address given by such person to the secretary of the

Association or addressed to the Condominium of such person if no address has been given to the secretary.

20. Conflicting Provisions: In the event there is any conflict between the provisions of the Articles or Bylaws and the provisions of this Declaration, the provisions of this Declaration shall control.

21. Amendment and Granting of Easements: So long as Declarant owns a Condominium, Declarant shall have the absolute right and power, for five (5) years after the First Conveyance Date, to enter into any written agreement with the City of San Diego or other governmental or public agencies or utilities, changing the location of any of the easements to the City of San Diego or other governmental or public agencies or utilities in connection with the development and(or) improvement of the Project, or any portion or portions thereof. Each Owner hereby appoints Declarant as his attorney-in-fact for the purpose of effecting such agreement and also for the purpose of granting easements affecting the Project to the City of San Diego or other governmental or public agencies or utilities in connection with the development or improvement of the Project; the power herein granted Declarant shall be and is a power coupled with an interest.

22. Limitations on Declarant: The Declarant shall not bind the Association, either directly or indirectly, to the following types of agreements unless the Association has the right of termination thereof which is exercisable without penalty, upon not more than thirty (30) days notice to the other party thereto:

a. Any management contract, employment contract or lease of recreational or parking areas or facilities; or

b. Any contract or lease, including franchises and licenses, to which Declarant is a party.

23. Availability of Documents:

a. Commencing not later than 90 days after the First Conveyance Date, copies of the documents listed below, as soon as readily obtainable, shall be delivered by the Declarant to the Board of Directors of the Association, at the office of the Association or at such other place as the Board of Directors shall prescribe. The obligation to deliver the documents listed below shall apply to any documents obtained by Declarant no matter when obtained; provided, however, such obligations shall terminate upon the earlier of: (1) the conveyance of the last subdivision interest covered by the subdivision public report; or (2) three years after the expiration of the most recent public report on the Project:

(i) The recorded subdivision map for the Project;

- (ii) The recorded condominium plan and all amendments thereto;
- (iii) The deeds and easements executed by Declarant conveying the Common Area or other interest to the Association, to the extent applicable;
- (iv) A copy of this Declaration, and all amendments and modifications;
- (v) A copy of the filed Articles of Incorporation of the Association; and all amendments and modifications thereto;
- (vi) The Bylaws of the Association, and all amendments thereto;
- (vii) All architectural guidelines and all other rules regulating the use of an owners interest in the Project or use of the Common Areas which have been promulgated by the Association;
- (viii) The plans approved by the local agency or county where the Residential Project is located for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy;
- (ix) All notices of completion certificates issued for Common Area improvements (other than residential structures);
- (x) Any bond or other surety device in which the Association is the beneficiary;
- (xi) Any written warranty being transferred to the Association for Common Area equipment, fixtures or improvements;
- (xii) Any insurance policy procured for the benefit of the Association, its officers or Board of Directors, or the Common Areas;
- (xiii) Any lease or contract to which the Association is a party;
- (xiv) The membership register, including mailing addresses and telephone numbers, books of account and minutes of

meetings of the members, of the Board of Directors and any committees of the Association; and

(xv) Any other instrument which establishes or defines the common, mutual or reciprocal rights or responsibilities of members of the Association.

b. Commencing not later than 90 days after the annexation of additional phases to the Project, if any, copies of the documents listed in subparagraph a. above which are applicable to that phase, shall, as soon as readily obtainable, be delivered by Declarant to the Board of Directors of the Association, at the office of the Association or at such other place as the Board of Directors shall prescribe. The obligation to deliver the documents listed in subparagraph a. shall apply to any documents obtained by Declarant no matter when obtained, provided, however, that such obligations shall terminate upon the earlier of: (1) the conveyance of the last subdivision interest covered by a subdivision report; or (2) three years after the expiration of the most recent public report on the Project.

c. The Association shall make available to Owners, Institutional Lenders and the holders, insurers and(or) guarantors of a First Mortgage on any Condominium, current copies of the Condominium Documents and any other rules and regulations governing the Residential Project and other books, records and financial statements of the Association. The Association shall additionally make available to prospective purchasers of Condominiums in the Residential Project current copies of the Condominium Documents and any other rules and regulations governing the Residential Project and the most recent annual audited financial statement for the Association, if the same has been prepared. "Available" as used herein shall at least mean available for inspection upon request during normal business hours or under other reasonable circumstances. The Association may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents. The Association may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

24. Bonded Obligations: Declarant has posted or may elect to post a Bond or Lender set-aside letter pursuant to § 11018.5(a) (2)(A) of the California Business and Professions Code ("Bond"), in favor of the Association, in such sum as may be required by the California Department of Real Estate, to insure the lien-free construction, by the date specified in the Planned Construction Statement ("Construction Statement") attached to the Bond, of those Common Area improvements specified in the Construction Statement. The following provisions and conditions shall govern the initiation of an action by the Association to enforce the obligations of the Declarant and the surety under the Bond:

a. The Board shall consider and vote on the question of whether an action shall be brought by the Association to enforce the obligations under the Bond when a Notice of Completion relating to any of the Common Area improvements covered in the Bond has not been recorded within sixty (60) days after the completion date specified for such improvements in the Construction Statement. If the Board, on behalf of the Association, has given an extension in writing for the completion of any Common Area improvement beyond the date specified in the Construction Statement (which power the Board is hereby deemed to have), the Board shall consider and vote on the aforesaid question when a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

b. A special meeting of the Members may be had for the purpose of voting to override a decision by the Board not to initiate an action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, as provided for in subparagraph a. herein. Such a meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) of the total voting power of the Association.

c. A vote of a majority of the Members (other than Declarant) to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

25. Restriction on Dissolution of Association: Without the approval of one hundred percent (100%) of the Members, any contrary provision in the Condominium Documents notwithstanding, so long as there is any lot, parcel, area or unit for which the Association is obligated to provide management, maintenance, preservation and control: (a) the Association or any person acting on its behalf shall not transfer all or substantially all of its assets or file a certificate of dissolution; and (b) no court shall enter an order declaring the Association duly wound up and dissolved.

26. Severability: If any one or more provisions of this Declaration or its application to any Person or circumstance is determined to be invalid, illegal, or unenforceable to any extent or for any reason, by a court of competent jurisdiction, then such provision or provisions shall be deemed to be severed and deleted, to the extent necessary, and neither such provision nor its severance shall affect the validity of the remaining provisions of this Declaration which shall remain in full force and effect. In the event of a finding of partial invalidity, illegality, or unenforceability by a court of competent jurisdiction, such court is hereby instructed to modify such provision to the minimum extent necessary to avoid such invalidity, illegality, or unenforce-

ability; provided such modification does not alter the purpose or intent of such provision.

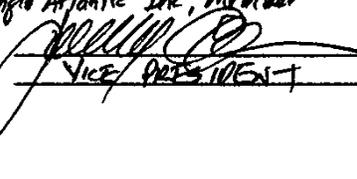
27. Term: The restrictions, conditions, covenants, equitable servitudes, reservations, liens, easements and charges of this Declaration shall run with and bind the Project and all parts thereof and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Condominium, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by the Owners of a majority of the Condominiums, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate this Declaration.

28. VA Approval: So long as there is a Class B Membership, the following shall require the approval of the VA: annexation or de-annexation of additional properties to the Project, any merger or consolidation of the Association, any special Assessments and any Amendment to this Declaration, a draft of which shall be submitted to and approved by the VA prior to recordation.

29. Institutional Lender Notice: All Institutional Lenders may provide the Association in writing with their appropriate addresses and request to be so notified in writing before the Association is required to obtain the approval of any Institutional Lender before the Association can abandon Condominium status, partition or subdivide a Unit or the Common Area, change the percentage interest of Owners, or materially amend the Condominium Documents. The Association shall provide timely written notice to all Institutional Lenders requesting in writing to be so notified of any condemnation or eminent domain proceeding or any substantial damage or destruction to the Common Area.

HILLTOP ASSOCIATES, LLC, a California limited liability company

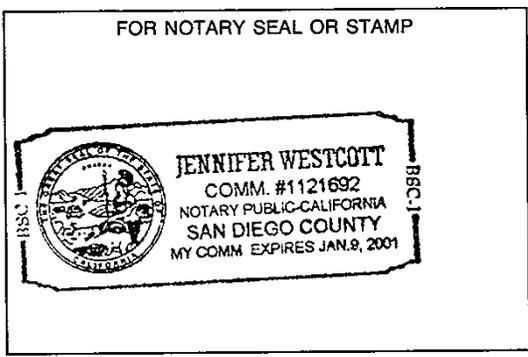
By: *SON Hillcrest LLC, manager*
by: *Anglo Atlantic Inc, member*

By: 
Its: Vice President

STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO } S.S.

On JUNE 10, 1997, before me, JENNIFER WESTCOTT
a Notary Public in and for said County and State, personally
appeared JEREMY COHEN

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

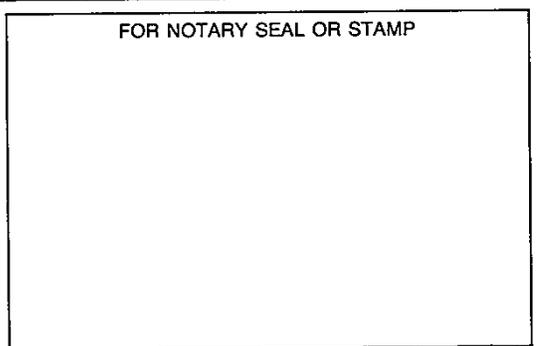


WITNESS my hand and official seal.
Signature Jennifer Westcott

STATE OF CALIFORNIA,
COUNTY OF _____ } S.S.

On _____, before me, _____
a Notary Public in and for said County and State, personally
appeared _____

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



WITNESS my hand and official seal.
Signature _____

PARCEL 1 OF PARCEL MAP NO. 17624, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY
RECORDER OF SAN DIEGO COUNTY DECEMBER 1, 1995.

EXHIBIT "A"

SUBORDINATION

The undersigned, as the holder of (i) that certain Deed of Trust, dated November 30, 1995, and recorded in the Official Records of San Diego County, California on December 22, 1995, as Document No. 95-583856; and (ii) that certain Deed of Trust, dated February 18, 1997, and recorded in the Official Records of San Diego County, California on March 28, 1997, as Document No. 97-141478 hereby subordinates the lien and charge of said Deeds of Trust to the covenants and provisions set forth in this Declaration.

Date: June 10, 1997.

FIRST PACIFIC NATIONAL BANK
a National Banking Association

By: [Signature]
Its: Vice President

STATE OF California)
) ss.
COUNTY OF San Diego

On June 10, 1997, before me, Nancy Rijnholt, Notary Public personally appeared C. Eugene May, 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.

[Signature]
Notary Public in and for said
County and State

