15425 Sherman Way HOA

CC&Rs

BOWKER & ROTH
PROPERTY SERVICES

CHICAGO TITLE

199 SOUTH LOS ROBLES AVENUE, SUITE 120, PASADENA, CA 91101

PURCHASER DOCUMENTS

"15425 SHERMAN WAY"

TRACT NO. 32213

- **DECLARATION OF RESTRICTIONS**
- **ARTICLES OF INCORPORATION**
- **BYLAWS**
- **BUDGET**
- **CONDOMINIUM PLAN**

RECORDING REQUESTED BY:

WHEN RECORDED RETURN TO:

Robert O. Smylie, Esquire
ROBERT SMYLIE & ASSOCIATES
2049 Century Park East,
Suite 4250
Los Angeles, CA 90067

This is to certify that this is a true and correct copy
of the original recorded November 7, 2006
instrument No. 06-2469510
CHICAGO TITLE COMPANY
By Paula Fogel

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DECLARATION OF ESTABLISHMENT

OF

CONDITIONS, COVENANTS AND RESTRICTIONS

FOR

15425 SHERMAN WAY

A Condominium Project

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10-04-06

TABLE OF CONTENTS

DECLARATION OF ESTABLISHMENT OF CONDITIONS, COVENANTS AND RESTRICTIONS FOR 15425 SHERMAN WAY

THIS DECLARATION OF ESTABLISHMENT OF CONDITIONS, COVENANTS AND RESTRICTIONS FOR 15425 SHERMAN WAY ("Declaration"), is made by 15425 SHERMAN WAY, LLC, a California limited liability company ("Declarant"), being the owner of that certain real property subject to this Declaration and hereinafter more particularly described.

WITNESSETH:

WHEREAS, Declarant is the owner of the following real property located in the City of Los Angeles, County of Los Angeles, State of California (the "Properties"), more particularly described as:

> Lot 1 of Tract No. 32213, in the City of Los Angeles, County of Los Angeles, State of California, as per Map recorded in Book 857, Pages 99 and 100, of Maps, in the Office of the County Recorder of said County.

WHEREAS, it is the desire and intention of Declarant to sell and convey interests in said real property to various individuals subject to certain basic protective restrictions, limitations, easements, covenants, reservations, liens and charges between it and the acquirers or users of said property, as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the property described above, is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following protective restrictions, limitations, conditions, covenants, reservations, liens and charges, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of Condominiums as defined in Section 783 of the California Civil Code, in a Condominium Project, as that term is defined in Section 1351(f) of the California Civil Code, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project and every part thereof. Each and all of the restrictions herein contained shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the described property, or any part thereof. The Project (as defined below) comprising the real property above described, is intended to be made subject to each and all of the provisions of the Davis-Stirling Common Interest Development Act (Section 1350 et seq. of the California Civil Code) and any comparable statute or amendment thereto hereinafter enacted. There has been or will be recorded, a Condominium Plan for the real property, as defined herein, which is intended to satisfy the provisions of Section 1352 of the California Civil Code. The provisions of this Declaration shall be enforceable by any of the Owners of an interest in the real property above described, against any other Owner or Owners thereof, and shall also be enforceable by the

Board of Directors of the Association (as defined below), which shall be created for the purpose of governing this Project.

ARTICLE 1
DEFINITION OF TERMS

<u>Section 1.1.</u> **<u>Terms</u>**. Whenever used in this Declaration, the following terms shall have the following meanings:

1.1.1 <u>Articles</u> shall mean and refer to the Articles of Incorporation of the Association as the same may be amended from time to time.

1.1.2 <u>Association</u> shall mean 15425 Sherman Way Homeowners' Association consisting of all Owners of Condominiums in the Project. Each Owner shall be and become a Member of the Association contemporaneously with such Owner's acquisition of a Unit, without further documentation of any kind. Transfer of a membership shall be only by conveyance of the Unit.

1.1.3 <u>Association Records</u> shall mean and refer to all documents to be maintained by the Association and available for Member's inspection and copying pursuant to California Civil Code Section 1365.2.

1.1.4 <u>Board of Directors</u> or <u>Board</u> shall mean the governing body of the Association.

1.1.5 <u>Bylaws</u> shall mean the duly adopted Bylaws of the Association as the same may be amended from time to time.

1.1.6 <u>Common Area</u> shall mean and refer to the entire Project, excepting those portions thereof which lie within the boundaries of any Unit, as described in the Condominium Plan.

1.1.7 <u>Exclusive Use Common Area</u> shall mean and refer to those portions of the Common Area to which an exclusive right of use is granted to an Owner which shall be appurtenant to such Owner's Unit as shown and described on the Condominium Plan, and shall consist of a parking space and patio or balcony.

1.1.8 <u>Condominium</u> shall mean a Condominium as defined in Section 783 of the California Civil Code, and shall be an estate in real property consisting of (a) a separate fee interest in the space within a Unit as further shown and described in the Condominium Plan (as defined below), and all appurtenances thereto, and (b) an undivided interest as a tenant in common in the Common Area and (c) easements for the exclusive use and enjoyment of any Exclusive Use Common Area appurtenant to such Condominium. Additionally, each Owner of a Condominium shall receive a membership in the Association.

1.1.9 <u>Condominium Plan</u> shall refer to a plan consisting of (a) a description or survey map for 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, each Unit and the Exclusive Use Common Areas, if any, and (c) a certificate consenting to the recordation of the Condominium Plan signed and acknowledged by all persons required by California Civil Code Section 1351(e).

1.1.10 Declarant shall mean 15425 SHERMAN WAY, LLC, a California limited liability company, its successors and assigns, if such successors and assigns should acquire any portion of the above described real property from Declarant for the purpose of development and are designated by Declarant or its authorized agent as the Declarant for the purpose hereof by a duly recorded written instrument, or successors of Declarant by operation of law or by exercise of the remedies under a mortgage, deed of trust or deed in lieu of foreclosure, and who expressly elects to assume the rights and duties of Declarant with respect to the acquired real property.

1.1.11 Declarant Party shall mean and refer to any director, officer, partner, member, employer, contractor, design professional, consultant, subcontractor or agent of Declarant.

1.1.12 Declaration shall mean this Declaration of Establishment of Conditions, Covenants and Restrictions, as the same may be amended, changed or modified from time to time.

1.1.13 Eligible Insurer or Guarantor shall mean and refer to an insurer or governmental guarantor who has requested notice from the Association of those matters which such insurer or guarantor is entitled to notice of by reason of this Declaration or the Bylaws of the Association.

1.1.14 Eligible Mortgage Holder shall mean and refer to a holder of a first Mortgage on a Condominium who has requested notice from the Association of those matters of which such holder is entitled to notice by reason of this Declaration or the Bylaws of the Association.

1.1.15 Institutional Lender shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under Federal or State laws, any corporation or insurance company, or any Federal or State agency.

1.1.16 Member shall mean an Owner with a membership in the Association.

1.1.17 Mortgage shall mean and include a deed of trust as well as a Mortgage in the conventional issue.

1.1.18 Mortgagee shall mean a person or entity to whom a Mortgage is made, and shall include the beneficiary of a deed of trust.

1.1.19 Mortgagor shall mean a person or entity who mortgages his, her or its property to another, i.e., the maker of a Mortgage, and shall include the trustor of a deed of trust.

1.1.20 Owner shall mean and refer to the record Owner or Owners, if more than one, of a Condominium in the Project, including Declarant, so long as any Condominiums remain unsold.

1.1.21 Project shall mean and refer to the entire parcel of real property above described, including all improvements erected or to be erected thereon, and such additions as may hereafter be brought within the jurisdiction of the Association.

1.1.22 Unit shall mean and refer to the elements of a Condominium which are not owned in common with Owners of other Condominiums in the Project. The boundaries of the Units are as shown and defined on the Condominium Plan, recorded concurrently, prior or subsequent to the recording of this Declaration.

Section 1.2. Applicability of Terms. The aforesaid definitions shall be applicable to this Declaration and to any supplements or amendments thereto, filed or recorded pursuant to the provisions of this Declaration, unless the context thereof shall prohibit such definition.

ARTICLE 2
DESCRIPTION OF PROJECT

Section 2.1. Purpose of Description. The following description is intended for informational purposes only. In the event of any conflict between this description and the Condominium Plan, the Condominium Plan shall be deemed conclusively to control over this description.

Section 2.2. Project Composition. The Project consists of the underlying real property with Condominium Units and all other improvements located thereon. The Properties will contain one hundred sixty-one (161) residential dwelling Units and Common Area.

Section 2.3. Physical and Legal Description. Declarant, in order to establish a plan of condominium ownership for the Project, hereby declares that it has divided and hereby divides the Project into the following estates:

2.3.1 Each Unit shall be a separate freehold estate, as defined in Section 1351 of the California Civil Code, and as shown and described on the Condominium Plan, consisting of the dwelling space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors of said spaces, each such space being defined and referred to herein as a "Unit." Each Unit includes both the portion of the building so described and the airspace so encompassed, and all windows and doors in said Unit, but the following are not a part of the Unit: bearing walls, columns, floors, roofs, foundations, balcony railings, pipes, ducts, flues, chutes, conduits, wires, exterior lighting, and other utility installations, wherever located (except all utility installations and/or outlets thereof when located within the Units). In interpreting this Declaration, the Condominium Plan and conveyances, the existing physical boundaries of the Unit, when the boundaries of the Unit are contained within a building, or of a Unit reconstructed in substantial accordance with the original Condominium Plan thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds (or other description) expressed in the Declaration, Condominium Plan or conveyance, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and Declaration and those of the building.

2.3.2 The Common Area shall include the entire Project excepting therefrom the Units. Control of the Common Area shall be turned over to the Association upon the closing of the sale of the first Condominium in the Project.

2.3.3 Exclusive Use Common Area shall mean and refer to those portions of the Common Area to which an exclusive right of use is granted to an Owner which shall be appurtenant to such Owner's Unit as shown and described on the Condominium Plan, and shall consist of a parking space and patio or balcony.

2.3.4 The Project shall have Common Area parking spaces for guest parking purposes.

2.3.5 The undivided interest in the Common Area hereby established and which shall be conveyed with each respective Condominium shall be a one hundred sixty-first ($1/161^{st}$) undivided fractional fee interest. The above-referenced undivided interests established and to be conveyed with the respective Condominiums, cannot be changed, and Declarant, their successors, assigns, and grantees, covenant and agree that the undivided interest in the Common Area and the fee title to the respective Condominium conveyed therewith, shall not be separated from or separately conveyed or encumbered without its respective Unit, even though the description in the instrument of conveyance may refer only to the fee title to the Unit.

ARTICLE 3
OWNERS' PROPERTY RIGHTS

Section 3.1. Owner's Easements of Enjoyment. Each Owner shall have a nonexclusive easement appurtenant to such Owner's Condominium for ingress, egress, use and enjoyment on and over the Common Area and all improvements thereon. Said easement shall include, but not be limited to, the reasonable right of access for the purposes of maintaining internal and external telephone lines appurtenant to the Condominium; provided, however, that the Association may condition its approval, which shall not be unreasonably withheld, upon submission of plans showing such external wiring within the Common Area and such other conditions as the Association deems reasonable. Said easement shall be appurtenant to and shall pass with the title to every Condominium.

Section 3.2. Owner's Easements for Vehicular Access. In addition to the general right to use and enjoy said easements for ingress and egress granted herein, there shall be and Declarant hereby covenants for itself and its successors and assigns that each and every Owner shall have a nonexclusive easement appurtenant to such Owner's Condominium for vehicular traffic over all private streets and drives, if any, within the Project.

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, such Owner's right to the use and enjoyment of the Common Area to the members of such Owner's family, guests, invitees, tenants, or contract purchasers who reside within the Project.

Section 3.4. Personal Liability of Owner. No Member may be exempt from personal liability for assessments duly levied by the Association, nor release the Condominium owned by such Member from the liens and charges thereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of such Member's Condominium.

Section 3.5. Leasing of Units. Any Owner may lease such Owner's Unit subject to the following:

3.5.1 No Owner shall be permitted to lease such Owner's Unit for transient or hotel purposes or for a period of less than thirty (30) days.

3.5.2 No Owner may lease less than the entire Unit.

3.5.3 Any lease agreement is required to provide that the terms of said lease shall be subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease.

3.5.4 All leases are required to be in writing.

<u>**Section 3.6.**</u> Right to Sell, Partition, Encroach and Support. The Declarant, its successors and assigns, and all future Owners of the Condominiums, by their acceptance of their respective deeds, covenant and agree as follows:

3.6.1 No Owner may sell, assign, lease or convey (i) his interest in the Common Area separate and apart from such Owner's Unit, nor (ii) such Owner's interest in any Exclusive Use Common Area, if any, separate and apart from such Owner's interest in the Common Area and such Owner's Unit.

3.6.2 Each of the Owners of a Condominium, whether such ownership is in fee simple or as a tenant in common, is hereby prohibited from partitioning or in any other way severing or separating such ownership from any of the other ownerships in the Project except upon the showing that: (i) more than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part thereof was unfit for its use and the Project has not been rebuilt or that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project, or (ii) that the Project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project.

3.6.3 In the event a Unit or any part thereof is partially or totally destroyed, and then rebuilt, all Owners agree that minor encroachments of parts of the Common Area due to construction shall be permitted and that valid easements for said encroachment and the maintenance thereof shall exist.

3.6.4 A nonexclusive easement for ingress, egress and support through the Common Area shall be appurtenant to each Unit.

<u>**Section 3.7.**</u> <u>**Right of Owner to Improve and Modify Unit**</u>. Subject to the provisions of this Declaration and other applicable provisions of law, if the boundaries of a Unit are contained within a building, the Owner of a Unit shall have the right to do the following:

(1) Make any improvements or alterations within the boundaries of his or her Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the Project.

(2) Modify the Unit, at the Owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to the persons. These modifications may also include modifications of the route from the public way to the door of the Unit for the purposes of this Section if the Unit is on the ground

floor or already accessible by an existing ramp or elevator. The right granted by this Section is subject to the following conditions:

A. The modifications shall be consistent with applicable building code requirements.

B. The modifications shall be consistent with the intent of otherwise applicable provisions of this Declaration pertaining to safety or aesthetics.

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

D. Any Owner who intends to modify a Unit pursuant to this Section shall submit his or her plans and specifications to the Architectural Control Committee for review to determine whether the modifications will comply with the provisions of this Section. The Committee shall not deny approval of the proposed modifications under this Section without good cause.

(3) Any change in the exterior appearances of a Unit shall be in accordance with this Declaration and applicable provisions of law.

Section 3.8. Liens Against Other Property. No labor performed or services or materials furnished with the consent of, or at the request of, an Owner or his or her agent or his or her contractor shall be the basis for the filing of a lien against any other property of any other Owner in the Project unless that 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 Areas, 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 or her 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 or her Condominium.

Section 3.9. Owner's Duty to Maintain. Each Owner is responsible for maintaining his or her separate Unit and any Exclusive Use Common Area appurtenant to the Unit.

Section 3.10. Completion of Improvements. Declarant expressly reserves the right and easement for ingress and egress to enter the Common Areas in order to complete any improvements thereon, and to enter any portion of the Properties in order to perform necessary repair work thereon; provided, however, that such use shall not be for a period of more than three (3) years after the conveyance of the first Condominium and such 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.

Section 3.11. Utility And Drainage Easements.

3.11.1 Declarant expressly reserves for the benefit of the Association the right of Declarant to grant additional easements and rights-of-way over the Property to utility companies and public agencies, as necessary, for the proper development and sale of the Property. Such right of Declarant shall expire upon the close of escrow for the sale of all Condominiums in the Project by Declarant.

ARTICLE 4
HOMEOWNERS' ASSOCIATION, A CALIFORNIA NONPROFIT CORPORATION

Section 4.1. Formation, Membership and Voting Rights. Declarant has, at its cost and expense, formed an incorporated association known as "15425 Sherman Way Homeowners' Association," a California nonprofit mutual benefit corporation, which has the powers, rights and duties hereinafter set forth:

4.1.1 There shall be one (1) membership in the Association for each Unit owned in the Project, which membership shall be appurtenant to the Unit.

4.1.2 All of such memberships shall initially be the property of Declarant or its successors in interest, and shall pass automatically to the respective purchasers of Units in the Project.

4.1.3 Each Member shall be obligated promptly, fully and faithfully to comply with the provisions of this Declaration, and the Bylaws of the Association, and all Rules and Regulations (as defined below) which may be prescribed from time to time by its officers or directors.

4.1.4 The Association shall have two (2) classes of voting membership, as follows:

Class A. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Condominium owned. When more than one person holds an interest in any Condominium, all such persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium.

Class B. The Class B Member shall be Declarant and shall be entitled to three (3) votes for each Condominium owned in the Project upon which Declarant is then paying the appropriate annual assessments provided for hereinbelow. The Class B membership shall cease and be converted to Class A membership upon the happening of the earliest of the following to occur:

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

(b) Two (2) years from the date of the first conveyance of a subdivision interest in the Project.

4.1.5 Any provision in this Declaration, the Articles, Bylaws and Rules and Regulations of the Association calling for membership approval of action to be taken by the Association, except provisions with respect to the action to enforce the obligations of the Declarant under any completion bond, shall expressly require the vote or written assent of the prescribed percentage of each class of membership during the time that there are two outstanding classes of membership. Any requirement elsewhere in the Articles, Bylaws, and Declaration, except with respect to the action to enforce the obligations of the Declarant under any completion bond, that the vote of the Declarant shall be excluded in any such determination, shall be applicable only if there has been a conversion of Class B Members to Class A Members, and the same shall be read as requiring the vote of the prescribed percentage of the Class A Members and the vote of the prescribed percentage of the Class A Members other than the Declarant.

4.1.6 The voting rights attributed to any given Condominium in the Project as provided for herein, shall not vest until the assessments provided for hereinbelow have been levied by the Association as against said Condominium.

4.1.7 The Association membership held by any Owner of a Condominium shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such Condominium. In the event of such sale or encumbrance, the Association membership may only be transferred, pledged or alienated to a bona fide purchaser of the Condominium, or to the Mortgagee (or third-party purchaser) of such Condominium upon a foreclosure sale. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association.

4.1.8 Membership is not intended to apply to those persons or entities who hold an encumbrance on an interest as security for the performance of an obligation to pay money.

4.1.9 The purpose of the Association is to further and promote the common interests and welfare of its Members, and to operate, preserve and maintain the Project.

ARTICLE 5
POWERS OF THE ASSOCIATION

Section 5.1. **Powers of the Association**. The management and control of the Association's affairs and the Project itself will be the responsibility of the Board of Directors, which is to consist of Members of the Association who will be elected by the total Membership. The Association, in its sole and absolute discretion, and as more fully set forth in its Bylaws, shall have the power to perform the following acts:

5.1.1 The Association shall have the sole and exclusive right and duty to manage, operate, control, repair, replace, or restore, all the improvements, including, but not limited to, landscaping, trees, shrubbery, plants, grass, stairways, hallways, pool, jacuzzi, laundry room, and balcony and patio railings within the Common Area.

5.1.2 The Association shall have the right and power to levy and collect assessments.

5.1.3 The Association shall pay the taxes and assessments, if any, which may be levied by any governmental authority on the Project or any part thereof.

5.1.4 The Association shall maintain a bank account or accounts for funds coming under the control of the Association.

5.1.5 The Association shall have the right and power to adopt and enforce architectural guidelines ("Architectural Guidelines") for the Project.

5.1.6 The Association shall adopt rules and regulations ("Rules and Regulations") that are not inconsistent with the provisions of this Declaration and that are subject to California Civil Code Sections 1357.100 *et seq.* regarding "operating rules." The Rules and Regulations shall include but not be limited to the use of the Common Area and of the Project. The Association shall have the right to regulate, and to limit, on a reasonable basis, the hours of use, and the number of guests and tenants of the Owners using the recreational and other facilities situated within the Common Area. Any such limitation or restrictions shall be set forth in the Rules and Regulations.

5.1.7 The Association shall have the right and power to enforce the provisions of this Declaration; provided, however, that nothing contained herein shall be construed to prohibit enforcement of this Declaration by any Owner.

5.1.8 The Association has the right and power to contract for and maintain fire, casualty, liability, worker's compensation, medical, hospital, and other insurance insuring Owners, members of the Board, and other persons.

5.1.9 The Association has the right and power to contract, provide and pay for (i) maintenance, utility, gardening and other services benefiting the Project; (ii) payment of persons necessary to accomplish the obligations of the Association; and (iii) legal and accounting services.

5.1.10 The Association has the right and power to contract, provide and pay for any commonly metered utilities, such as water utility service, and trash collection, for the common use and benefit of all Owners. In such event, each Owner shall pay a proportionate share of the costs thereof as a part of the annual assessments.

5.1.11 Notwithstanding any of the foregoing, the Association, acting through its Board, may not enter into any contract binding for a term longer than one (1) year from the effective date thereof without the vote or written consent of a majority of the voting power of the Members of the Association other than the Declarant, except as specifically authorized herein or in the Articles or Bylaws.

5.1.12 The Association has the right and power to contract and pay for the purchase of tools, equipment, materials, supplies and other personal property and services for the maintenance and repair of the facilities and improvements of the Project.

5.1.13 The Association has the right and power to contract and pay for reconstruction of any portion or portions of the Project damaged or destroyed.

5.1.14 The Association has the right and power to delegate its powers to others where such delegation is proper.

5.1.15 The Association has the right and power to prosecute or defend, and to perform any act reasonably necessary to resolve by alternative dispute resolution proceedings, under the name of the Association, any action affecting or relating to the Project or the personal property thereon, or any action in which all of the Owners have an interest in the subject of the action.

5.1.16 Subject to the vote or written consent therefor from a majority of the voting power of the membership, excluding the vote of the Declarant, the Association may borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

5.1.17 The Association may do any and all things that a nonprofit mutual benefit corporation organized under the laws of the State of California may lawfully do, and generally may do and perform any and all other acts which may be either necessary for, or incidental to, the exercise of any of the foregoing powers, and any other such powers as are granted by the provisions of the laws of the State of California to such a corporation.

5.1.18 The Association may acquire by gift, purchase or otherwise, own, hold, enjoy, lease, operate, maintain, convey, sell, transfer, mortgage, or otherwise encumber, dedicate for public use, or otherwise dispose of real and personal property in connection with the business of the Association; provided, however, that the Association shall not in any fiscal year acquire or sell any real property by purchase or lease having an aggregate fair market value in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without first obtaining the vote or written consent therefor from a majority of the voting power of the membership, excluding the vote of the Declarant. Only with the approving vote or written consent therefor from sixty-six and two-thirds percent (66-2/3%) of the voting power of the membership, may the Association grant to an Owner an easement for the exclusive use of any portion of the Common Area, except as otherwise permitted by Section 1363.07 of the California Civil Code.

5.1.19 The Association shall have the right and power to suspend a Member's voting rights and the right to use the Common Area and recreational facilities, if any, for any period during which any assessment against such Member's Condominium remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the Rules and Regulations of the Association, provided that any suspension of such voting rights or right to use the recreational facilities, except for failure to pay assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the Bylaws of the Association.

5.1.20 The Association may not cause a forfeiture of an Owner's right to use and enjoy such Owner's Condominium for failure of a Member to comply with the provisions of this Declaration, or the Bylaws or Rules and Regulations of the Association, except (1) by judgment of a court or decision arising out of arbitration, or (2) on account of a foreclosure or sale under a power of sale for failure of the Owner to pay assessments duly levied by the Association, as set forth in Article 8 hereof.

5.1.21 The Association may take any and all lawful action which may be advisable, proper, authorized or permitted by the Association under and by virtue of any condition, covenant, restriction, reservation, charge or assessment affecting the Project, or any portion thereof, and to do and perform any and all acts which may be either necessary for or incidental to the exercise of any of the foregoing powers, or for the peace, health, comfort, safety or general welfare of its Members.

5.1.22 The Association, through its duly authorized agents or employees, shall have the right after reasonable notice to the Owner to enter into any Unit in the Project for the purpose of maintaining and repairing the Common Area, as authorized herein.

5.1.23 The Association, through its duly authorized agents or employees, shall also have the right to enter into any Unit, without the necessity of advance notice, in order to effect emergency or other repairs necessary to mitigate or prevent damage, which the Owner thereof has failed to perform.

5.1.24 The Association may impose monetary penalties upon Owners as a disciplinary measure (1) for failure of an Owner to comply with this Declaration or the Bylaws or Rules and Regulations of the Association, or (2) as a means of reimbursing the Association for costs incurred by the Association in the repair of damages to Common Areas and facilities for which the Owner is allegedly responsible, or (3) to bring an Owner or its Condominium into compliance with this Declaration or the Bylaws or Rules and Regulations of the Association.

5.1.25 The Association shall comply with the rules relating to voting and election procedures set forth in Article 11 of the Bylaws of the Association, in accordance with the provisions and requirements of California Civil Code Section 1363.03.

Section 5.2. Fidelity Bond. The Association shall maintain a fidelity bond or insurance in an amount at least equal to the sum of three (3) months' assessments on all Units in the Project which names the Association as obligee and insures against loss by reason of acts of members of the Board of Directors, officers and employees of the Association and any management agent and its employees, whether or not such persons are compensated for their services.

Section 5.3. Membership Meetings.

5.3.1 Meetings of the membership of the Association shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. Notwithstanding any other provision of law, notice of meetings of the Members shall specify those matters the Board intends to present for action by the Members but, except as otherwise provided by Law, any proper matter may be presented at the meeting for action. Members of the Association shall have access to Association records in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the California Corporations Code. Any Member of the Association may attend meetings of the Board of Directors of the Association, except when the Board adjourns to executive session to consider litigation, matters that relate to the formation of contracts with third parties, Member discipline, or personnel matters. Any matter discussed in executive session shall be generally noted in the minutes of the Board of Directors. In any matter relating to the discipline of a

Member, the Board of Directors shall meet in executive session if requested by that Member, and the Member shall be entitled to attend the executive session. For a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, in addition to Declarant's rights as an Owner and a Member, Declarant shall be entitled to access to the Association books and records, including maintenance records, and to attend and speak at meetings of the Board of Directors and meetings of the Members. Any comments made by Declarant at any meeting shall be accurately noted in the minutes prepared for such meetings.

5.3.2 The minutes, minutes proposed for adoption that are marked to indicate draft status or a summary of the minutes, of any meeting of the Board of Directors of the Association, other than an executive session, shall be available to Members within thirty (30) days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any Member of the Association upon request and upon reimbursement of the Association's costs in making that distribution. For a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, Declarant shall have the right to receive all distributions of minutes, proposed minutes or summary minutes upon request and reimbursement of the Association's actual copying and mailing costs for making the distribution to Declarant.

5.3.3 Members of the Association shall be notified in writing at the time that the Budget required in Section 16.2 below is distributed or at the time of any general mailing to the entire membership of the Association of their right to have copies of the minutes of meetings of the Board of Directors and how and where those minutes may be obtained, and the cost of obtaining such copies. For a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, Declarant shall also receive notice of its right to have copies of the minutes of meetings and how to obtain such minutes.

ARTICLE 6
MANAGEMENT OF THE PROJECT

Section 6.1. **Management Responsibility**. The management and complete control of the Association's affairs and the Project itself will be the direct responsibility of the Board of Directors, which is to consist of Members of the Association who will be elected by the total membership of the Association.

6.1.1 The Association's responsibility to maintain the Common Area shall commence concurrently with the recordation of the first Grant Deed conveying a Condominium to an Owner. Notwithstanding the foregoing, if the contractors or subcontractors of Declarant are contractually obligated to maintain or warrant the landscaping or other improvements on the Common Area for a specified period in which said contractors or subcontractors shall perform such maintenance, the Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. Maintenance performed by such contractors or subcontractors shall not serve to postpone the commencement of assessments pursuant to this Declaration, nor entitle an Owner to claim any offset or reduction in the amount of such assessments.

6.1.2 The nature, design, quality and quantity of all improvements in the Common Area shall be determined by Declarant in its sole discretion. The Association shall be obligated to accept, and shall assume and undertake, all maintenance responsibilities for the Common Area when title is conveyed to the first Owner and/or maintenance responsibilities are tendered by Declarant. In the event that a dispute arises between Declarant and the Association with respect to the nature, design, quality or quantity of the improvements in the Common Area, or the acceptance of maintenance responsibilities therefor, the Association shall be obligated to accept, assume and undertake maintenance responsibilities pending resolution of the dispute, in accordance with the provisions set forth in the Article herein entitled "Dispute Mechanism."

Section 6.2. Powers of Board. The Board shall have all the rights and powers of the Association as they are delineated in Article 5 of this Declaration and as are further provided in the Bylaws of the Association.

Section 6.3. Manager. The Board may delegate its responsibility for the everyday management of the Project to a manager or management company, if it so chooses. Notwithstanding any of the foregoing, if a manager or management company is chosen to manage the Project, it will be responsive to the dictates of the Board.

Section 6.4. Extent of Declarant's Management and Control. Declarant will manage and control the Project until such time that the Board has its first meeting.

ARTICLE 7
ASSESSMENTS

Section 7.1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Condominium owned 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: (1) annual assessments or charges, and (2) special assessments as provided in Section 7.5 below, such assessments to be established and collected as so directed by the Board of Directors. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such assessment is made, the lien to be effective upon recordation of a Notice of Delinquent Assessment. Each such assessment, together with interest, costs and reasonable attorneys' fees, 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 not pass to any successors in title unless expressly assumed by them.

Section 7.2. Purpose of Assessments. The annual assessments levied by the Association through the Board shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Project and for the maintenance of the Common Area and the recreational facilities thereon. The Association shall maintain an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis, and such reserve shall be funded by annual assessments.

Section 7.3. **Variable Rate of Assessment**. Except as otherwise provided in Sections 7.5 and 14.3, both annual and special assessments shall contain a fixed component to be fixed at a uniform rate for all Units, and a variable component based upon the ratio of the square footage of living area of each Unit to the total square footage of the living area of all of the Units in the Project, as such square footages are established in the approved Budgets of the Association. The variable component shall include, without limitation, domestic water (if common), domestic gas (if common), insurance, roof, and paint, as identified in the approved Budget of the Association. All annual and special assessments shall be collected on a monthly basis, or as otherwise determined by the Board of Directors.

Section 7.4. **Maximum Annual Assessment**. The Board of Directors shall abide by the hereinafter provisions for establishing the maximum annual assessments.

7.4.1 Until the first day of the fiscal year immediately following the conveyance of the first Condominium to an Owner, the maximum annual assessment for each Condominium shall be as provided for in the budget approved by the California Department of Real Estate and disclosed in the Final Subdivision Public Report, and any amendments thereto.

7.4.2 From and after the first day of the fiscal year immediately following the conveyance of the first Condominium to an Owner, the maximum annual assessment may be increased effective the first day of each fiscal year by the Board of the Association without a vote of the membership, provided that (i) any such increase shall not be more than twenty percent (20%) of the previous year's assessment, and (ii) the Board of Directors has complied with Section 16.2 below with respect to that fiscal year, including, but not limited to, the preparation and distribution of a pro forma operating budget to all members of the Association as provided in Section 16.2 below, or has obtained the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the California Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, "quorum" means more than fifty percent (50%) of the Owners of the Association. Such annual assessment shall continue in effect for the following twelve (12) calendar months, which period shall be deemed to be the assessment period.

7.4.3 From and after the first day of the fiscal year immediately following the conveyance of the first Condominium to an Owner, the maximum annual assessment may be increased by the Board in an amount greater than that provided for in Section 7.4.2 hereof for the next succeeding twelve (12) months and at the end of each such period for each succeeding period of twelve (12) months, provided that (i) any such change shall be approved by the vote or written consent of at least a majority of the voting power of the Members constituting a quorum and (ii) provided that the Board of Directors has prepared and distributed a pro forma operating budget to all members of the Association as provided in Section 16.2 below. For the purposes of this Article 7, quorum means more than fifty percent (50%) of the Owners of the Association. The Association shall provide notice by first-class mail to each Owner of any increase in the regular assessments of the Association, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due.

7.4.4 Said maximum assessment may be reduced by maintenance or subsidy agreements approved by the California Department of Real Estate and reflected in the Final Subdivision Public Report.

7.4.5 After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at a lesser amount than provided for above.

Section 7.5. **Special Assessments**. In any fiscal year, the Board of Directors may not, without the vote or written consent of a majority of the voting power of the Members constituting a quorum, levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or otherwise, which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. The above provisions with respect to special assessments do not apply in the case where a monetary penalty is imposed against a Member as a disciplinary measure imposed by the Association for the following reasons: (1) for failure of an Owner to comply with this Declaration, or the Bylaws or Rules and Regulations of the Association, or (2) as a means of reimbursing the Association for costs incurred by the Association in the mitigation, remediation and/or repair of damages to Common Areas and facilities for which the Owner is allegedly responsible, or (3) to bring an Owner or its Condominium into compliance with provisions of this Declaration or the Bylaws or Rules and Regulations of the Association. The Association shall provide notice by first-class mail to each Owner of any increase in the special assessments of the Association, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due.

Section 7.6. **Notice and Quorum for Actions Regarding Assessments**. Any action authorized under Sections 7.4.2 and 7.5 shall be taken at a meeting duly called for that purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than ninety (90) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite percent for passage, Members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the Board of Directors not later than thirty (30) days from the date of such meeting.

Section 7.7. **Date of Commencement of Annual Assessments; Due Dates**. The annual assessments provided for herein shall commence as to all Condominiums covered by this Declaration on the first day of the month following the conveyance of the first Condominium to an individual Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Condominium at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Condominium have been paid.

Section 7.8. Assessment Limitation Not Applicable. The limitation on percentage increases of annual assessments shall not limit assessment increases by the Board for the following emergency situations:

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

(b) 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 property is discovered.

(c) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro-forma operating budget pursuant to Article 16 hereof. However, prior to the imposition or collection of an assessment under this subparagraph (c), 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 resolutions shall be distributed to the members with the notice of assessment.

Section 7.9. Association Statement at Transfer of Title. At the request of any Owner transferring title to such Owner's Condominium, the Association shall provide (i) 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's Condominium which are unpaid on the date of the statement, and (ii) any change in the Association's current regular and special assessments and fees which have been approved by the Association's Board of Directors, but have not become due and payable as of the date disclosure is provided pursuant to this Section.

ARTICLE 8
EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION

Section 8.1. Assessment As Debt; Late Charges. Any assessment made in accordance with this Declaration shall be a debt of the Owner of a Condominium from the time the assessment is levied. With respect to each assessment not received by the Association within fifteen (15) days after its due date, the Board may, at its election, require the Owner to pay a late charge in a sum to be determined by the Board, but not to exceed ten percent (10%) or Ten Dollars ($10.00), whichever is greater. A late charge may not be imposed more than once on any delinquent assessment, but it shall not eliminate or supersede any charges imposed on prior delinquent assessments. If any such assessment is not paid within thirty (30) days after the date said assessment is due, the assessment shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay same, and in addition thereto, or in lieu thereof, after the expiration of thirty (30) days following recordation thereof, may foreclose the lien provided herein below against the Condominium.

Section 8.2. **Delinquent Assessments**. Any assessment not received by the Association within fifteen (15) days after the due date shall be delinquent. At least thirty (30) days before the Association may place a lien upon the Condominium of an Owner as provided herein, the Association shall notify such Owner in writing by certified mail of the fee and penalty procedures of the Association, provide an itemized statement which indicates the principal amount owed, any late charges and the method of calculation, any attorney's fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. The amount of any such delinquent assessment or installment, together with any accompanying late charges, interest, costs (including reasonable attorneys' fees), and penalties, as provided for in this Declaration, shall be and become a lien on the Condominium against which the assessment is levied when the Association causes to be recorded a Notice of Delinquent Assessment ("Notice") in the office of the County Recorder of the County in which the Condominium is located. The Notice shall describe the amount of such delinquent assessment or installment and such other charges thereon as may be authorized by this Declaration, a legal description of the Condominium against which the same has been assessed, the name of the Owner, and, if the lien is to be enforced by the power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. Such Notice shall be signed by the president or vice-president, and the secretary or assistant secretary of the Association or any employee or agent of the Association authorized to do so by the Board and shall be mailed in the manner set forth in California Civil Code Section 2924b to all record owners of the Owner's interest in the Condominium no later than ten (10) calendar days after recordation. Said Notice shall be recorded along with a legal description of the Condominium Unit against which said assessment is levied and the name of the record Owner of said Condominium Unit. Unless the Board considers the immediate recording of the Notice to be in the best interests of the Association, the Notice shall not be recorded until fifteen (15) calendar days after the Association has delivered the above-described required written notice of default. Any payments received by the Association on account of such a debt shall first be applied to the principal amount owed, and only after the principal amount owed is paid in full shall such payments be applied to interest or collection expenses. If the delinquent assessment or installment and related charges are paid or otherwise satisfied, the Association shall record a notice of satisfaction and release of lien. Notwithstanding anything to the contrary herein, and in accordance with California Civil Code Sections 1365.1, 1367.1 and 1367.4, an Owner may dispute an assessment debt by submitting to the Board a written request for dispute resolution, and in the event such a request is made, the Association may not initiate foreclosure without participation in an alternative dispute resolution proceeding. In no event shall the Association proceed with judicial or non-judicial foreclosure to enforce any lien if the amount of the delinquent assessments, exclusive of any interest, cost of collection, late fees and other charges, is less than eighteen hundred dollars ($1,800.00), until such debt has been delinquent for more than twelve (12) months. The decision to record a lien for delinquent assessments shall be made only by a majority vote of the Board in an executive session, held at least thirty (30) days prior to any public sale. The Board shall record the vote in the minutes of the next meeting of the Board open to all Members.

Section 8.3. **Enforcement of Assessment Lien**. The Board may, after the expiration of thirty (30) days following recordation thereof, enforce any assessment lien provided for in Section 8.2, hereinabove, which is in excess of eighteen hundred dollars ($1,800.00), or more than twelve (12) months delinquent, by filing an action for judicial foreclosure or, if the Notice contained the name and address of the trustee authorized by the Association to enforce the lien by nonjudicial foreclosure, by recording a notice of default in the form described in California Civil Code Section 2924c(b)(1) to commence a nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted in accordance with the requirements of California Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h that apply to nonjudicial foreclosures of Mortgages or deeds of trust. The sale shall be conducted by the trustee named in the Notice of Delinquent Assessment or by a trustee substituted in accordance with the provisions of the California Civil Code. The Association may bid on the Condominium at the sale, and may hold, lease, mortgage, and convey the acquired Condominium. If the default is cured before the sale, or before completing a judicial foreclosure, including payment of all costs and expenses incurred by the Association, the Association shall record a Notice of Satisfaction and Release of Lien, and on receipt of a written request by the Owner, a Notice of Rescission of the Declaration of Default and Demand for Sale. Suit to recover a money judgment for unpaid assessments, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. Notwithstanding any provision in the law or in this Declaration to the contrary, a non-judicial foreclosure by the Association to collect upon a debt for delinquent assessments shall be subject to the right of redemption, as provided in California Civil Code Section 1367.4, which right shall run for a period of ninety (90) days after the sale.

Section 8.4. Monetary Penalty. A monetary penalty imposed by the Association as a disciplinary measure for (a) failure of an Owner to comply with this Declaration, and the Articles, Bylaws or Rules and Regulations of the Association, or (b) as a means of reimbursing the Association for costs incurred by the Association in the mitigation, remediation and/or repair of damages to the Common Area and facilities for which the Owner or the Owner's guests or tenants is allegedly responsible, or (c) to bring an Owner or its Condominium into compliance with this Declaration, and the Articles, Bylaws or Rules and Regulations of the Association shall not be treated as an assessment which may become a lien against the Owner's Condominium enforceable by a sale of the Condominium in accordance with the provisions of Sections 2924, 2924b and 2924c of the California Civil Code. This paragraph shall not apply to charges imposed against an Owner which are reasonable late payment penalties for delinquent assessments nor charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments.

Section 8.5. Power to Bring Actions; Arbitration. In addition to the lien power described hereinabove, each Owner vests in the Association or its assigns, the right and power to bring all actions at law against such Owner or other Owners for the collection of delinquent assessments. In lieu of bringing an action at law to collect delinquent assessments, the Association may submit the matter to arbitration pursuant to the Rules of the American Arbitration Association. The decision of the arbitrator on such delinquent assessment shall be binding on both the Association and the delinquent Owner and may be enforced in any court of competent jurisdiction. The fee to initiate such arbitration shall be paid by the Association and shall be recoverable as part of the arbitration award, in addition to the late charges and interest on the delinquent assessment as provided above.

ARTICLE 9
ARCHITECTURAL CONTROL COMMITTEE

Section 9.1. **Submissions and Approvals Required**. No building, fence, wall, landscaping or other structure (collectively, "Improvement") shall be commenced, erected or maintained upon the Project, nor shall any exterior addition, change or alteration therein, be made until full, complete and legible plans and specifications, in form acceptable to the Board or the Architectural Control Committee, showing the nature, kind, shape, height, materials and location of the same shall have been submitted either by personal delivery or by certified mail, return receipt requested, to and approved in writing by the Architectural Control Committee ("Committee"). The Committee may designate an agent (e.g., an architect) for the purpose of assisting in the review of such location plans and specifications or other requests and may charge the Owner making a submission its reasonable costs of such agent's review. Approval shall be by majority vote of the Committee. In the event said Committee or its designated representatives fails to approve or disapprove such design and location within sixty (60) days after said complete plans and specifications, with all required documents in acceptable form, have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

9.1.1 In making its decisions hereunder, the Committee shall, among other matters, consider the following: (a) whether the proposed improvements will impair the structural integrity of the Project, (b) whether the proposed improvements will adversely impact or increase the costs of operating the heating, ventilating and/or air conditioning system or the plumbing, electrical or mechanical systems in the Project, or increase the cost of insurance for the Project, (c) whether the proposed improvements are in compliance with the acoustical standards set forth below, or will adversely impact the sound insulation or sound transmissions within the Project, and (d) whether the proposed Improvements comply with the Applicable Building Laws (as defined below). All questions of interpretation or construction of any of the terms or conditions herein or in the Architectural Guidelines shall be resolved by the Committee.

9.1.2 If the Committee disapproves any proposed Improvement or the plans and specifications submitted by an Owner pursuant to this Article, it shall give written notice of such disapproval to applicant, including both an explanation of why the proposed Improvement was disapproved, and a description of the procedure for reconsideration by appeal to the Board. The applicant may appeal the disapproval to the Board unless the decision to disapprove was originally made by the Board, or a body with the same membership as the Board, at an open meeting held in accordance with the provisions of California Civil Code Section 1363.05. The appeal shall be made by filing a written request for reconsideration by the Board with the Secretary or the management company for the Association, as applicable. The Board must receive the written request for reconsideration not more than thirty (30) days following the final decision of the Committee. The Board shall include the request for reconsideration on the agenda for its next regularly scheduled Board meeting, to be held not less than ten (10) days and not more than ninety (90) days after its receipt of such request. If no regular Board meeting is scheduled within such period, the Board shall schedule a special meeting of the Board within such period to consider the appeal. The decision of the Board after reconsideration of the disapproval at such open meeting shall be binding and final.

9.1.3 Each Owner shall be responsible for obtaining all necessary approvals or permits from applicable governmental entities or agencies and shall comply with all laws, codes and regulations concerning the construction of any such Improvement.

9.1.4 Any Owner who desires to modify such Owner's Unit shall be the sole responsible party, and hereby covenants to take whatever actions are necessary, including hiring consultants/experts to advise such Owner, the Association and the Committee whether any proposed modifications to an Owner's Unit ("Modifications") are in full compliance with any governing provision of law, including, but not limited to, the Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), any applicable building codes, and/or any other applicable laws governing land use or public safety ("Applicable Building Laws"). Any such Owner shall represent and warrant to the Association and the Committee, in a signed certificate, the form and substance of which are reasonably acceptable to the Board, that the Modifications are in full compliance with any and all Applicable Building Laws, and shall indemnify, defend and hold Declarant, Board, Association and Committee ("Indemnified Parties") harmless from any and all liabilities, fines, sanctions, costs and expenses, including attorneys' fees and costs, levied against or incurred by any or all of the Indemnified Parties resulting from any violation of the above covenant, representation and warranty by such Owner.

9.1.5 The approval by 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.

9.1.6 A copy of the Architectural Guidelines, if any have been adopted, or, if none, a written notice of the requirements for Association approval of physical changes to a Unit that are subject to this Article, shall be annually delivered to the Members during the sixty (60) day period immediately preceding the beginning of the Association's fiscal year. Such written notice shall include a copy of the procedures used for architectural review of an application for a proposed change under this Article.

Section 9.2. **Appointment of Committee**. The Committee shall be established to control structural and landscaping architecture and design within the Project and shall consist of not less than three (3) members nor more than five (5) members. Declarant may appoint all of the original members of the Committee and all replacements until the first (1^{st}) anniversary of the original issuance of the Final Subdivision Public Report for the Project. Thereafter, Declarant may appoint a majority of the members of the Committee until ninety percent (90%) of the Units in the Project have been sold or until the fifth (5^{th}) anniversary of the original issuance of the Final Subdivision Public Report for the Project, whichever first occurs. After one (1) year from the date of the original issuance of the Final Subdivision Public Report for the Project, the Board of Directors of the Association shall have the power to appoint one member to the Committee until ninety percent (90%) of the Units in the Project have been sold or until the fifth (5^{th}) anniversary of the original issuance of the Final Subdivision Public Report for the Project, whichever first occurs. Thereafter, the Board of Directors of the Association shall have the power to appoint all of the members of the Committee. Members appointed to the need not be Members of the Association.

<u>Section 9.3.</u> <u>Initial Construction by Declarant</u>. The provisions of this Article shall not apply to the initial construction by Declarant, and neither the Board nor any committee appointed by the Board shall have any right to approve or disapprove such initial construction by Declarant.

<u>Section 9.4.</u> <u>Non-Liability of Committee Members</u>. Neither Declarant, the Association, the Board or the Committee, or the members or designated representatives thereof, shall be liable for damages to any Owner submitting plans or specifications to them for approval, or to any Owner in the Project affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance, unless due to willful misconduct or bad faith of the Committee. The Committee's approval or disapproval of a submission shall be based solely on the considerations set forth in this Article, and in such rules and regulations as may be promulgated by the Committee, and the Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plans or design from the standpoint of structural safety and conformance with building or other codes, which responsibility, pursuant to Section 9.1.3 hereof, shall be the sole responsibility of Owner.

<u>Section 9.5.</u> <u>Sound Transmission Control</u>. Each Owner must ensure that any changes to the Unit (especially plumbing and flooring) shall not have the effect of increasing the level of noise or sounds that can be heard outside of the Unit above a sound level (impact and airborne sounds) of 55 dB(A).

9.5.1 <u>Floors</u>. All changes to floors separating Units (tile, hardwood, stone, carpet, etc.) must provide code-compliant sound control properties for airborne and impact sound insulation. In addition, the floor/ceiling assemblies must satisfy the higher sound control requirements established for the Project as set forth herein. The impact sound insulation rating of the floor ceiling assemblies after installation must be Field Impact Insulation Class (FIIC) 50 or higher. Airborne sound isolation rating thereof must be Noise Isolation Class (NIC) 52 or higher.

9.5.2 <u>Walls</u>. Walls must provide an airborne sound insulation sufficient to meet a Noise Isolation Class (NIC) rating of 52.

9.5.3 <u>Plumbing</u>. All plumbing must be properly insulated for sound and isolated from studs, joints, and penetrations.

9.5.4 <u>Penetrations</u>. Penetrations or openings for piping, electrical devices, recessed cabinets, bathtubs, soffits or heating, ventilating or exhaust ducts shall be sealed, lined, insulated, or otherwise treated to maintain the required sound insulation ratings.

9.5.5 <u>Required Testing</u>. All alterations to walls and floors must be field tested under the supervision of a person experienced in the field of acoustical testing to determine compliance with the minimum sound control standards set forth herein. Non-compliant systems must be promptly brought into conformance or removed and replaced with approved materials/assemblies.

ARTICLE 10
RESPONSIBILITIES OF THE ASSOCIATION, WITH SPECIFIC REFERENCE TO THE COMMON AREAS

Section 10.1. Association Maintenance. The Association shall be responsible for the maintenance and preservation of the exterior appearance of the Project. The Association will be responsible for the maintenance, repair, replacement, irrigation, landscaping and preservation of the appearance of the Common Area in strict compliance with the Maintenance Manual provided to the Board of Directors of the Association by Declarant ("Maintenance Manual"), and in accordance with all commonly accepted maintenance practices. To ensure compliance with the requirements of the Maintenance Manual, for a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report Declarant shall have the right, but not the obligation, at its own cost and expense, to retain the services of appropriate consultant(s) to (a) prepare, update and keep current, the Maintenance Manual for the Association maintenance, repair and replacement of the Common Area, (b) conduct annual inspections of all elements of the Common Area covered by the Maintenance Manual, and (c) prepare a report covering the results of such inspections and deliver such report to Declarant and to the Association. Declarant hereby reserves non-exclusive easements on, over, under, across and through all Common Area within the Project, for the purpose of such inspections and activities related thereto. The Association shall provide Declarant's consultant(s) with copies of its maintenance log, and related records reasonably requested by such consultant(s), at least thirty (30) days prior to the date scheduled for the Declarant's annual inspection. Declarant shall provide any updates to the Maintenance Manual to the Association. The Association shall cause such Common Area, to be regularly maintained, painted, repaired, and/or replaced in accordance with the requirements and recommendations of the Maintenance Manual, as revised from time to time, and shall perform all remedial maintenance in accordance with the recommendations of the annual inspection reports prepared by Declarant's consultant(s). The provisions of this Section shall not be amended without the prior written consent of Declarant.

Section 10.2. Maintenance Manual Compliance. The Association has the duty and obligation, along with the attendant rights and power to carry out the Declarant's and its consultant(s)' required maintenance of the Common Area, as set forth in the Maintenance Manual. The Board shall regularly determine whether the recommended inspections and maintenance activities have been followed, and if any such recommendations have not been followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Common Area. The Board shall keep a record of such determinations in the Board's minutes. The Board shall review the Maintenance Manual for any needed appropriate revisions at appropriate intervals, but in no event less frequently than annually, and shall make appropriate recommendations to Declarant and Declarant's consultant(s) for revisions to the Maintenance Manual within thirty (30) days of its determination that revisions to the Maintenance Manual should be recommended to Declarant.

Section 10.3. Association Inspections. If in any year Declarant elects not to perform an annual maintenance inspection as provided for in Section 10.1 above, the Board shall have the duty and obligation to cause an inspection and report to be made in accordance with the provisions hereof. The Board's annual inspections shall (i) determine whether the Common Area is being maintained adequately in accordance with the standards of maintenance established herein and by the Maintenance Manual, (ii) identify the condition of the Common Area, including the existence of any hazards or defects, and the need for performing additional maintenance, repair, refurbishing or replacement, and (iii) recommend preventative actions, which may be taken to reduce potential maintenance costs to be incurred in the future. The Association may employ such experts and consultants as necessary to perform such inspections. Within thirty (30) after the Board's annual inspection, the Board shall have a report of the results of the inspection prepared, and such report shall include the following: (i) a description of the condition of the Common Area, including a list of items inspected and the status of maintenance, repair and need for replacement of all such items; (ii) a description of all maintenance, repair and replacement planned for the ensuing fiscal year; and (iii) if any maintenance, repair or replacement is to be deferred, an explanation must be given for such deferral; (iv) a summary of all reports of inspections performed by any expert or consultant employed by the Association to perform inspections; (v) a report of the status of compliance with the maintenance, replacement and repair needs set forth in all inspection reports from Declarant's consultant(s) and of its own inspection, for preceding years; and (vi) such other matters as the Board deems appropriate. The Board shall promptly cause a copy of each inspection report prepared in accordance with this Section to be delivered to Declarant. The Association's obligations under this Section shall continue until the expiration of the ten (10) year period following the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report. The requirements of this Section are in addition to the Board's obligations to perform ongoing reserve studies as required by Section 16.2.4. The provisions of this Section shall not be amended without the prior written consent of Declarant.

Section 10.4. **Owner Maintenance**. Notwithstanding anything to the contrary, the Association shall not be responsible for the exterior maintenance or preservation of the following items: glass surfaces, repairs or replacements arising out of or caused by the willful or negligent act of an Owner, such Owner's family, guests, or invitees, damage caused by flood, earthquake or other Acts of God. Such excluded items shall be the responsibility of each Owner. If an Owner should fail to maintain or make the necessary repairs or replacements which are the responsibility of such Owner, the Association shall have the right, but not the obligation, upon a vote of a majority of the Board of Directors, after not less than thirty (30) days' notice to the Owner, to enter the Condominium and provide such maintenance or make such repairs or replacements as are necessary, the cost thereof to be added to the assessments chargeable to that Condominium.

Section 10.5. **Right to Enter**. The agents or employees of the Association shall have the right to enter upon any Unit where necessary in connection with construction, maintenance or repair for the benefit of the Common Area or the Owners in common.

Section 10.6. **Wood-Destroying Pests**. The Association shall be responsible for the repair and maintenance of those portions of the Common Area damaged or threatened to be damaged by the presence of wood-destroying pests or organisms. The Association may require the prompt, temporary, removal of any occupant of the Project for such periods, and at such times, as may be reasonably necessary for the prompt, effective treatment of areas affected by wood-destroying pests or organisms. The costs of any such temporary relocation during the repair and maintenance by the Association shall be borne by the affected Owners and not by the Association. The Association shall give written notice of the need to temporarily vacate a Unit to the occupants and to the Owner, not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation, including the proposed date and time of the beginning of treatment, and the anticipated date and time of termination of treatment, and that the occupants of such Residential Unit will be responsible for their own accommodations during the temporary relocation. Notice by the Association shall be deemed complete upon either:

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

(b) By sending a copy of the notice to the occupants at the Unit address and a copy of the notice to the Owner, if different than the occupants, by first-class mail, postage prepaid at the most current address shown on the books of the Association.

ARTICLE 11
USE RESTRICTIONS

Section 11.1. Use Restrictions. In addition to all other covenants contained herein, the use and enjoyment of the Project and each Condominium therein shall be subject to the following:

11.1.1 Restriction on Non-Residential Uses. No Condominium shall be occupied and used except for residential purposes by the Owners, their tenants, and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns, may use any Unit or Units in the Project owned by Declarant for a model home site or sites and display and sales office until the last Unit is sold by Declarant. No tent, shack, trailer, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

11.1.2 Limited Non-Residential Uses Permitted. No part of the Project shall ever be used or caused to be used directly, or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes, except as is so provided in Section 19.2. However, the provisions of this Section shall not preclude professional and administrative occupations within the Project, or other reasonable business activity, which have no signs or other external evidence thereof, for so long as such occupations are in conformance with all applicable governmental ordinances, are merely incidental to the use of the Unit as a residential home, and do not in any manner disturb other occupants or generate pedestrian traffic, deliveries or other nuisance.

11.1.3 Signs. No sign or billboard of any kind shall be displayed by any Owner on any portion of the Project or Condominium, except one sign of reasonable size, advertising that the particular Condominium is for sale or rent, except by Declarant as so provided in Section 19.2. No provision herein shall be read or construed to prohibit the posting or displaying of noncommercial signs, posters, flags, or banners on or in an Owner's separate Unit (not Common Area), except as required for the protection of public health or safety, or if the posting or display would violate a local, state, or federal law. However, no such sign or poster shall exceed nine (9) square feet in size and no such flags or banners shall exceed fifteen (15) square feet in size. Such signs, posters, flags, or banners may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate Unit, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative material or component, or involve the painting of architectural surfaces. All such signs, posters, flags, or banners shall be permitted only so long as they are in good presentable condition. The Association shall have the right and power to impose reasonable restrictions on the duration of the posting or displaying of such signs, posters, flags or banners. Owners are advised to refer to the Rules and Regulations promulgated by the Board.

11.1.4 Nuisances. No noxious or offensive activity shall be carried on in any Condominium or any part of the Project, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of such Owner's respective dwelling Unit, or which shall in any way increase the rate of insurance.

11.1.5 Vehicles and Equipment. No trailer, camper, recreational vehicle, van, boat or similar equipment shall be permitted to remain upon the Project unless placed or maintained within an assigned parking space. No inoperative or unsightly vehicles shall be allowed in the Project. Moving vans, delivery trucks and other similar vehicles shall be permitted upon the Common Area in the course of their normal business operations.

11.1.6 Pets and Animals. An Owner may keep and maintain in such Owner's Unit domesticated pets such as dogs, cats or other usual and ordinary household pets, not to exceed two (2) in number and provided that such pets shall not be allowed in the Common Areas except as may be permitted by the Rules and Regulations which may be promulgated from time to time by the Board. Except as hereinabove provided, no animals, livestock, birds or poultry shall be brought within the Project or kept in any Unit thereof. Owners keeping pets shall be accountable to the other Owners for the acts of such pets, and should any Owner be unable to control barking or other noise or acts of such Owner's pets which disturb such Owner's neighbors, he shall be required to remove such pet from the Project. Each owner of a pet shall forthwith clean up and remove any animal waste such pet may deposit on the Common Area or the property of another Owner. No dog will be allowed on the Common Area without being supervised and on a leash. Any Owner (including such Owner's family, guests and invitees) who maintains any pet, animal, reptile, livestock or other living creature of any kind, within the Project, whether in compliance with this Declaration and the Rules and Regulations or otherwise, shall indemnify, defend and hold the Association harmless from and against any damages, claims, causes of action or losses of any kind or nature, including reasonable attorney's fees and costs, incurred by the Association as a result of any alleged damage or injury caused by such living creature to the Association, to its property, to the Common Area, or to the Members, their family, guests or invitees, or their property.

11.1.7 Oil and Mining Operations Prohibited. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted within the Project, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of or within five hundred (500) feet below the surface of the Project. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted within the Project.

11.1.8 Clotheslines, Woodpiles, Storage, etc. All rubbish, trash and garbage shall be regularly removed from the Project, and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, wood-piles, storage areas, machinery and equipment shall be prohibited unless obscured from view of adjoining Condominiums and streets.

11.1.9 Antennas. No alteration to or modification of the radio and/or television antenna system, as developed by Declarant, shall be permitted. Owners are prohibited from installing any antenna on the exterior of a residence for any purpose, except for an "Authorized Antenna" which may be installed so long as the proposed location for such installation is reviewed and approved by the Committee prior to its installation in order to ensure that the visibility of the Authorized Antenna is minimized with respect to other Owners. The Committee may require that the location of the Authorized Antenna be moved, and the Board may impose additional restrictions on installation or use of an Authorized Antenna, so long as such review by the Committee, or such additional restrictions, do not (a) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (b) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna, or (c) preclude reception of an acceptable quality signal. The Board may prohibit the installation of an Authorized Antenna if the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of managers, agents or employees of the Association and other Owners, or for any other safety related reason established by the Board. The Board may also prohibit the installation of an Authorized Antenna on property to which an Owner does not hold fee title or is not entitled to exclusively use under this Declaration, or may allow an Owner to install an antenna other than an Authorized Antenna subject to the Architectural Guidelines and review and approval by the Committee. An "Authorized Antenna" means an antenna that is (a) designed to receive direct broadcast satellite service, including direct-to-home satellite service and that is one meter or less in diameter, and, (b) that is designed to receive video programming service, including multichannel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and that is one meter or less in diameter, or (c) an antenna that is designed to receive television broadcast signals. Each Owner may maintain individual radio or television antennae systems if located entirely within such Owner's residence and if such system is not visible from other Condominiums or the Common Area, and provided that such system does not interfere with radio and television reception of other Owners within the Project.

11.1.10 Sports Equipment. No exterior roof mounted mechanical equipment, poles or masts shall be constructed on or attached to any residential dwelling or erected or maintained on any Unit, balcony, patio or yard area. No temporary or permanent basketball standard or backboard, or other sports apparatus shall be constructed, erected, installed or maintained on any Residence, Unit, balcony, patio or yard area, or on any Common Area private street or driveway in the Project.

11.1.11 Fences, Walls and Other Similar Improvements. No fences, awnings, ornamental screens, screen doors, sunshades or walls of any kind shall be erected or maintained on or around any portion of any structure or elsewhere within the Project except those that are installed in accordance with the original construction by Declarant, or as are authorized and approved in accordance with Article 9. No gates or other means of access to Common Areas adjacent to a Unit are permitted to be installed in any wall or fence of a Unit. In addition, all fences or walls installed on a Unit after the original construction of the Project by Declarant shall be constructed in accordance with the Architectural Guidelines.

11.1.12 Use of Recreational Facilities. Use of all recreational facilities, if any, in the Project shall be limited to the Owners, tenants (if any), and their guests only. In the event that a Unit is occupied by tenants who therefor have the right to use the recreational facilities, then the non-resident Owner and the Owner's family are not permitted to use the recreational facilities during such tenancy.

11.1.13 Window Coverings. The use of aluminum foil, newspaper, paint, reflective tint as window covering, or any other material deemed unattractive by the Association in its Architectural Guidelines or Rules and Regulations, is prohibited. The Association has the power to permit temporary window coverings, such as white or pastel color sheets, for a limited period of time after the close of escrow and pending the installation of drapes, curtains, shutters or other appropriate interior window coverings. All window coverings shall be of a uniform neutral color harmonious with and not in conflict with the color scheme of the exterior wall surface of the Unit and the Project. Window tinting is not permitted. Window coverings shall be subject to the approval of the Committee.

11.1.14 Holiday Decorations. Outdoor holiday decorations, if permitted, or indoor holiday decorations that are visible from outside, shall be limited to a reasonable period of time prior to the date of the holiday, as determined by the Association, and shall be removed within no more than seven (7) days after such holiday.

11.1.15 Patios and/or Balconies. Wherever a patio and/or balcony is attached to a Unit, the Owner shall not have the right, without the approval of the Board or its designee, to paint, alter, remodel or enclose, any such patio and/or balcony and then only in a manner which does not impair the uniform appearance of such patio and/or balcony in comparison with other patios and/or balconies within the Project. Each Owner shall be responsible to maintain, service, repair and replace all glass doors and windows enclosing such Owner's patios and/or balconies, if any, together with such related parts and equipment as are reasonably necessary. Each Owner of a Unit which has a patio and/or balcony attached to it shall have the right to furnish such patio and/or balcony with attractive outdoor furniture in keeping with the architecture of the Project and reasonable family use, and shall keep such patio and/or balcony in a clean and sanitary condition. In no event shall unsightly objects be placed or stored on a patio and/or balcony where they may be seen by other Owners from their Units, patios and/or balconies or using the Common Areas, or by the public in general.

11.1.16 Noise From Patios and/or Balconies. Each Owner and occupant must be sensitive to and considerate of the rights of other Owners and occupants to the quiet use and enjoyment of their respective Units. The use of the patios and/or balconies in the building must be restricted to reasonable and quiet activities that do not disturb neighbors, and reasonable hours of use. The Board may impose reasonable restrictions on the use of patios and balconies to preserve the peaceful enjoyment by all Owners of their Units, and may adopt a system of monetary penalties and fines to enforce such rules.

11.1.17 Hard Surface Flooring. No Owner shall install any hard surface flooring (including without limitation tile, stone or hardwood floors) or replace any flooring with any hard surface flooring, unless the prior approval of the Committee has been obtained. As a condition to approving the installation or replacement of hard surface flooring, the Owner shall submit to the Committee a construction drawing clearly indicating the type of flooring to be installed and the underlayment material to be provided to mitigate against impact noises such as footfalls and transmission of music and other sounds. The drawing must clearly identify all materials, their composition and thickness, and include a report by an accredited acoustical testing laboratory showing that a test specimen essentially identical to the proposed assembly achieved a Sound Transmission Class (STC) rating of not less than STC-54 and an Impact Insulation Class (IIC) rating of not less than IIC-52. Following approval and installation of the new flooring assembly, a field test conducted under the supervision of a person experienced in the field of acoustical testing shall be performed in each room in which the flooring is installed to determine compliance with the Project requirements of Noise Isolation Class (NIC) 52 or higher and Field Impact Insulation Class (FIIC) 50 or higher. The required field test shall be completed within thirty (30) days after substantial completion of the work, subject to any extensions granted by the Committee or the Board. Non-compliant systems must be promptly brought into conformance or removed and replaced with approved materials/assemblies.

11.1.18 Sound and Vibrations. No Owner shall attach to the walls or ceilings of any Residential Unit any fixtures or equipment that will cause sounds, vibrations or noise or unreasonable annoyance to the Owners of the other Residential Units or to the Common Area.

11.1.19 Water Beds and Aquariums. No waterbeds shall be permitted in any Unit. No Owner can maintain in his or her Unit any aquarium or other similar container holding thirty (30) or more gallons of water. Each Owner acknowledges that substantial damage to other Units and/or Common Area may occur as a result of a violation of this restriction.

11.1.20 Rights of Declarant. Conveyance of a substantial number of the Units is essential to the establishment and welfare of said Project as a residential community. In order that all work necessary to complete the Project and to establish a substantially occupied residential community proceed as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) prevent Declarant, its contractor or subcontractors, from doing work on said Project or any part thereof whenever it determines to be 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 said property owned or controlled by Declarant, its contractors, or subcontractors, such structures as may be reasonably necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same by sale, lease, or otherwise.

(c) Declarant, in exercising its rights hereunder, shall not unreasonably interfere with the Members' use of the Common Area.

11.1.21 Standard of Maintenance. All structures and improvements within the Project shall at all times be maintained by their respective Owners in a clean, first-class and properly painted condition.

ARTICLE 12
SCOPE OF ENFORCEMENT

Section 12.1. Enforcement. The Association or any Owner shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto; provided, however, that with respect to assessment liens, the Association shall have the exclusive right to the enforcement thereof. Failure, by the Association or any Owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The limitations, restrictions, conditions and covenants set forth in this Declaration constitute a general scheme for (1) the maintenance, protection and enhancement of the value of the Project; and (2) the benefit of all Owners. Said limitations, restrictions, conditions and covenants are and shall be covenants running with the land or equitable servitudes, as the case may be. Each remedy provided for in this Declaration shall be cumulative and not exclusive. The result of or condition caused by any violation of any of the provisions of this Declaration is and shall be a nuisance, and every remedy in law or equity now or hereafter available against public or private nuisance may be exercised by any person affected thereby. Any of the foregoing to the contrary notwithstanding, no action to enforce this Declaration shall be instituted unless and until a written notice of such breach setting forth the facts of such breach has been delivered by certified mail to the Owner of such interest. In the event the Association or any Owner or Owners, should commence litigation to enforce any of the provisions of this Declaration, that party, if (s)he should prevail, shall be entitled to have judgment against and recover from any defendant in such litigation, such attorneys' fees as the court may adjudge reasonable and proper.

ARTICLE 13
INSURANCE

Section 13.1. Liability Insurance. A general public liability and property damage insurance policy covering all Common Area shall be purchased by the Board of Directors as promptly as possible following its election and shall be maintained in force at all times, the premium thereon to be paid out of the monies collected from the assessments. The minimum amount of coverage shall be Three Million Dollars ($3,000,000) combined single limit liability for bodily injury to any one person, or property damage, for any one occurrence. The policy shall name all Owners as insureds, including Declarant, during such time as Declarant shall remain the Owner of one or more Condominiums. The manager, if any, shall also be a named insured on such policy, during such time as such manager's agency shall continue. The policy shall insure against injury or damage occurring in the Common Area and, if possible, within the individual Units. The insurance shall also contain a cross-liability endorsement to cover negligent injury by one Owner to another, if reasonably available. For a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, the

Association's obligations under this Section 13.1 to provide summaries of insurance, notices of significant changes in coverage and notice if a policy is not renewed to its Members shall also extend to Declarant. The Association shall prepare and distribute to all Members a summary of the Association's property, general liability, and earthquake and flood insurance policies, which shall be distributed not less than thirty (30) nor more than ninety (90) days preceding the beginning of the Association's fiscal year, that includes all of the following information about each policy: (a) the name of the insurer, (b) the type of insurance, (c) the policy limits of the insurance, and (d) the amount of deductibles, if any. The Association shall, as soon as reasonably practical, notify the Members by first-class mail if any of the policies described in this paragraph have lapsed, been canceled, and are not immediately renewed, restored or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of non-renewal of a policy described in this paragraph, the Association shall immediately notify the Members if replacement coverage will not be in effect by the date the existing coverage will lapse. To the extent that any of the information required to be disclosed pursuant to this paragraph is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all Members. The summary distributed pursuant to this paragraph shall contain in at least 10-point boldface type, the statement required by California Civil Code Section 1365(e)(4).

Section 13.2. Property Insurance. A "Special Form Causes of Loss" property insurance policy (commonly referred to as all-risk or special perils coverage shall also be purchased by the Board as promptly as possible following its election and shall, thereafter, be maintained in force at all times; the premium thereon to be paid out of the monies collected from the assessments. Said insurance shall insure for the full insurable value of all improvements within the Project. Said policy may contain an earthquake damage endorsement if such coverage is determined by the Board to be available at a cost deemed to be in the best interests of the Members. Such policy shall contain replacement cost endorsements and may also contain a stipulated amount clause and determinable cash adjustment clause or similar clause to permit cash settlement covering full value of the improvements in the event of partial destruction and decision not to rebuild. The policy shall be in such amounts as shall be determined from time to time by the Board of Directors. The policy shall name as insureds, all Owners and Declarant, so long as Declarant is the Owner of any Condominiums in the Project, and all Mortgagees of record, as their respective interests may appear.

13.2.1 Said policy shall cover all Units, including but not limited to, insurance for such property as wall and floor coverings, cupboards, cabinets, fixtures and built-in appliances installed by Declarant. Personal property of an Owner and additional fixtures added by an Owner should be insured separately by that Owner.

Section 13.3. Individual Coverage. If available, underlying coverage for individual Units shall be written as part of, or in conjunction with, said master policy where necessary to protect individual lenders. If such coverage is not available, each Owner shall purchase, at such Owner's own expense, and maintain fire and hazard insurance coverage as may be required by such Owner's individual lender. Any such underlying coverage shall contain a replacement cost endorsement, and to the extent available, such other endorsements as may be a part of the master policy. Such insurance shall also contain a loss-payable endorsement to the Mortgagees of individual Units, as their interests shall appear.

Section 13.4. Board as Trustee. All insurance proceeds payable under Sections 13.2 and 13.3 of this Article, and subject to the rights of Mortgagees under Section 13.9 hereof, shall be paid to the Board to be held and expended for the benefit of Owners, Mortgagees and others, as their respective interests shall appear, and be paid out in accordance with this Article 13. In the event repair or reconstruction is authorized, the Board shall have the duty to contract for such work, as provided in Article 14 hereof.

Section 13.5. Other Insurance. The Board may purchase and maintain in force at all times demolition insurance in adequate amounts to cover demolition in the event of destruction and a decision not to rebuild. The premium therefor shall be paid out of the monies collected from the assessments. Such policy, if purchased, shall contain a determinable demolition clause or similar clause, to allow for the coverage of the cost of demolition in the event of destruction and a decision not to rebuild. The Board of Directors shall also purchase and maintain worker's compensation insurance to the extent that the same shall be required by law for employees or Owners. The Board of Directors may also purchase and maintain insurance on commonly owned personal property and such other insurance as it deems necessary, the premium thereof to be paid out of the monies collected from the assessments, including, but not limited to, umbrella or excess liability coverage.

Section 13.6. Fidelity Insurance. The Board of Directors shall maintain the fidelity bond or insurance specified in Section 5.2 hereof. The premium on such bond shall be paid by the Association.

Section 13.7. Owner's Other Insurance. An Owner may carry such additional personal liability and property damage insurance as he may desire respecting such Owner's individual Unit and improvements installed by such Owner in such Owner's Unit or the Exclusive Use Common Area, if any.

Section 13.8. Right of Mortgagees. With respect to insurance coverage under Sections 13.2 and 13.3 hereof, any Mortgagee of record shall have the option to apply insurance proceeds payable to such Mortgagee to reduce the obligation secured by the Mortgage.

Section 13.9. Annual Review. The Board shall review the insurance carried by the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance referred to in Sections 13.1 and 13.2 above. The Board shall obtain a current appraisal of the full replacement value of the improvements in the Project except for foundations and footings, without deduction for depreciation, by a qualified independent insurance appraiser, prior to each such annual review.

ARTICLE 14
DESTRUCTION OF IMPROVEMENTS

Section 14.1. Proceeds Greater Than Eighty-Five Percent (85%) of Cost to Repair. In the event of total or partial destruction of the improvements in the Project, and if the available proceeds of the insurance carried pursuant to Article 13, are sufficient to cover not less than eighty-five percent (85%) of the cost of repair or reconstruction thereof, the same shall be promptly repaired and rebuilt, unless, within ninety (90) days from the date of such destruction, seventy-five percent (75%) of each class of membership present and entitled to vote in person or by proxy, at a duly constituted meeting, determine that such reconstruction shall not take place. If reconstruction is to take place, the Board of Directors shall be required to execute, acknowledge, file and record, not later than one hundred twenty (120) days from the date of said destruction, a certificate declaring the intention of the Owners to rebuild.

Section 14.2. Proceeds Less Than Eighty-Five Percent (85%) of Cost to Repair. If the proceeds of such insurance are less than eighty-five percent (85%) of the cost of reconstruction, such reconstruction may, nevertheless, take place, if within ninety (90) days from the date of said destruction, sixty-six and two-thirds percent (66-2/3%) of each class of membership elect to rebuild.

Section 14.3. Additional Contributions From Owners. If the Owners determine to rebuild, either pursuant to either of Sections 14.1 or 14.2, each Owner shall be obligated to contribute such funds as shall be necessary to pay such Owner's proportionate share of the cost of reconstruction over and above the insurance proceeds, and the proportionate share of each Owner shall be based upon the ratio ~~of the square~~ footage of the floor area of each Unit to the total square footage of floor area of all Units to be rebuilt. In the event of failure or refusal by any Owner to pay such Owner's proportionate share, after notice to, such Owner for a period of sixty (60) days from the due date thereof, the Board of Directors may levy a special assessment against such Owner, which may be enforced under the lien provisions contained in Article 8.

Section 14.4. Association To Contract For Rebuilding. If the Owners determine to rebuild, the Board of Directors shall obtain bids from at least two (2) reputable contractors and shall award construction work to the lowest bidder. The Board of Directors shall have the authority to enter into a written contract with said contractor for such reconstruction and the insurance proceeds held by the Board shall be disbursed to said contractor according to the terms of the agreement. It shall be the obligation of the Board to take all steps necessary to insure the commencement and completion of such reconstruction at the earliest possible date.

Section 14.5. Insufficient Vote to Rebuild. If the vote of the Owners shall be insufficient to authorize rebuilding, pursuant to either of Sections 14.1 or 14.2 above:

14.5.1 Subject to the rights of Mortgagees set forth in Section 13.9, any insurance proceeds available for such rebuilding shall be distributed among the Owners and their individual Mortgagees by the Board, as their respective interests may appear. The proportionate interests of each Owner in said proceeds in relation to other Owners shall be based upon a ratio of each Unit's "fair market value," just prior to destruction. "Fair market value" is to be determined by an independent appraiser.

14.5.2 The Board shall have the duty, within one hundred twenty (120) days of the date of such loss, to execute, acknowledge and record a certificate setting forth the determination of the Owners not to rebuild, and shall promptly cause to be prepared and filed such revised maps and other documents as may be necessary to show the conversion of the Project to the status of unimproved land or to show the elimination of one or more of the Units, as a result of such destruction.

Section 14.6. Revival of Right to Partition. Upon recordation of such certificate, referred to in Section 14.5.2 above, the right of any Owner to partition such Owner's Condominium through legal action shall forthwith revive.

Section 14.7. Arbitration. In the event of a dispute among the Owners, with respect to the provisions of this Article, any Owner may cause the same to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, notice thereof shall be given to the members of the Board and all Owners as promptly as possible after referral to arbitration is made, giving all Owners an opportunity to appear in such arbitration proceedings. The decision of such arbitrator in this matter shall be final and conclusive upon all Owners. The arbitrator may include in its decision an award for costs and/or attorneys' fees against any one or more of the parties to the arbitration.

ARTICLE 15
CONDEMNATION

Section 15.1. Condemnation. In the event that an action for condemnation is proposed or commenced by any governmental body having the right of eminent domain, the following provisions shall apply:

15.1.1 If such action or proposed action is for the condemnation of the entire Project, upon the consent of seventy-five percent (75%) of the Owners, the Project may be sold to such governmental body prior to judgment and the proceeds of such sale shall be distributed to the Owners and their Mortgagees as their respective interests may appear, based upon a ratio of each Unit's "fair market value" to the fair market value of the Project as a whole. ("Fair market value," to be determined by an independent appraiser.) Lacking such consent, the compensation for the taking shall be distributed in like manner, unless said judgment shall, by its terms, apportion such compensation among the individual Owners.

15.1.2 If such action or proposed action is for the condemnation of only a portion of the Common Area, the compensation for the taking shall be distributed to the Owners, as provided in subparagraph 15.1.1 above.

ARTICLE 16
ACCOUNTINGS

Section 16.1. Books, Records and Minutes. The Association shall maintain Association Records in accordance with California Civil Code 1365.2. Association records shall be made available for inspection and copying by a Member, or the Member's designated representative, at the Association's business office within the Project or a place agreed upon by the Association and the Member. Association Records must be made available for Member inspection and copying for the current fiscal year and the previous two (2) fiscal years. Minutes of Member and Board meetings must be made permanently available. Copies of current Association Records must be available within ten (10) business days of receipt of the request for current Association Records or within thirty (30) calendar days of receipt of the request for Association Records prepared during the prior two (2) fiscal years. If the Association and the Member cannot agree upon a place for inspection, or if the Member so requests in writing, the Association may provide copies of the books, records, and minutes by first-class mail within ten (10) days of receiving the Member's request. The Association may bill the Member for the actual cost of copying and mailing, provided the Association notifies the Member of the costs before sending the copies. The Association may withhold or redact information from the books, records, and minutes for any of the following reasons:

(a) The release of the information is likely to lead to the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property;

(b) The release of the information is likely to lead to fraud in connection with the Association;

(c) The information is privileged under law;

(d) The release of information is likely to compromise the privacy of an individual Member; or

(e) The information contains any of the following: (i) Records of a-la-carte goods or services provided to Member for which the Association received monetary consideration other than assessments; (ii) records of disciplinary actions, collection activities, or payment plans of Members other than the Member requesting the records; (iii) Any person's personal identification information, including, without limitation, social security number, tax identification number, driver's license number, credit card account numbers, bank account number, and bank routing number; (iv) agendas, minutes, and other information from executive sessions of the board of directors as described in Section 1363.05, except for executed contracts not otherwise privileged. Privileged contracts shall not include contracts for maintenance, management, or legal services; (v) personnel records other than the payroll records required to be provided; and (vi) interior architectural plans, including security features, for individual homes.

Except as provided by attorney-client privilege, the Association may not withhold or redact information concerning the compensation paid to employees, vendors, or contractors. Compensation information for individual employees shall be set forth by job classification or title, not by any personal information of the employee. The accounting books, records, and minutes, and any information from them may not be sold, used for commercial purposes, or used for any other purpose not reasonably related to a Member's interest as a Member.

In addition to the foregoing, for a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, Declarant shall have the same rights as Owners under this Section 16.1 to inspect, examine and audit the books of the Association.

16.1.2 Commencing not later than ninety (90) days after the close of escrow for the sale of the first Unit, copies of the documents listed below, as soon as readily obtainable, shall be delivered by Declarant to the Board at the office of the Association, or at such other place as the Board shall prescribe. The obligation to deliver the listed documents shall apply to any documents obtained by Declarant no matter when obtained, provided, however, that such obligation shall terminate upon the earlier of (a) the conveyance of the last Unit covered by a subdivision public report or (b) three (3) years after the expiration of the most recent public report, on the Project:

(1) The recorded subdivision map or maps for the Project;

(2) The recorded Condominium Plan, if any, and all amendments thereto;

(3) The deeds and easements executed by Declarant conveying the common area or other interest to the Association, to the extent applicable;

(4) The recorded Declaration, including all amendments and annexations thereto;

(5) The Association's bylaws and all amendments thereto;

(6) The Association's filed Articles of Incorporation, if any, and all amendments thereto;

(7) All Architectural Guidelines and all other rules regulating the use of an Owner's interest in the Project or use of the common area which have been promulgated by the Association;

(8) The plans approved by the local agency or county where the 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;

(9) All notice of completion certificates issued for common area improvements (other than residential structures);

(10) Any bond or other security device in which the Association is the beneficiary;

(11) Any written warranty being transferred to the Association for common area equipment, fixtures or improvements;

(12) Any insurance policy procured for the benefit of the Association, the Board or the common area;

(13) Any lease or contract to which the Association is a party;

(14) The 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

(15) Any instrument referred to in California Business and Professions Code Section 11018.6(d) but not described above which establishes or defines common, mutual or reciprocal rights or responsibilities of Members.

Section 16.2. Budget.

16.2.1 Except as provided in Section 16.2.2, a pro forma operating statement ("Budget") for each fiscal year shall be distributed to each Owner not less than thirty (30) days nor more than ninety (90) days before the beginning of the fiscal year. The Budget shall contain the following information:

(a) Estimated revenue and expenses of the Association for the upcoming fiscal year on an accrual basis;

(b) A summary of the Association's reserves based upon the most recent review or study conducted pursuant to Section 16.2.4 below, based only on assets held in cash or cash equivalents, which shall be printed in bold type and include disclosures in the form required by California Civil Code Section 1365.2.5, and all of the following:

(i) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component within the Common Area;

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

A. The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components within the Common Area;

B. The current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain major components within the Common Area;

(iii) The percentage that the amount determined for purposes of clause B. of subparagraph (ii) above is of the amount determined for purposes of clause A. of subparagraph (ii) above;

(c) A statement as to both of the following:

(i) Whether the Board of Directors of the Association has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component within the Common Area or to provide adequate reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment;

(ii) The mechanism or mechanisms by which the Board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacement or repairs, or alternative mechanisms.

(d) A general statement setting forth the procedures used by the Board of Directors in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and improvements thereon for which the Association is responsible. The report shall include, but need not be limited to, reserve calculations made using the formula described in California Civil Code Section 1365.2.5(b)(4), and may not assume a rate of return on cash reserves in excess of two percent (2%) above the rediscount rate published by the Federal Reserve Bank of San Francisco at the time the calculation is made.

16.2.2 At its sole discretion and in lieu of the procedure set forth in Section 16.2, the Board of Directors may elect to distribute a written summary of the Budget ("Summary") to all Owners not less than thirty (30) days nor more than ninety (90) days, before the beginning of the fiscal year. In addition to the Summary, the Board of Directors shall include a written notice, in at least 10-point bold type on the front page of the Summary, stating that: a) the Budget is available for review at a location within the Project or at the office of the management company for the Association; and b) upon the written request of an Owner, the Association shall mail one copy of the Budget to an Owner. Such Budget shall be mailed at the Association's expense by Pre-paid first class mail and shall be delivered within five (5) days from the date of receipt of such Owner's written request.

16.2.3 The summary of the Association's reserves disclosed pursuant to paragraph 16.2.1 shall not be admissible in evidence to show improper financial management of the Association, provided that other relevant and competent evidence of the financial condition of the Association is not made inadmissible by this provision.

16.2.4 At least once every three (3) years the Board of Directors shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the Project if the current replacement value of the major components within the Common Area which the Association is obligated to repair, replace, restore or maintain is equal to or greater than one-half (½) of the gross Budget of the Association which excludes the Association's reserve account for that period. The Board shall review, or cause to be reviewed, this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The study required hereunder shall at a minimum include:

(a) Identification of the major components within the Common Area 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;

(b) Identification of the probable remaining useful life of the components identified in Section 16.2.4(a) as of the date of the study;

(c) An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified in Section 16.2.4(a);

(d) An estimate of the total 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.

16.2.5 As used in this Article, "reserve accounts" means monies that the Association's Board of Directors has identified for use to defray the future repair or replacement of, or additions to, those major components which the Association is obligated to maintain.

16.2.6 As used in this Article, "reserve account requirements" means the estimated funds which the Association's Board of Directors has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the Association is obligated to maintain.

Section 16.3. Initial Financial Report. 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 date of the closing of the first sale of a Condominium in the Project, and an operating statement for the period from the date of the first closing to said accounting date, shall be distributed to each Owner within sixty (60) days after the accounting date. The operating statement shall include a schedule of assessments received and receivable, identified by the number of the Condominium and the name of the record Owner assessed.

Section 16.4. Annual Report. An annual report consisting of the following shall be distributed to each Owner within one hundred twenty (120) days after the close of the fiscal year:

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

(ii) An operating (income) statement for the fiscal year;

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

(iv) Any information required to be reported under Section 8322 of the California Corporations Code;

(v) A review of the annual report for the Association prepared in accordance with generally accepted accounting principles by an independent licensee of the California State Board of Accountancy (hereinafter "Independent Accountant") for any fiscal year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars ($75,000.00);

(vi) A statement of policies and procedures employed by the Board of Directors to enforce the collection of delinquent assessments.

Section 16.5. Independent Preparation. Ordinarily the annual report referred to in Section 16.4 above shall be prepared by an Independent Accountant for any fiscal year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars ($75,000).

Section 16.6. Copy of Financial Statement. Within ten (10) days of receipt of any written request therefor, the Board of Directors shall furnish any Owner or prospective Owner with a copy of this Declaration, and the Articles, Bylaws and Rules and Regulations of the Association, as amended to date, together with a copy of the Association's most recent annual financial report as described in Section 16.4 hereof, and a true statement of any delinquent assessments, penalties, late charges, attorneys' fees or other charges under this Declaration on such Owner's

Condominium as of the date the statement is issued. The items required to be made available pursuant to this Section may be maintained in electronic form and requesting parties shall have the option of receiving them by electronic transmission or machine readable storage media if the Association maintains these items in electronic form. The Board of Directors may charge a reasonable fee for providing such documents and reports based upon the Association's actual cost to procure, prepare and reproduce same.

Section 16.7. Association Statement. If the report referred to in Section 16.4 above is not prepared by an Independent Accountant, it must be accompanied by the certificate of an authorized officer of the Association stating that the statements were prepared without audit from the books and records of the Association.

Section 16.8. Association's Policies Statement. A statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its Members shall be annually delivered to the Members not less than thirty (30) nor more than ninety (90) days immediately preceding the beginning of the Association's fiscal year.

Section 16.9. Reconciliation of Accounts. The Board of Directors shall do the following 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.

Section 16.10. Reserve Account.

16.10.1 Withdrawal of funds from the Association's reserve account shall require the signatures of either: (1) two members of the Board of Directors, or (2) one member of the Board of Directors and an officer of the Association who is not also a member of the Board of Directors.

16.10.2 The Board of Directors shall not expend funds designated as reserve funds for any purpose other than:

(a) 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, or

(b) litigation involving the purposes set forth in (a) above.

16.10.3 Notwithstanding Section 16.10.2 above, the Board:

(a) may authorize the temporary transfer of money from the reserve account to the Association's operating account to meet short term cash flow requirements or other expenses, if the Board has provided notice of the intent to consider the transfer in a notice of meeting, which shall be provided as specified in California Civil Code Section 1363.05. The notice shall include the reasons the transfer is needed, some of the options for repayment, and whether a special assessment may be considered. If the Board authorizes the transfer, the Board shall issue 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 account;

(b) shall cause the transferred funds to be restored to the reserve account within one (1) year of the date of initial transfer, however, the governing body may, after giving the same notice required for considering a transfer, upon making a documented finding that a temporary delay of restoration of the funds to the reserve account would be in the best interests of the development, temporarily delay the restoration until such time it reasonably determines to be necessary;

(c) shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits specified in (b) above. Any such special assessments shall be subject to the five percent (5%) limitation specified in Section 7.5 above. The Board may, at its discretion, extend the date the payment of 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 account to pay for litigation, the Board shall notify the Members 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 the expenses related to litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's office.

Section 16.11. Transfer of Title. The Board of Directors shall not impose or collect any assessment, penalty or fee in connection with the transfer of title or any other interest except the Board of Directors' actual costs to change its records and the fee for providing documents pursuant to Section 16.6.

ARTICLE 17
MORTGAGEE PROTECTION

Section 17.1. Mortgagee Protection. Notwithstanding any other provisions in this Declaration to the contrary, in order to induce lenders and investors to participate in the financing of the sale of Condominiums in the Project, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions in this Declaration, these added provisions shall control):

17.1.1 No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any first Mortgage (meaning a Mortgage with first priority over any other Mortgage) on any Unit made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

17.1.2 Each holder of a first Mortgage encumbering any Condominium is entitled upon request to timely written notification from the Association of any default by the Mortgagor of such Condominium in the performance of such Mortgagor's obligations under this Declaration, or the Bylaws of the Association which is not cured within sixty (60) days.

17.1.3 Each holder of a first Mortgage encumbering any Condominium which obtains title to such Condominium pursuant to: (1) remedies provided in such Mortgage, or (2) by accepting a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor, shall be exempt from any "right of first refusal," if any, contained in this Declaration or the Bylaws of the Association. Further, any such "right of first refusal" shall not impair the rights of a first Mortgagee or interfere with a subsequent sale or lease of a Condominium so acquired by the Mortgagee.

17.1.4 Each holder of a first Mortgage or third party foreclosure purchaser which obtains title to a Condominium pursuant to foreclosure of the first Mortgage, shall take the Condominium free of any claim for unpaid dues, assessments or charges against the mortgaged Condominium which accrue prior to the time such holder obtains title to such Condominium (except for claims for a share of such assessments or charges resulting from a reallocation of such dues, assessments or charges to all Condominiums, including the mortgaged Condominium). The assessment lien provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter placed upon the Condominium subject to assessment; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Condominium pursuant to a decree of foreclosure or trustee sale. Such sale or transfer shall not release such Condominium from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

17.1.5 Unless sixty-seven percent (67%) of the Institutional Lenders holding a first Mortgage on Units within this Project, based upon one vote for each first Mortgage owned and sixty-seven percent (67%) of the Owners, other than the Declarant, of Condominiums have given their prior written approval, the Association and its Members shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the Project, except as otherwise provided herein in the event of substantial destruction by fire or other casualty or in the event of a taking by condemnation or eminent domain;

(b) Change the pro rata interest or obligations of any Condominium for purposes of: (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share in ownership of each Condominium in the Common Area;

(c) Partition or subdivide any Condominium;

(d) By act or omission, seek to abandon, subdivide, encumber, sell or transfer the Common Area or partition the Common Area except as provided for herein. The granting of easements for public utilities or for other public purposes consistent with the intended uses of the Common Area and the Project shall not be deemed a transfer within the meaning of this clause;

(e) Use hazard insurance proceeds from losses to any Condominium Property (whether to Condominium Units or to Common Area) for other than repair, replacement or reconstruction of such Condominium Property, except as provided by statute in case of substantial damage to the Units and/or Common Area of the Project;

(f) Effectuate any decision of the Association to terminate professional management, if any, and assume self management of the Project; and

(g) Amend any part of this Article 17.

17.1.6 First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

17.1.7 The Condominium assessments shall include an adequate reserve fund for maintenance, repairs and replacement of the Common Area and those portions thereof that must be replaced on a periodic basis, and shall be payable through annual assessments rather than by special assessments.

17.1.8 All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to individual Condominiums, and not to the Project as a whole.

17.1.9 In the event of substantial damage to or destruction of any Unit or any element of the Common Area or possible condemnation or eminent domain procedure, the Institutional Lender holding any first Mortgage on a Condominium is entitled to timely written notice of any such damage, destruction or proposed acquisition and no provision in the Bylaws, or in this Declaration shall be interpreted to entitle the Owner of the Condominium or any other party to priority over any first Mortgagee with respect to the distribution to such Owner of any insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Areas.

17.1.10 Any agreement for professional management of the Project, or any other contract providing for services of the Declarant shall provide for termination by either party without cause or payment of a termination fee upon thirty (30) days written notice, and that the term of any such contract shall not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. However, lease agreements for laundry room fixtures and equipment may have terms of up to five (5) years, provided the Declarant is not the lessor thereunder.

17.1.11 The Association shall, upon the request of any Institutional Lender of a first Mortgage on a Condominium: (1) give written notice of all meetings of the Association and permit the Institutional Lender to designate a representative to attend all such meetings; (2) transmit to such Institutional Lender an annual audited financial statement of the Project within ninety (90) days following the end of any fiscal year of the Project; (3) give written notice of any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its Mortgage; (4) give written notice of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (5) give written notice of any proposed action that requires the consent of a specified percentage of Institutional Lenders.

17.1.12 No breach of any of the foregoing covenants shall cause any forfeiture of title or reversion or bestow any right of re-entry whatsoever, but in the event that any one or more of these covenants shall be violated, the Declarant, its successors and assigns, the Association, or any Owner of a Condominium in the Project, may commence a legal action in any court of competent jurisdiction to enjoin or abate said violation, and/or to recover damages, provided, that any such violation shall not defeat or render invalid the lien of any Mortgage made in good faith and for value as to said Condominium or any part thereof. Said covenants shall be binding upon and effective against any Owner of said Condominium, or a portion thereof, whose title thereto is acquired by foreclosure, trustee sale or otherwise.

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

ARTICLE 18
AMENDMENT

Section 18.1. Amendments. This Declaration may be amended only by an affirmative vote of not less than seventy-five percent (75%) of each class of Members, and further, this amendment provision shall not be amended to allow amendments by vote of less than seventy-five percent (75%) of each class of Members. At such time when the Class B membership shall cease and be converted to Class A membership, any and all amendments to this Declaration shall be enacted by requiring the vote or written assent of Members representing both: (1) at least seventy-five percent (75%) of the total voting power of the Association; and (2) at least seventy-five percent

(75%) of the votes of Members other than the Declarant, provided, however, that the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under said provision. An amendment hereto shall be effective after (a) the approval of the percentage of Owners required in this Section has been given, (b) that fact has been certified in a writing executed and acknowledged by the officer designated by the Association for that purpose, or if no one is designated, by the president of the Association and (c) that writing has been recorded in the county in which the Project is located.

No amendment material to a Mortgagee may be made to this Declaration without the prior written consent of Eligible Mortgage Holders whose Mortgages encumber fifty-one percent (51%) or more of the Condominiums within the Condominium Property which are subject to Eligible Mortgage Holder Mortgages. For these purposes, any amendments to provisions of this Declaration governing any of the following subjects shall be deemed "material to a Mortgagee":

(a) Voting;

(b) Assessments, assessment liens or subordination of such liens;

(c) Reserves for maintenance, repair and replacement for the Common Areas;

(d) Casualty insurance, liability insurance or fidelity bonds;

(e) Rights to use of the Common Areas;

(f) Responsibility for maintenance and repair of the several portions of the Project;

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

(h) Boundaries of any Unit;

(i) The interests in Exclusive Use Common Areas, if any, and other portions of the Common Areas;

(j) Convertibility of Units into Common Areas or of Common Areas into Units;

(k) Leasing of Condominiums;

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

(m) Any provisions which are for the express benefit of Mortgage Holders, Eligible Mortgage Holders, Eligible Insurers or Guarantors.

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

Mortgage Holder who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved request, provided that the request was delivered by certified mail or registered mail, with a "return receipt" requested.

Notwithstanding any other provision of this Section, for so long as Declarant owns any portion of the Properties, Declarant may unilaterally amend this Declaration by recording an instrument in writing, signed by Declarant, without the consent of the Association or any other Owner, provided that such amendment is made in order to conform this Declaration to the requirements of the DRE, the United States Department of Veterans Affairs, FHA, FNMA, GNMA, FHLMC, or any other governmental entity.

Section 18.2. Effective Date of Amendment. Each amendment made pursuant to the preceding paragraph shall, from and after its effective date, be as effective as this instrument as to all of the Project and the Owners/Members and their successors in interest.

Section 18.3. Petition to Superior Court. Nothing in this Declaration shall restrict the ability of any Owner at any time to petition the Superior Court in the County in which the Project is located to amend this Declaration as provided for under California Civil Code Section 1356.

ARTICLE 19
GENERAL PROVISIONS

Section 19.1. Term of Declaration. The provisions of this Declaration shall run with the land and bind the Project, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any interest subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time the provisions of this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by at least sixty-six and two-thirds percent (66-2/3%) of the then Owners of the Condominiums, has been recorded within six (6) months of the anticipated termination date. The contents of such instrument shall contain the agreement to terminate this Declaration as it may be supplemented in whole or in part.

Section 19.2. Reservation of Rights. The right of Declarant (and its sales agents and representatives) to the nonexclusive use of the Common Area and the recreational facilities, if any, owned by the Association for display and exhibit purposes in connection with the sale of Condominiums, which right Declarant hereby reserves; provided, however, that such use shall not be for a period of more than three (3) years after the conveyance of the first Condominium, and, provided, further, that no such use by Declarant or its sales agents or representatives shall otherwise restrict the Members in their use and enjoyment of the Common Area or facilities thereon.

Section 19.3. Transfer of Ownership Interest. An ownership interest in a Condominium may pass under the estate of a deceased person to more than one person; provided, however, that only one individual living shall be entitled to have membership privileges in the Association derived from such ownership.

Section 19.4. **Severability**. In the event any limitation, restriction, condition, covenant or provision contained in this Declaration is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Declaration shall, nevertheless, be and remain in full force and effect.

Section 19.5. **Invalidation**. Invalidation of any one of these covenants, conditions or restrictions, by judgment or court order, shall in no way affect other provisions hereof which shall remain in full force and effect.

Section 19.6. **Liberal Construction**. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a Condominium residential community and for the maintenance of community recreational facilities.

Section 19.7. **Encroachment Easement**. In the event any portion of the Common Area encroaches upon any Condominium or any Condominium encroaches upon the Common Area, each Condominium within the Project is hereby declared to have an easement for the purpose of accommodating any such encroachment due to engineering errors, errors in original construction, repair, reconstruction, settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

Section 19.8. **Termination of Declarant's Obligations**. In the event Declarant shall convey all of its right, title and interest in and to the Project to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

Section 19.9. **Number, Gender**. The singular shall include the plural and the plural the singular unless the context requires to the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

Section 19.10. **Non-Liability of Declarant**. Each Owner, by acceptance of a deed shall be deemed to have agreed that Declarant shall have no liability whatsoever resulting from any term or provision thereof having been held to be unenforceable in whole or in part.

Section 19.11. **Grantees Subject to this Declaration**. Each grantee of a conveyance or purchaser under a contract or agreement of sale, by accepting the deed or contract of sale or agreement of purchase, accepts the same subject to all of the limitations, restrictions, conditions and covenants, and agreements set forth in this Declaration, and agrees to be bound by the same.

Section 19.12. **Annexation of Property**. Upon approval in writing of the Association, pursuant to two-thirds (2/3) of the voting power of each class of Members of the Association, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Notice of Annexation which shall extend the scheme of this Declaration to such property. After conversion of the Class B membership to Class A membership, this action shall require the vote or written consent of (i) two-thirds (2/3) of the voting power of Members of the Association, and (ii) two-thirds (2/3) or more of the voting power of Members of the Association other than Declarant.

Section 19.13. Bonded Obligations. In the event that improvements to the Project have not been completed prior to the issuance of the Final Subdivision Public Report for the Project, and the Association is obligee under a bond or other security (hereinafter "Bond") to secure performance of the commitment of the Declarant to complete such improvements, the following provisions shall apply:

19.13.1 The Board of Directors shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

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

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

19.13.4 The Association shall act in a reasonably prompt manner to exonerate Declarant and its surety under any Bond in favor of the Association upon completion of the improvements.

Section 19.14. Declarant's Rights After Sale of all Units in the Project. For a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, in addition to Declarant's rights as an Owner and a Member, Declarant shall have the following rights: (1) access to and the right to inspect the Association books and financial records; (2) access to and the right to inspect the Association's maintenance records; (3) access to and the right to inspect the Common Area of the Project; (4) right to receive notice of, attend and speak at all regular and special meetings of the Board of Directors and meetings of the Members; and (5) right to receive copies of the minutes of the meetings of the Board of Directors and meetings of the Members, upon request and payment of the actual costs to copy and distribute such records.

Section 19.15. Affordable Housing Agreement. Pursuant to the requirements of the City of Los Angeles, the Declarant has entered into that certain "AGREEMENT FOR DEVELOPMENT OF UNITS FOR LEASE OR SALE", with the Housing Authority of the City of Los Angeles ("Housing Agreement"), recorded on November 6, 1975, as Instrument No. 2855, in the Official Records of Los Angeles County, California. The Housing Agreement requires that Declarant make every reasonable effort to develop at least six percent (6%) of the Units in the Project at a cost which would allow them to be rented or sold as low-income dwelling units at a fair market value, and at least nine percent (9%) of the Units in the Project at a cost which would allow them to be rented or sold as low or moderate income dwelling units at a fair market value, all as defined in the Housing Agreement, and that such Units be subject to a resale restriction in accordance with the Housing Agreement. If Declarant determines that it cannot develop such number of Units at such costs, the Housing Authority of the City of Los Angeles has the continuing right to require that any units in the Project subsequently available for sale or resale up to a total of fifteen percent (15%) of the total number of Units, be sold at the then fair market value only to low or moderate income households approved by the Housing Authority. The Housing Agreement contains a resale restriction having a term of sixty (60) years and is enforceable by the Housing Authority of the City of Los Angeles. ALL THE TERMS AND PROVISIONS OF THE HOUSING AGREEMENT ARE HEREBY INCORPORATED HEREIN BY THIS REFERENCE.

Section 19.16. Condition of the Property:

(a) THE PROPERTY WAS NOT CONSTRUCTED BY DECLARANT AND IS NOT NEW CONSTRUCTION. THE PROPERTY HAS BEEN USED AS RENTAL UNITS SINCE IT WAS CONSTRUCTED. DECLARANT HAS RECENTLY ACQUIRED THE PROPERTY. MOST ELEMENTS OF THE PROPERTY AND THE COMMON AREA AND/OR ASSOCIATION PROPERTY ARE SUBJECT TO WEAR AND TEAR FROM USE, EXPOSURE TO WEATHER, AND TENANTS.

(b) EXCEPT AS OTHERWISE DISCLOSED IN WRITING BY DECLARANT, DECLARANT IS NOT AWARE OF ANY DEFECTS OR CONDITIONS THAT MAY EFFECT THE PROPERTY OR THE COMMON AREA AND/OR ASSOCIATION PROPERTY THAT ARE NOT EVIDENT FROM A VISUAL, NON-DESTRUCTIVE INSPECTION. EXCEPT AS OTHERWISE DISCLOSED IN WRITING BY DECLARANT, DECLARANT HAS NOT MADE ANY REPRESENTATIONS TO OWNER REGARDING THE EXISTENCE OR NON-EXISTENCE OF ANY DEFECTS IN THE PROPERTY OR THE COMMON AREA AND/OR ASSOCIATION PROPERTY.

(c) SOME ELEMENTS OF THE PROPERTY AND THE COMMON AREA AND/OR ASSOCIATION PROPERTY THAT HAVE NOT BEEN REPLACED BY DECLARANT MIGHT BE NEAR THE END OF THEIR ESTIMATED USEFUL LIVES.

(d) OWNER IS PURCHASING THE PROPERTY BASED SOLELY UPON OWNER'S OWN INSPECTION OF THE PROPERTY AND THE CONDITION OF THE PROPERTY.

(e) OWNER IS ADVISED TO HAVE OWNER'S OWN PROFESSIONAL PROPERTY INSPECTION CONSULTANT INSPECT THE PROPERTY AND ADVISE OWNER AS TO ITS CONDITION AND ITS SUITABILITY FOR OWNER'S INTENDED PURPOSE.

(f) OWNER HEREBY WAIVES ANY NON-STATUTORY IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY REGARDING THE MERCHANTABILITY, VALUE, QUALITY AND/OR CONDITION OF THE PROPERTY AND THE COMMON AREA AND/OR ASSOCIATION PROPERTY.

Section 19.17. Prior Rental of Units. All Condominium Units in the Project have previously been leased as rental units, since initial completion of the Project. Declarant has performed renovation and rehabilitation work on the Project and the Units, limited to improvements.

ARTICLE 20
DISPUTE MECHANISM

Section 20.1. Notice to Members Prior to Filing Civil Action. Not later than thirty (30) days prior to the filing of any civil action by the Association against the Declarant or other developer of the Project for alleged damage to the Common Area, alleged damage to the Units that the Association is obligated to maintain or repair, or alleged damage to the Units that arises out of, or is integrally related, to damage to the Common Area or Units that the Association is obligated to maintain or repair, the Board shall provide written notice to each Member who appears on the records of the Association at the time notice is given, specifying: (a) that a meeting of Members will be held to discuss problems that may lead to the filing of a civil action, (b) the options, including civil actions, that are available to address the problems, and (c) the time and place of the meeting. If the Association has reason to believe that the applicable statute of limitations will expire before the association files the civil action, the Association may give the foregoing notice not later than thirty (30) days after the filing of the action.

Section 20.2. Dispute Resolution. Any disputes between all or any of the Association, Owner(s), the Declarant, or any director, officer, partner, employer, contractor, design professional, consultant, subcontractor or agent of the Declarant (collectively "Declarant Parties"), arising under this Declaration or relating to the Properties, shall be subject to the following provisions of this Section 20.2 and the following Sections 20.3, 20.4 and 20.5.

Section 20.3. Construction Defect Disputes.

20.3.1.1. Obligation to Follow Maintenance Recommendations and Schedules. All Owners and the Association are obligated to follow Declarant's maintenance recommendations and schedules, including the maintenance recommendations and schedules for manufactured products and appliances provided with such Owner's Unit or the Common Area, or any improvements thereon, as well as all commonly accepted maintenance practices (collectively, "Maintenance Recommendations"). Failure to follow the Maintenance Recommendations may reduce or preclude Owner's and the Association's right to recover damages relating to such Unit or Common Area, which could have been prevented or mitigated had the Maintenance Recommendations been followed.

20.3.1.2. Obligation to Retain Documents and Provide Copies to Successors. All Owners, who originally purchased a Unit from Declarant were provided copies of certain documents in conjunction with the purchase of their Unit, including without limitation, copies of this Declaration, Maintenance Recommendations from Declarant, Maintenance Recommendations for manufactured products or appliances included with the Unit, a limited warranty and claim forms. All Owners are required to retain these documents and provide copies of such documents to their successors in interest upon the sale or transfer of such Owner's Unit.

20.3.2 Owners' Construction Defect Claims. Prior to the commencement of any legal proceeding by any Owner against Declarant or any Declarant Party based upon a claim for defects in the renovation or rehabilitation of any Unit, Residence, Common Area, or any improvements thereon, the Owner must first comply with the provisions of this paragraph. If at any time during the ten (10) year period following the close of escrow for the original Owner's purchase of such Owner's Unit from Declarant, or any shorter period as provided by applicable law, such Owner believes Declarant has violated any of the standards set forth in applicable California law ("Claimed Defect"), which such Owner feels may be the responsibility of Declarant, such Owner shall promptly notify Declarant at: Brian Dror, 5967 West Third Street #102, Los Angeles, CA 90036.. Such notice shall be deemed a notice of intention to commence a legal proceeding and shall include: (a) a detailed description of the Claimed Defect, (b) the date upon which the Claimed Defect was first discovered, and (c) dates and times when Owner or Owner's agent will be available during ordinary business hours, so that service calls or inspections by Declarant can be scheduled. Declarant shall, at its sole discretion, be entitled to inspect the applicable property regarding the reported Claimed Defect and, within its sole discretion, shall be entitled to cure such Claimed Defect. Nothing contained in this Article shall obligate Declarant to perform any such inspection or repair, nor shall this Section be deemed to increase Declarant's legal obligations to Owner. Owner's written notice delivered to Declarant shall be a condition precedent to Owner's right to institute any legal proceeding and to proceed to judicial reference or binding arbitration as set forth Section 20.5 below, and Owner shall not pursue any other remedies available to it, at law or otherwise, including without limitation the filing of any legal proceeding or action, until Declarant has had the reasonable opportunity to inspect and cure the Claimed Defect. During the term of any written Limited Warranty provided to the original Owner of the Unit by Declarant, any conflict between the provisions of this Section and the Limited Warranty shall be resolved in favor of the Limited Warranty. Declarant shall not be liable for any general, special or consequential damage, cost, diminution in value or other loss which Owner may suffer as a result of any Claimed Defect in the Unit, which reasonably might have been avoided had Owner given Declarant the notice and opportunity to cure as described above within a reasonable time of discovering the Claimed Defect. Except as otherwise provided in the written Limited Warranty, if any, provided to Owner, nothing contained herein shall establish any contractual duty or obligation on the part of Declarant to repair, replace or cure any Claimed Defect. If an Owner sells or otherwise transfers ownership of such Owner's Unit to any other person during such ten (10) year period, Owner covenants and agrees to give such other person written notice of these procedures by personal delivery.

Owner's continuing obligation under this covenant shall be binding upon Owner and Owner's successors and assigns.

20.3.3 Association's Construction Defect Claims. Prior to the commencement of any legal proceeding by the Association against Declarant or any Declarant Party based upon a claim for defects in the rehabilitation or renovation of the Common Area, or any improvements thereon, or any other area within the Project which the Association has standing to make a claim for defects in the rehabilitation or renovation thereof, the Association must first comply with all of the applicable requirements of California Civil Code Section 1375, as the same may be amended from time to time, or any successor statute thereto. For purposes of claims under this Section, notice to "builder" under California Civil Code Section 1375 shall mean notice to Declarant, as provided above. In addition to the requirements of said Section 1375, Declarant shall have an absolute right, but not an obligation, to repair any alleged defect or condition claimed by the Association to be in violation of the standards set forth in the applicable California law, within a reasonable period of time after completion of the inspection and testing provided for in such Section and prior to submission of builder's settlement offer under such Section. If the parties to such dispute are unable to resolve their dispute in accordance with the procedures established under California Civil Code Section 1375, as the same may be amended from time to time, or any successor statute, the dispute shall be resolved in accordance with the judicial reference or binding arbitration provisions of Section 20.5 below and ~~the parties to~~ the dispute shall each be responsible for their own attorneys' fees.

Section 20.4. Other Disputes. Any other disputes arising under this Declaration, or otherwise, between the Association or any Owner and Declarant or any Declarant Party (except for any action taken by the Association against Declarant for delinquent assessments, and any action involving enforcement of any completion bonds) shall be resolved in accordance with the alternate dispute resolution provisions of Section 20.5 below; provided, however, that with regard to disputes between the Association and an Owner where the alternative dispute resolution procedure is invoked by the Association, the Owner may elect not to participate in the procedure. The dispute resolution procedure in Section 20.5, as it applies solely to disputes under this Section 20.4, shall be deemed to satisfy the alternative dispute requirements of California Civil Code Sections 1363.810, 1369.510, and following, or any successor statute, as applicable.

Section 20.5. Alternate Dispute Resolution Procedures. The following procedures provide for resolution of disputes through general judicial reference or, in the alternative, binding arbitration. In either event, Declarant, the Association and each Owner of a Unit within the Project, expressly acknowledge and accept, by invoking or electing to participate in the procedure, that they are waiving their respective rights to a jury trial.

20.5.1 Judicial Reference. Subject to compliance with the provisions of Sections 20.2 through 20.4, to the extent applicable, it is the intention of Declarant that, except as otherwise expressly provided herein, any and all disputes, based upon which litigation is filed, shall be resolved by judicial reference under California law. Accordingly, except as otherwise expressly provided in this Declaration (such as the collection of delinquent assessments), any dispute, between the Association or any Owner(s) and the Declarant, or other developer of the Project, or between the Association and any Owner with respect to the interpretation of any of the provisions of this Declaration, or with respect to any alleged breach hereof, or with respect to any other claim related to a Unit or the Common Area, any judicial determination to be made under California Civil Code Section 1375(h), or for alleged damage to the Common Area, alleged damage to the Units that the Association is obligated to maintain or repair, or any alleged damage to Units that arises out of, or is integrally related to the Common Area or Units that the Association is obligated to maintain or repair, shall be heard by a referee pursuant to the provisions of California Code of Civil Procedure Sections 638 through 645.1. Notwithstanding any other provision of this Declaration, this Article shall not be amended without the written consent of Declarant. In the event litigation is filed based upon any such dispute, the following shall apply:

20.5.1.1. The proceeding shall be brought and held in the County in which the Project is located, unless the parties agree to an alternative venue.

20.5.1.2. The parties shall use the procedures adopted by Judicial Arbitration and Mediation Services, Inc. ("JAMS") for judicial reference and selection of a referee (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties).

20.5.1.3. The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters.

20.5.1.4. The parties to the litigation shall agree upon a single referee who shall have the power to try any and all of the issues raised, whether of fact or of law, which may be pertinent to the matters in dispute, and to issue a statement of decision thereon to the court. Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, by the court with appropriate jurisdiction in accordance with California Code of Civil Procedure Sections 638 and 640.

20.5.1.5. The referee shall be authorized to provide all remedies available in law or equity appropriate under the circumstances of the controversy.

20.5.1.6. The referee may require one or more pre-hearing conferences.

20.5.1.7. The parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

20.5.1.8. A stenographic record of the trial shall be made.

20.5.1.9. The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable.

20.5.1.10. The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

20.5.1.11. The parties shall promptly and diligently cooperate with each other and the referee and perform such acts, as may be necessary for an expeditious resolution of the dispute.

20.5.1.12. Except as otherwise agreed by the parties or as required by applicable law, neither the Association nor any Owner shall be required to pay any fee of the judicial reference proceeding except to the extent of the cost that would be imposed upon the Association or Owner if the dispute had been resolved as a dispute in court. The referee may not award against the Association or any Owner any expenses in excess of those that would be recoverable as costs if the dispute had been litigated to final judgment in court. Each party to the judicial reference proceeding shall bear its own attorney fees and costs in connection with such proceeding.

20.5.1.13. The statement of decision of the referee upon all of the issues considered by the referee shall be binding upon the parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the referee shall be appealable as if rendered by the court. This provision shall in no way be construed to limit any valid cause of action that may be brought by any of the parties.

20.5.2 <u>Binding Arbitration</u>. If for any reason the judicial reference procedures in Section 20.5.1 are legally unavailable or unenforceable at the time a dispute would otherwise be referred to judicial reference, then such dispute shall be submitted to binding arbitration under the rules and procedures in this Section 20.5.2. Any dispute submitted to binding arbitration shall be administered by the American Arbitration Association ("AAA") in accordance with the AAA's Construction Industry Arbitration Rules and AAA's Supplementary Procedures for Residential Construction Disputes in effect on the date of the submission. If such entity is not then in existence, then the dispute shall be submitted to JAMS, and administered in accordance with either the Streamlined Arbitration Rules and Procedures, or (if applicable) the Comprehensive Arbitration Rules of JAMS. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such dispute. If the claimed amount exceeds two hundred fifty thousand dollars ($250,000.00) or includes a demand for punitive damages, the dispute shall be heard and determined by three (3) arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one (1) arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved. All decisions concerning the arbitrability of any dispute shall be decided by the arbitrator(s). At the request of any party, the award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither party nor the arbitrator(s) may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

20.5.3 <u>Applicability of Federal Arbitration Act</u>. The binding arbitration procedures contained in Sections 20.5.2 are implemented for the Project in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. Section 1 *et seq.*) ("FAA"), which is designed to encourage the use of alternative methods of dispute resolution and avoid costly and potentially lengthy traditional court proceedings. The binding arbitration procedures in said Section are to be interpreted and enforced as authorized by the FAA. Parties interpreting this Section shall follow the federal court rulings, which provide among other things that: (1) the FAA is a congressional declaration of liberal federal policy favoring alternate dispute resolution notwithstanding substantive or procedural state policies or laws to the contrary, (2) alternate dispute resolution agreements are to be rigorously enforced by state courts; and (3) the scope of issues subject to alternate dispute resolution are to be interpreted in favor of alternate dispute resolution.

Section 20.6. Use of Damage Award Amounts. Any and all amounts awarded to a claimant on account of a claimed construction or design defect in the Project, or damage suffered as a result thereof, shall be expended by such claimant for the attorney fees and costs of the proceeding and the repair, rehabilitation, or remediation of the claimed defect or damage.

Section 20.7. California Civil Code Sections 1368.5, 1375, 1375.05 and 1375.1. Nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code Sections 1368.5, 1375, 1375.05, or 1375.1.

Section 20.8. Disputes Relating To Enforcement Of Governing Documents. In the event of a dispute between the Association and an Owner, or between an Owner and another Owner, relating to the enforcement of the governing documents of the Association, the parties shall comply with the provisions of California Civil Code Sections 1363.810, 1369.510, and following, prior to filing of any civil action.

Section 20.9. Miscellaneous. Nothing in the Article shall constitute a waiver of any of the benefits of statute of limitations or equitable defense of any party. Furthermore, notwithstanding any other provision of this Declaration, this Article may not be amended without the prior written consent of the Declarant.

ARTICLE 21
RIGHT OF DECLARANT TO REDESIGN PROJECT

Section 21.1. Right of Declarant to Redesign Project. Subject to the restrictions and limitations set forth in this Article, Declarant, and its successors or assigns, reserves the right, in its sole discretion, from time to time, within a period of four (4) years from the date of recording of this Declaration, or at any time or at different times within such four (4) year period, to redesign the Project or any portion or aspect thereof, including but not limited to any Residence, Unit, structure, recreational facility, fixture or improvement located within the Project (herein collectively "Improvement") constructed or proposed to be constructed on the Property and in connection with such redesign, to effect the following changes in the Project:

(1) To alter the vertical or horizontal boundaries, or both, of any Improvement;

(2) To alter the shape, configuration, floor plan and/or location of any Unit or Residence;

(3) To alter the number, size, shape, and configuration of any Units or Common Area;

(4) To adjust the location or configuration or any Common Area boundary lines;

(5) To alter the size, shape, configuration, floor plan, and/or location of any and all of the parking spaces;

(6) To effect nominal deviations from the Condominium Plan which result during the actual construction; and

(7) To change the configuration of any Improvement.

Section 21.2. General Restrictions on Redesign. The rights of Declarant set forth in Section 21.1 above shall and are hereby made subject to the following additional restriction and limitation that the redesign of any portion of the Project authorized by Section 21.1 shall in no event physically modify, affect or change any Unit or Residence which as of the date of such redesign, are the subject of an agreement of sale, or are owned by an Owner other than Declarant, unless the purchaser or Owner of such Unit or Residence shall consent to such redesign in writing, and in no event shall the recreational facilities, if any, constructed or to be constructed in the Common Area be redesigned to contain less than what is currently described in the Condominium Plan.

Section 21.3. Amendment of Condominium Plan. In the event a redesign of all or any portion of the Project affects any Units so as to necessitate the preparation of an amendment to the Condominium Plan, including any amendment necessary to cause the Condominium Plan to comply with the Improvements as actually built, Declarant shall prepare or cause to be prepared, execute, acknowledge, file or cause to be filed for approval and record or cause to be recorded an amendment to the Condominium Plan. The amendment to the Condominium Plan shall, when recorded, have the effect of (a) relocating the Common Area and each Unit to the extent set forth on the amendment to the Condominium Plan, (b) vesting in each Owner (including Declarant, with respect to any unsold Units) of an undivided fractional fee interest in the Common Area as depicted on the amendment to the Condominium Plan, (c) divesting each Owner (except Declarant) of all right, title and interest to any Unit, other than each Owner's Unit, depicted on the amendment to the Condominium Plan, (d) vesting in each holder of a Mortgage or other encumbrance an undivided fractional fee interest (to the extent of the percentage interest in the Common Area of the Owner of that Unit which is subject to such Mortgage or other encumbrance) in the Common Area as depicted on the amendment to the Condominium Plan and (e) divesting each holder of a Mortgage or other encumbrance of all right, title and interest to each Condominium (other than the Owner's Condominium which is the subject of such Mortgage or other encumbrance) depicted on the amendment to the Condominium Plan. The adjustment of any Mortgage or other encumbrance in accordance with the provisions of this Section 21.3 shall not affect the priority of any such Mortgage or other encumbrance with respect to any other matters affecting title to the Unit which is the subject thereof.

Section 21.4. Power of Attorney. Each Owner, by accepting a deed to a Condominium, shall be deemed to have constituted and irrevocably appointed for such Owner and each of such Owner's mortgagees, optionees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devises, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, for a period of four (4) years from the date of the recording of this Declaration, Declarant as such Owner's Attorney-in-Fact and thereby to have conveyed a Power-of-Attorney coupled with an interest to Declarant as such

Owner's Attorney-in-Fact to effect the redesign of all or any portion of the Project in accordance with the limitations and requirements set forth in this Article, and further:

(1) To prepare or cause to be prepared, execute, acknowledge, file or cause to be filed for approval and file or record or cause to be filed or recorded any map or record of survey required or permitted by the provisions of the Subdivision Map Act of the State of California in effect on the date of recordation of this Declaration and as thereafter amended and any ordinances, rules and regulations of the City and any other governmental entities and authorities having jurisdiction over the Project in effect on the date of recordation of this Declaration and as thereafter enacted or amended, or which may be required or permitted by any title insurer, and in connection therewith to perform all conditions, undertake any obligations, and execute all agreements and documentation required or permitted by any federal, state and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute, acknowledge and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;

(2) To prepare or cause to be prepared, execute, acknowledge and file or cause to be filed for approval and record or cause to be recorded any amendment to the Condominium Plan, including any amendment necessary to cause the Condominium Plan to comply with the Improvements as actually built, or any Unit(s) as redesigned, which may be required or permitted by the laws of the State of California as in effect on the date of recordation of this Declaration and as thereafter enacted or amended and any ordinances, rules and regulations of the City and any other governmental entities and authorities having jurisdiction over the Project in effect on the date of recordation of this Declaration and as thereafter enacted or amended, or which may be required or permitted by any title insurer, and in connection therewith to perform all conditions, undertake any obligations, and execute all agreements and documentation required or permitted by any federal, state, and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;

(3) To prepare or cause to be prepared, execute, acknowledge and file or cause to be filed for approval, any application for zoning or setback changes or variance or special use permits or any other permits and/or reports required or permitted by the laws of the State of California as in effect on the date of recordation of this Declaration and as thereafter enacted or amended and any ordinances, rules and regulation of any governmental entities and authorities having jurisdiction over the Project as in effect on the date of recordation of this Declaration and thereafter enacted or amended and, in connection therewith, to perform all conditions, undertake any obligations and execute all agreements and documentation required or permitted by any federal, state and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;

(4) To make application for any property reports or public reports or amendments thereto or exceptions from the requirements therefor required or permitted in order to comply with federal and state statutes, rules and regulations relating to the sale, lease, transfer or other disposition of subdivided lands to the general public and, in connection therewith, to perform all

conditions, undertake any obligations, and execute all agreements and documentation required or permitted by any federal, state and local governmental entities and authorities; and to execute and deliver any agreements and bonds securing the performance of the obligations contained therein;

(5) To deliver any public reports or property reports, or amendments thereto, obtain receipts and offer and administer rescission rights required by law;

(6) To prepare or cause to be prepared, execute, acknowledge, file or cause to be filed for approval, any registration or any application for any permit, approval, exemption, ruling or entitlement required or permitted pursuant to any law or regulation in effect as of the date of the recording of this Declaration or as hereafter enacted by any federal, state and local government entitles and authorities and in connection therewith, to perform all conditions, undertake any obligations, and execute all agreements and documentation required or permitted by such governmental body and by any such laws and regulations to appear before any such governmental bodies and to execute and deliver any agreement and bonds and post deposits securing the performance of any such conditions and obligations; and to do all other things now or hereafter permitted or required by any such governmental body and any such laws and regulations;

(7) To prepare or cause to be prepared, execute, acknowledge and record or cause to be recorded any deed, waivers, releases, reconveyance, or documentation which may be permitted or required to clear title to any Units, whether constructed or to be constructed in the project; and

(8) To do any and all things necessary or desirable under the circumstances to effect and accomplish the purposes of this Article.

Section 21.5. Indemnification of Owners on Exercise of Power of Attorney. Declarant shall indemnify and hold each Owner harmless from all liabilities, including attorneys' fees, which are incurred as a direct result of the execution by Declarant of any Improvement agreements or bonds, or both, in connection with the exercise by Declarant of the Power of Attorney and right to redesign hereinbefore set forth.

Section 21.6. Mortgagee Interest and Other Encumbrances to Take Subject to Power of Attorney. The acceptance or creation of any Mortgage or other encumbrance, whether voluntary or involuntary, and whether or not created in good faith, and whether or not given for value, shall be deemed to be accepted and/or created subject to each of the terms and conditions of the Power-of-Attorney described in Section 21.4 hereof.

Section 21.7. Owner Concurrence and Consent. Each and every Owner and each of their respective Mortgagees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, shall be deemed to have expressly agreed, assented and consented to each and all the provisions of this Declaration and shall be deemed to have constituted and irrevocably appointed Declarant as such Owner's Attorney-in-Fact to carry out the powers described in Section 21.4 hereof, and such Power-of-Attorney shall be deemed to continue to be coupled with an interest.

IN WITNESS WHEREOF, the undersigned, deemed the Declarant herein, have hereunto set their hand and seal this 31st day of October, 2006.

"DECLARANT"

15425 SHERMAN WAY, LLC,
a California limited liability company

By: [signature]

Name: Brian Dror

Its: Manager

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On October 31, 2006, before me, Joshua Platt, a Notary Public for the State of California, personally appeared Brian Dror, 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/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

NOTARY PUBLIC [signature] (Seal)

JOSHUA Z. PLATT
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
COMMISSION # 1691156
MY COMM. EXPIRES SEPT. 1, 2010

SUBORDINATION AGREEMENT

The undersigned, Inland Mortgage Capital Corporation, Beneficiary under that certain Deed of Trust recorded November 03, 2005, as Instrument No. 05-2662784, Official Records, Los Angeles County, California, does hereby consent to each and all of the provisions contained in the within instrument, the Declaration of Establishment of Conditions, Covenants and Restrictions for 15425 Sherman Way, and all amendments thereto and does hereby agree that the lien and charge of said Deed of Trust shall be, and is hereby made, subordinate to, junior to and subject to said within instrument and all amendments thereto and the entire effect thereof.

Date: 10/30/06

BENEFICIARY:

Inland Mortgage Capital Corporation

By: Kirsten L. Helma

Name: Kirsten L. Helma

Its: Vice President

ACKNOWLEDGMENT

STATE OF ~~CALIFORNIA~~ Illinois)
) ss.
COUNTY OF DuPage)

On October 30, 2006, before me, the undersigned, a Notary Public for the State of ~~California~~ Illinois, personally appeared Kirsten L. Helma, 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/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

NOTARY PUBLIC Caroline T. Zalatoris (Seal)

OFFICIAL SEAL
CAROLINE T ZALATORIS
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:03/21/10