CC&Rs (Required Civil Code Sec. 4525)
The Martinique Association

NOTICE:

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

THE MARTINIQUE ASSOCIATION

As provided for in amended Gov. Code 12956.1

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

AUGUST 18, 1980

RECORDING REQUESTED BY:

MARTINIQUE LTD.

WHEN RECORDED MAIL TO:

JOHN M. SHELTON
Attorney at Law
P.O. Box 12367
Fresno, CA 93721

76915

RECORDED AT REQUEST OF
The Insurance & Trust Co.
AT MIN. PAST
AUG 18 1980
FRESNO COUNTY, CALIFORNIA
GALEN LARSON, County Recorder
BY DEPUTY RECORDER
4

BOOK 7567 PAGE 324

FRESNO COUNTY RECORDERS OFFICE

FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
THE MARTINIQUE, PARCEL MAP NO. 78-62

MARTINIQUE, LTD., a California Limited Partnership, the "DEVELOPER" named in that certain DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS made the 17th day of April, 1980, and recorded in the office of the Fresno County Recorder on April 30, 1980, in Book 7511, at Page 870 to 917, inclusive, ("DECLARATION", herein), hereby makes this FIRST AMENDMENT to the DECLARATION as follows:

1. Paragraph 18.08 of the DECLARATION, at Page 38, is amended in its entirety to read as follows:

"18.08 VOTE OF INSTITUTIONAL MORTGAGEES. Except upon the prior written approval of 75% of the INSTITUTIONAL MORTGAGEES, based on one vote for each FIRST MORTGAGE held, neither the ASSOCIATION nor the MEMBERS shall be entitled to do any of the following:"

2. Paragraph 18.08.2 of the DECLARATION, at Page 38, entitled "AMEND DECLARATION" is hereby amended in its entirety to read as follows:

"18.08.2 AMEND DECLARATION. Amend a material provision of the DECLARATION, the BY-LAWS or the ARTICLES. As used herein, the term "material provision" shall mean and refer to amendments to the following:

18.08.2.1 The prorata share of ownership of each CONDOMINIUM UNIT in the COMMON AREA.

18.08.2.2 The fundamental use of THE PROJECT from residential to such other use.

18.08.2.3 The votes assigned to each UNIT in THE PROJECT.

18.08.2.4 Assessments, assessment liens, and subordination thereof.

18.08.2.5 The reserve for repair and replacement of common elements.

18.08.2.6 The property maintenance obligations.

18.08.2.7 Casualty and liability insurance.

18.08.2.8 The reconstruction in the event of damage or destruction.

FRESNO COUNTY RECORDERS OFFICE

AUGUST 18, 1980

BOOK 7567 PAGE 325

18.05.2.9 The rights to use the common elements.

18.08.2.10 Any provision, which by its terms, is specifically for the benefit of FIRST MORTGAGEES, or specifically confers rights on FIRST MORTGAGEES."

IN WITNESS WHEREOF, MARTINIQUE LTD., a California Limited Partnership, as "DEVELOPER", and as the sole MEMBER of THE MARTINIQUE ASSOCIATION, a California non-profit corporation, and the owners association for THE PROJECT, and as the vested owner of all CONDOMINIUMS within THE PROJECT has executed this FIRST AMENDMENT to the DECLARATION this 15th day of AUG., 1980, at Fresno, California.

MARTINIQUE LTD.
A California Limited Partnership

By KLEIN GROUP, INC.
A California Corporation

By [signature]
ROBERT N. KLEIN II

By [signature]
JOHN ALAN LEE

STATE OF CALIFORNIA)
)
COUNTY OF FRESNO)

On Aug. 15, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared ROBERT N. KLEIN II, known to me to be the President and JOHN ALAN LEE, known to me to be the Secretary of the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the partners of MARTINIQUE LTD., a California Limited Partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

[signature]
Notary Public in and for said State

OFFICIAL SEAL
SANDI STULTS
NOTARY PUBLIC, CALIFORNIA
NOTARY BOND FILED IN
FRESNO COUNTY
My Commission Expires September 20, 1981

APRIL 30, 1980

43367

RECORDING REQUESTED BY:

BOOK 7511 PAGE 870

MARTINIQUE LTD.

WHEN RECORDED MAIL TO:

JOHN M. SHELTON
Attorney at Law
P.O. Box 12367
Fresno, CA 93721

RECORDED AT REQUEST OF
Title Insurance & Trust Co.
AT ___ MIN. PAST ___ M
APR 30 1980
FRESNO COUNTY, CALIFORNIA
GALEN LARSON, County Recorder
Martha Ariza
BY DEPUTY RECORDER
FEE $ 56

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
THE MARTINIQUE, PARCEL MAP NO. 78-62

CHINELLO, CHINELLO, SHELTON & AUCHARD
ATTORNEYS AT LAW
FIRST WESTERN BANK BUILDING - SIXTH FLOOR
FRESNO, CALIFORNIA 93721
AREA CODE 209
TELEPHONE: 486-2100

INDEX TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
THE MARTINIQUE, PARCEL MAP NO. 78-62

CHINELLO, CHINELLO, SHELTON & AUCHARD
ATTORNEYS AT LAW
FIRST WESTERN BANK BUILDING - SIXTH FLOOR
FRESNO, CALIFORNIA 93721
AREA CODE 209
TELEPHONE: 486-3100

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
THE MARTINIQUE, PARCEL MAP NO. 78-62

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS is made this 17 day of April, 1980, by MARTINIQUE LTD., a California limited partnership, hereinafter referred to as "DEVELOPER", with reference to the following facts:

1. DEVELOPER is the owner of that certain parcel of real property improved with a seventeen (17) unit apartment complex, situate in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

> Parcel A of PARCEL MAP NO. 78-62, THE MARTINIQUE, in the City of Fresno, County of Fresno, State of California as per map recorded in Book 34 of Parcel Maps, page(s) 24 in the office of the County Recorder of said County.

Said parcel of real property is sometimes herein referred to for brevity's sake as "THE PROPERTY".

2. DEVELOPER desires to subdivide (convert) THE PROPERTY into individual Condominium Units together with certain Common Area and to market or lease the same under the name of "THE MARTINIQUE", and has pursuant to Section 1351 of the Civil Code of California recorded a Condominium Plan covering the development of THE PROPERTY into seventeen (17) Condominium Units plus certain Common Area, entitled "CONDOMINIUM PLAN FOR PARCEL 'A' OF PARCEL MAP NO. 78-62, 'THE MARTINIQUE'", in the County of Fresno, State of California, in Book 36 at page(s) 39+40, in the office of the Fresno County Recorder, which Plan includes:

2.1 A description or survey map of the surfaces of the land included within THE PROJECT.

2.2 The lateral and vertical dimensions of each Unit and the relative location thereof, and

2.3 The certificate consenting to the recordation of such Plan as required by said Section 1351, signed and acknowledged by the record owners of THE PROPERTY and all record holders of security interests therein.

NOW, THEREFORE, DEVELOPER hereby declares that THE PROPERTY shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied and improved subject to the following limitations, covenants, conditions, restrictions, reservations and easements, all of which are declared and agreed to be in furtherance of a Plan for the subdivision, development, improvement and sale or lease of condominiums as defined in Section 783 of the Civil Code of California, in a condominium project, as defined in Section 1350 of the Civil Code of California, 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. All of the limitations, covenants, restrictions, conditions, and easements shall run with THE PROPERTY, the subject of this DECLARATION, and shall be binding upon all persons having or acquiring any right, title or interest in said PROPERTY or any part thereof, and shall be for the benefit of each OWNER of any portion of THE PROPERTY or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof. This DECLARATION is made by DEVELOPER pursuant to Section 1355 of the Civil Code of California.

ARTICLE I
DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this DECLARATION shall, for all purposes have the following meanings:

1.01 ARTICLES. "ARTICLES" shall mean the Articles of Incorporation of THE MARTINIQUE ASSOCIATION, a California non-profit corporation, as the same may be amended from time to time in accordance with the terms thereof.

1.02 ASSOCIATION. "ASSOCIATION" shall mean THE MARTINIQUE ASSOCIATION, a California non-profit corporation, or its successor, an owners' association as defined in Section 11003.1 of the California Business and Professions Code. The purpose of the ASSOCIATION is to operate THE PROJECT in accordance with the provisions of this DECLARATION.

1.03 ASSOCIATION RULES. "ASSOCIATION RULES" shall mean the rules from time to time in effect, pursuant to the provisions of the By-Laws of the ASSOCIATION.

1.04 BOARD. "BOARD" shall mean the Board of Directors of the ASSOCIATION.

1.05 BY-LAWS. "BY-LAWS" shall mean the BY-LAWS of the ASSOCIATION, as such BY-LAWS may be amended from time to time.

1.06 COMMON AREA. "COMMON AREA" shall mean the entire PROJECT, as herein described, excepting all UNITS granted or reserved and, without limiting the generality of the foregoing, all structural projections within a UNIT which are required for the support of a STRUCTURE, gas, water, waste pipes, all sewers, all ducts, chutes, conduits, wires and other utility installations of the STRUCTURES wherever located (except the outlets thereof located within the UNIT), the land upon which the STRUCTURES are located, the air space above the STRUCTURES, all bearing walls, columns, floors, the roof, the slab foundation, window glass and the like.

1.07 CONDOMINIUM. "CONDOMINIUM" shall mean the entire property conveyed or leased by deed or lease to a CONDOMINIUM grantee or lessee, which is an estate in real property consisting of:

1.07.1 A separate fee simple or leasehold estate in a UNIT, and

1.07.? An undivided 1/171 in fee simple in the COMMON AREA.

1.08 COUNTY/CITY. "COUNTY" shall mean the County of Fresno, "CITY" shall mean the City of Fresno, State of California.

1.09 DECLARATION. "DECLARATION" shall mean this instrument.

1.10 DEVELOPER. "DEVELOPER" shall mean MARTINIQUE LTD., a California limited partnership, its successors and assigns.

1.11 FISCAL YEAR. "FISCAL YEAR" shall refer to the accounting year of the ASSOCIATION which shall be a calendar year.

1.12 INSTITUTIONAL MORTGAGEE. "INSTITUTIONAL MORTGAGEE" shall mean and refer to a MORTGAGEE which is a bank or savings and loan association or established mortgagee company, or other entity chartered under federal or state law; any corporation or insurance company, any federal or state agency, or any other institutions specified by the BOARD in a recorded instrument.

1.13 MAJORITY OF MEMBERS. "MAJORITY OF MEMBERS" shall mean:

1.13.1 Those members of the ASSOCIATION holding 51% of the votes of each class of membership for so long as there are two classes of memberships in the ASSOCIATION pursuant to Article VII of this DECLARATION.

1.13.2 Upon the conversion of Class B memberships into Class A memberships pursuant to said Article VII those members of the ASSOCIATION holding 51% of the votes.

1.14 MEMBER. "MEMBER" shall mean and refer to those persons entitled to membership in the ASSOCIATION as provided in this DECLARATION.

1.15 MORTGAGE. "MORTGAGE" shall mean and refer to any duly recorded mortgage or deed of trust encumbering a CONDOMINIUM. A FIRST MORTGAGE shall refer to a MORTGAGE which has priority over any other MORTGAGE encumbering a specific CONDOMINIUM.

1.16 MORTGAGEE. "MORTGAGEE" shall mean and refer to the MORTGAGEE or beneficiary under any MORTGAGE.

1.17 OWNER. "OWNER" shall mean and refer to the record owner or owners, if more than one, (including DEVELOPER) of a CONDOMINIUM in THE PROJECT, excluding those persons or entities having such interest merely as security for the performance of an obligation.

1.18 RESIDENCE. "RESIDENCE" shall mean a UNIT.

1.19 STRUCTURES. "STRUCTURES" shall mean anything constructed or erected upon THE PROPERTY, including UNITS and recreational facilities and attachments to the exterior of any UNIT or to the COMMON AREA.

1.20 THE PROJECT. "THE PROJECT" shall mean and refer to THE PROPERTY to be developed as a Condominium Project, including COMMON AREA and the individual UNITS.

1.21 UNIT. "UNIT" shall mean and refer to the elements of a CONDOMINIUM which are not owned in common with the other OWNERS of other CONDOMINIUMS in THE PROJECT. The boundaries of each UNIT shall be as shown and described on the CONDOMINIUM PLAN, and each UNIT shall consist of two elements as follows:

1.21.1 RESIDENTIAL ELEMENT. "RESIDENTIAL ELEMENT" shall mean that portion of a UNIT designed for use as a RESIDENCE, and shall be identified on the CONDOMINIUM PLAN by a UNIT number and the letter "R", and shall consist of the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors of each RESIDENTIAL ELEMENT and the space encompassed thereby, including the outlets of all utility installations therein and also including the interior surfaces of the fire box of each fireplace extending from the floor to the top of each fireplace, if any, and the space encompassed thereby, which adjoins a RESIDENTIAL ELEMENT.

1.21.2 PATIO ELEMENT. "PATIO ELEMENT" shall mean that portion of a UNIT designed for use as a patio and shall be identified on the CONDOMINIUM PLAN by the UNIT number the the letter "P" and shall consist of the contiguous surfaces of any COMMON AREA walls, fences or floors and the surfaces of the walls of contiguous STRUCTURES, and the space encompassed by all of the foregoing. In the event that the contiguous COMMON AREA land or improvements does not completely enclose the PATIO ELEMENT, the remaining boundaries of the air space contained within such element shall be delineated on the CONDOMINIUM PLAN.

1.22 LIMITED COMMON AREA. "LIMITED COMMON AREA" shall mean the covered parking space which is reserved for the exclusive use of the OWNER of a particular UNIT. The LIMITED COMMON AREA shall be identified on the CONDOMINIUM PLAN by the letter "C" accompanied by the UNIT number to which the exclusive use of the carport is reserved.

ARTICLE II
TERM

2.01 This DECLARATION and the covenants, conditions, easements and restrictions contained herein shall exist and be binding upon all parties claiming an interest in THE PROJECT, or any part thereof, for a term of sixty (60) years from the date this DECLARATION is recorded in the office of the Fresno County Recorder, after which time said DECLARATION and the covenants, conditions, provisions, and restrictions contained herein shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by a majority of the then OWNERS and seventy-five percent (75%) of the INSTITUTIONAL MORTGAGEES, based on one (1) vote for each FIRST MORTGAGE held has been recorded at least one (1) year prior to the end of any such period, agreeing to change said DECLARATION in whole or in part.

ARTICLE III
COVENANTS TO RUN WITH THE LAND

3.01 The covenants, conditions, restrictions and easements of this DECLARATION shall run with and bind THE PROPERTY, and each and every part thereof, and shall inure to the benefit of the ASSOCIATION and each and every OWNER, their respective legal representatives, heirs, successors and assigns for the term of this DECLARATION, and any extensions thereof, as prescribed by Article II.

ARTICLE IV
MUTUALITY OF BENEFIT AND OBLIGATION

4.01 This DECLARATION is made for the mutual and reciprocal benefit of each and every OWNER and is intended to create mutual equitable servitudes upon each CONDOMINUIM within THE PROJECT in favor of each and all of the OWNERS of CONDOMINIUMS in THE PROJECT; to create reciprocal rights between the respective OWNERS of all of the CONDOMINIUMS; to create a privity of contract and estate between the grantees of said CONDOMINIUMS, their heirs, successors and assigns.

ARTICLE V
ENFORCEMENT OF DECLARATION

5.01 The following persons shall have the right to enforce by proceedings at law or in equity, all restrictions, covenants, conditions, and reservations, now or hereafter imposed by the provisions of this DECLARATION or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages or other dues for such violation.

5.01.1 The DEVELOPER, so long as DEVELOPER owns a CONDOMINIUM in THE PROJECT;

5.01.2 Any OWNER of a CONDOMINIUM within the PROJECT;

5.01.3 The ASSOCIATION, and

5.01.4 The CITY, COUNTY or any political subdivision or agency thereof.

5.02 ASSESSMENT LIENS. The ASSOCIATION shall have the exclusive right to the enforcement of all assessment liens or any other liens or charges prescribed by this DECLARATION.

5.03 NO WAIVER. The failure by any person entitled to enforce the provisions of this DECLARATION pursuant to 5.01 of this Article, in any certain instance or any particular occasion, shall not be deemed a waiver of such right on any such future breach of the same covenant, condition or restriction.

ARTICLE VI
MEMBERSHIP

6.01 QUALIFICATIONS. Each OWNER of a CONDOMINIUM, including DEVELOPER, shall be a member of the ASSOCIATION. Ownership of a CONDOMINIUM within THE PROJECT shall be the sole qualification of membership in the ASSOCIATION.

6.02 TRANSFER OF MEMBERSHIP. The ASSOCIATION membership of each OWNER (including DEVELOPER) shall be appurtenant to the CONDOMINIUM giving rise to such membership, and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said CONDOMINIUM (or sale under contract of sale) and then only to the transferee of title (or vendee under contract of sale) to such CONDOMINIUM. Any attempt to make a prohibited transfer shall be void. Any transfer of title or sale under of contract of sale of a CONDOMINIUM shall operate automatically to transfer the membership in the ASSOCIATION appurtenant to the new OWNER or vendee thereof.

6.03 MEMBERSHIP RIGHTS. The rights, duties, privileges and obligations incidental to membership in the ASSOCIATION shall be exercised and imposed in accordance with this DECLARATION and the BY-LAWS of the ASSOCIATION.

6.04 TERMINATION OF MEMBERSHIP. An OWNER'S membership in the ASSOCIATION shall cease upon the termination of the status as an OWNER, whether by sale, assignment or conveyance of the CONDOMINIUM giving rise to such membership.

ARTICLE VII
VOTING RIGHTS

7.01 VOTING RIGHTS. The ASSOCIATION shall have two classes of voting memberships, specifically, Class A voting members and Class B voting members.

7.01.1 Each UNIT other than a UNIT owned by the DEVELOPER during such time as Class B voting rights are in existence, shall have Class A voting rights entitling such UNIT to one (1) vote, regardless of the number of OWNERS thereof. There shall be as many Class A votes as there are UNITS in THE PROJECT; provided, however, that during such time as Class B votes shall be in existence, there shall be as many Class A votes as there are UNITS not owned by DEVELOPER.

7.01.2 DEVELOPER shall have Class B voting rights entitling it to three (3) votes for each UNIT in THE PROJECT owned by DEVELOPER. Class B voting rights shall be converted to Class A voting rights and shall forever cease to exist on the occurrence of the first to occur of the following:

7.01.2.1 The date on which the total number of Class A votes equals the total number of Class B votes.

7.01.2.2 October 1, 1981.

7.02 VESTING OF VOTING RIGHTS. The voting rights prescribed with respect to each UNIT within THE PROJECT pursuant to this Article VII shall not vest with respect to such UNIT until the first day following the initial levy of the REGULAR MONTHLY ASSESSMENT against such UNIT by the ASSOCIATION pursuant to Article XI of this DECLARATION.

7.03 APPLICATION. Whenever this DECLARATION or the BY-LAWS of the ASSOCIATION require the vote, assent or presence of a stated number of OWNERS or MEMBERS entitled to vote on a matter or at a meeting with regard to the taking of any action or any other matter whatsoever, the provisions of this Article VII shall govern as to the total number of available votes, the number of votes an OWNER is entitled to cast at the meeting, and the manner in which the vote attributable to a UNIT having more than one OWNER shall be cast.

7.04 JOINT OWNER DISPUTES. The vote for each CONDOMINIUM may be cast only as a unit, and fractional votes shall not be allowed. In the event that joint OWNERS are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any OWNER or OWNERS cast a vote representing a certain CONDOMINIUM, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other OWNERS of the same CONDOMINIUM. In the event more than one vote is cast for a particular CONDOMINIUM, none of said votes shall be counted and all of said votes shall be deemed void.

7.05 CUMULATIVE VOTING. In any election of Directors the OWNER (or OWNERS) of each CONDOMINIUM shall be entitled to cast the number of votes authorized for that voting class (pursuant to Paragraph 7.01 hereof) multiplied by the number of Directors to be elected. Such votes may be cast for one candidate or may be divided among them in any way desired.

7.06 DEVELOPER VOTING RIGHTS. That portion of Paragraphs 9.04.10, 9.07, 11.02.5, 11.03 and 11.04 of this DECLARATION which excludes the votes of the DEVELOPER shall be applicable only if there has been a conversion of Class B memberships to Class A memberships and only for so long as the DEVELOPER holds or directly controls 25% or more of the voting power of the ASSOCIATION.

ARTICLE VIII
OWNERSHIP, OCCUPANCY AND USE OF UNITS AND COMMON AREA

In addition to all other covenants contained herein, the ownership, occupancy and use of THE PROJECT and each UNIT therein and the COMMON AREA is subject to the following:

8.01 OWNERSHIP. Each UNIT is to be owned by the OWNER in fee simple. The COMMON AREA of THE PROJECT is to be owned by the OWNER of each UNIT, as tenants in common, with each OWNER of a UNIT owning an undivided 1/17th of such COMMON AREA. The undivided interest in THE PROJECT COMMON AREA shall be conveyed by the DEVELOPER to the OWNER in the same conveyance as each UNIT is conveyed. Such undivided ownership in the COMMON AREA (and all personal property acquired by the ASSOCIATION for the benefit of all OWNERS) shall only be sold, hypothecated, or transferred in conjunction with the sale, hypothecation or transfer of a UNIT.

8.02 BUSINESS USAGE PROHIBITED. No part of THE PROJECT or CONDOMINIUMS therein shall ever be used or caused to be used, directly or indirectly, for any business, commercial, manufacturing, mercantile, vending, or any such nonresidential purposes except DEVELOPER, its successors and assigns, may use the CONDOMINIUMS owned by it as models and display and sales or rental offices. With hte exception of a lender in possession of a CONDOMINIUM UNIT following a default in a FIRST MORTGAGE, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no UNIT OWNER shall be permitted to lease his UNIT for transient or hotel purposes.

8.03 UNIT USE. No UNIT shall be used and occupied for other than residential or patio purposes.

8.04 SIGNS. Except for the signs approved by the BOARD for the benefit of THE PROJECT, no signs of any kind shall be displayed to the public view on or about the exterior of any UNIT, except signs not larger than is reasonably and customarily used in the area advertising said UNIT for sale or lease. This provision is not applicable to signs used by the DEVELOPER or its agents in connection with the original sale of the CONDOMINIUMS.

8.05 FURNISHINGS AND DECORATION OF UNIT. Subject to the DECLARATION, each OWNER shall, at his sole cost and expense, furnish, refinish and decorate the RESIDENCE element of his UNIT and landscape the PATIO element of his UNIT.

8.06 PATIO. No furniture shall be placed in the PATIO element of a UNIT except furniture which is designed as outdoor or patio furniture. Nothing shall be placed in the PATIO element except such furniture, trees, shrubs, bushes or plants and other items as may be permitted therein or thereon, pursuant to the ASSOCIATION RULES or this DECLARATION.

8.07 STRUCTURAL CHANGES. No OWNER shall make or cause to be made structural alterations or modifications to the RESIDENTIAL element of his UNIT.

8.08 STORAGE. There shall be no storage of any item in or upon a UNIT except in an enclosed area not visible from adjoining streets, the COMMON AREA or other UNITS. Storage in the COMMON AREA shall be limited to the storage by the BOARD or the manager, if any, of equipment or material for use solely in connection with the COMMON AREA.

8.09 PETS. Not exceeding two (2) usual and ordinary pets (exclusive of tropical fish) may be kept in any UNIT. Such pets shall not be allowed on the COMMON AREA. Each owner shall be absolutely liable to each and all remaining OWNERS, their families, servants, guests, tenants and invitees, for any damage to person or property caused by any pets brought upon or kept upon or in THE PROJECT by an OWNER or by members of his family, guest, invitees, or tenants. Except as authorized by this Paragraph, no animals, birds, livestock, poultry or pets of any kind shall be brought within THE PROJECT or kept in or on any UNIT. Any pet causing or creating an unreasonable disturbance shall be removed from THE PROJECT on three days written notice from the ASSOCIATION.

8.10 WINDOW COVERS. Curtains, drapes, shutters or blinds may be installed by an OWNER as window covers within his UNIT. No window shall be covered with aluminum foil or similar reflective material.

8.11 INSURANCE. Nothing shall be done or kept in any UNIT or in the COMMON AREA which would increase any applicable rate of insurance, without the prior written consent of the BOARD. No OWNER shall permit anything to be done or kept in his UNIT or in or on the COMMON AREA which will result in the cancellation of insurance upon the UNIT or any part of the COMMON AREA, or which would be in violation of any law. No waste will be committed in the COMMON AREA.

8.12 NUISANCES. No noxious or offensive activity shall be carried on in THE PROJECT, nor shall anything be done therein which may or become an annoyance or nuisance to other OWNERS, their families, guests, tenants, servants and invitees.

8.13 COMPLIANCE WITH LAW. Each OWNER shall comply with all of the requirements of the local and State Board of Health and with all other governmental authorities with respect to the use and occupancy of his UNIT and the COMMON AREA.

8.14 EXPLORATION FOR MINERALS. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in THE PROJECT or any portion thereof, nor shall oil wells, tanks, tunnels, or mineral excavations or shafts be permitted upon the surface of any portion of the PROJECT or within 500 hundred feet below the surface of THE PARCEL, and no derrick designed for use in the drilling for water, oil or natural gas shall be erected, maintained or permitted on any portion of THE PROJECT.

8.15 RUBBISH. All rubbish, trash and garbage shall be regularly removed from the UNITS by the OWNERS thereof, and placed in the trash containers situate upon the COMMON AREA at the OWNER'S sole cost and expense, and shall not be allowed to accumulate thereon or upon the CONDOMINIUMS.

8.16 STRUCTURE. Nothing shall be done to any UNIT or to the COMMON AREA which will impair the structural integrity of any STRUCTURE or would structurally change anything within THE PROJECT without the prior written consent of the Architectural Committee. Nothing shall be altered or constructed in or removed from the COMMON AREA, except upon the prior written consent of the BOARD and the Architectural Committee.

8.17 ANTENNAE. No television, radio or other electronic antennae, or device of any type shall hereafter be erected, constructed, placed or permitted to remain upon THE PROPERTY unless and until the same shall have been approved by the Architectural Committee, or unless the same be contained within a UNIT or STRUCTURE.

8.18 LAUNDRY. No laundry or wash shall be dried or hung within any UNIT so as to be visible from view of the neighboring UNITS, streets or the COMMON AREA.

8.19 ASSIGNED PARKING. The BOARD shall assign at least one parking space within the COMMON AREA to each UNIT in THE PROJECT, which space shall be as near and convenient to such UNIT as possible. The BOARD may also assign, upon a showing of good cause, additional parking space to one or more UNITS in THE PROJECT. Any parking space assigned to a UNIT pursuant to this Paragraph may be exchanged for the parking space assigned to another UNIT in THE PROJECT with the consent of such UNIT OWNER and the BOARD. Provided, however, that no OWNER of any UNIT may sell, transfer, convey or alienate the space or spaces assigned to his UNIT in such manner so as to deprive such UNIT of the exclusive right to the use of at least one parking space in the COMMON AREA of THE PROJECT. The BOARD may also assign and designate temporary guest or recreational parking spaces within the COMMON AREA. Parking space assigned to an individual UNIT or as temporary guest or recreational parking shall be designated as such by signs or markings on the paved area.

8.20 PARKING. No OWNER shall park his automobiles, mobile homes, travel trailer, truck, camper, house trailer, boat, boat trailer or similar equipment or permit members of his family, his guests, tenants, invitees or servants to park such vehicles or equipment in any part of THE PROJECT except (i) the space or spaces assigned to such OWNER for such purposes by the BOARD, or (ii) CARPORT assigned to such OWNERS UNIT in compliance with this DECLARATION.

8.21 EQUIPMENT. No power equipment, hobby shops, or carpenter shops shall be maintained on THE PROJECT, except with the prior approval of the BOARD. No automobile overhaul or maintenance work, other than emergency work, shall be permitted in THE PROJECT.

8.22 COMMON AREA. The COMMON AREA, subject to the ASSOCIATION RULES and this DECLARATION, is intended to be improved and used as follows:

8.22.1 Affording vehicular parking and vehicular and pedestrian movement within THE PROJECT, including access to the UNITS.

8.22.2 Affording recreational activity within THE PROJECT subject to and in accordance with ASSOCIATION RULES.

8.22.3 Affording such landscaping and other beautification to THE PROJECT as the BOARD may deem necessary from time to time.

8.22.4 Affording easements in order to facilitate the service of utilities to individual UNITS and STRUCTURES within the COMMON AREA.

8.23 TAXES. Each OWNER shall pay any real and personal property taxes separately assessed against his respective UNIT and such OWNER'S undivided interest in the COMMON AREA.

8.24 UTILITY CHARGES. Each OWNER shall pay any and all utility charges separately metered or charged against his UNIT, and such payment shall be made by each OWNER in addition to and separately from assessments otherwise payable by such OWNER to the ASSOCIATION. If the ASSOCIATION is required to pay any utility charges separately metered to a UNIT which the OWNER thereof is required to pay pursuant to Paragraph 9.03.5 of this DECLARATION, the ASSOCIATION shall levy an INDIVIDUAL ASSESSMENT against such OWNER pursuant to the provisions of Article XI to cover the costs of such charges.

8.25 LEASE OF CONDOMINIUM. All leases or tenancies of a CONDOMINIUM must be in writing and must provide that the lease or tenancy is subject in all respects to the provisions of this DECLARATION, the BY-LAWS and the ARTICLES, and that the failure of the lessee to comply with any of the terms and provisions of said documents shall constitute a default under the lease or tenancy. No UNIT OWNER may lease less than the entire UNIT.

ARTICLE IX
POWERS AND DUTIES OF ASSOCIATION

9.01 ADMINISTRATION OF PROJECT. The OWNERS, and each of them, together with all parties bound by this DECLARATION, covenant and agree that the administration of THE PROJECT shall be by the ASSOCIATION in accordance with the provisions of this DECLARATION, the ARTICLES, the BY-LAWS and ASSOCIATION RULES. In the event of any inconsistency between the provisions of this DECLARATION and the provisions of the ARTICLES, the BY-LAWS or ASSOCIATION RULES, the provisions of this DECLARATION shall prevail.

9.02 ORGANIZATIONAL MEETING OF ASSOCIATION. The MEMBERS of the ASSOCIATION shall hold their organizational meeting as prescribed by Paragraph 4.02 of the BY-LAWS. DEVELOPER shall call the organizations meeting and give notice of the time thereof in the manner set forth in the BY-LAWS. Thereafter, annual and special meetings of the MEMBERS of the ASSOCIATION shall be held as provided in the BY-LAWS.

9.03 AUTHORITY OF BOARD. The Board of Directors as constituted from time to time, shall at all times be responsible for the day to day operation and management of the affairs of the ASSOCIATION and shall have the sole power and duty to perform and carry out the powers and duties of the ASSOCIATION. Prior to the initial organizational meeting of the MEMBERS, prescribed by Paragraph 9.02 of this Article, and thereafter until their successors are elected, the initial BOARD named in the ARTICLES of the ASSOCIATION or their duly appointed successors, shall manage the affairs of the ASSOCIATION. Without limiting the generality of the foregoing, the BOARD, on behalf of the ASSOCIATION, shall have the following powers and duties:

9.03.1 To enforce the provisions of this DECLARATION, the ARTICLES, BY-LAWS, and ASSOCIATION RULES, by appropriate means and carry out the obligations of the ASSOCIATION hereunder.

9.03.2 To accept as MEMBERS all persons described in Article VI Paragraph 6.01.

9.03.3 To maintain and otherwise manage the following:

9.03.3.1 All easements and real property and all facilities, improvements and landscaping thereon in which the ASSOCIATION holds an interest, subject to the terms of any instruments transferring such interest to the ASSOCIATION.

9.03.3.2 The COMMON AREA, together with all real or personal property which the ASSOCIATION is obligated to repair or maintain pursuant to this DECLARATION, including, but without limitation, the Article of this DECLARATION entitled REPAIR AND MAINTENANCE.

9.03.3.3 All personal property in which the ASSOCIATION holds an interest, subject to the terms of any instrument transferring such interest to the ASSOCIATION.

9.03.4 To pay any real and personal property taxes and other charges assessed to or payable by the ASSOCIATION.

9.03.5 To acquire and pay for out of the assessments levied and collected in accordance with this DECLARATION, all sewer, water, gas, electric, refuse collection and other services to THE PROJECT (to the extent any such utilities or services are separately metered to the UNITS, the OWNERS of such UNITS shall be primarily responsible for the payment thereof as prescribed by Paragraph 8.24 of this DECLARATION).

9.04 GENERAL POWERS OF THE ASSOCIATION. The ASSOCIATION and the BOARD shall have the general power but not the obligation to:

9.04.1 MANAGEMENT. Employ a manager, or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments similar to THE PROJECT to perform all or any part of the duties and responsibilities of the ASSOCIATION; provided, however, that any such contract shall be terminable by either party without cause and without the payment of any termination fee on 90 days written notice; shall be terminable by the BOARD for cause on 30 days written notice, and shall have a term of not more than one year, and with the vote or written assent of a MAJORITY OF MEMBERS (excluding the votes or assents of the DEVELOPER) may contain a provision for successive one year renewal periods upon mutual agreement of the parties.

9.04.2 ASSOCIATION RULES. Establish by the vote of a majority of the BOARD, ASSOCIATION RULES in connection with the use, occupancy and maintenance of the UNITS and the COMMON AREA by OWNERS and their family members, servants, tenants, guests, and invitees, and the conduct of such persons with respect to vehicles, parking, bicycles, use of recreational facilities, control of pets and other activities which if not so regulated might detract from the appearance of THE PROJECT or offend or be offensive to or cause inconvenience, noise or danger to persons residing in or visiting THE PROJECT. Such rules and regulations shall be posted in a conspicuous place in the COMMON AREA and the BOARD shall send a copy of such rules and regulations, together with amendments and additions thereto to each OWNER within fifteen (15) days of the adoption of such rules and regulations or amendments and additions thereto.

9.04.3 ACQUISITION OF PROPERTY. Acquire interests in real and personal property for offices or other facilities that may be necessary or convenient for the management of THE PROJECT, the administration of the affairs of the ASSOCIATION or for the benefit of the MEMBERS.

9.04.4 BORROW MONEY. Borrow such sums of money as may from time-to-time be needed by the ASSOCIATION in connection with the discharge of its powers and duties.

9.04.5 CONTRACTS WITH MORTGAGEES. Negotiate and enter into contracts with mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by mortgages within THE PROJECT.

9.04.6 CABLE TELEVISION. Contract for cable television service for the benefit of the OWNERS who have subscribed for such services.

9.04.7 WASHROOM FACILITIES. Acquire, maintain, repair and replace all laundry equipment located upon the COMMON AREA.

9.04.8 EASEMENTS. Grant easements where necessary for utilities and sewer facilities over the COMMON AREA.

9.04.9 DELEGATION OF POWERS. Delegate to committees, officers, employees or agents any of its duties and powers under this DECLARATION, the ARTICLES and BY-LAWS; provided, however, no such delegation to a professional management company, the Architectural Committee or otherwise shall relieve the ASSOCIATION of its obligation to perform such delegated duties.

9.04.10 IMPROVEMENTS TO COMMON AREA. Construct such improvements on the COMMON AREA, from time to time, as may be approved by the votes or written assents of a MAJORITY OF MEMBERS, (excluding votes or assents of the DEVELOPER) and by the Architectural Committee.

9.05 ENTRY INTO UNIT. The ASSOCIATION shall have the following rights with respect to entrance upon any UNIT in THE PROJECT:

9.05.1 EMERGENCY. The ASSOCIATION or any person authorized by the ASSOCIATION may enter any UNIT in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the OWNER as practicable, any damage caused thereby shall be repaired by the ASSOCIATION unless covered by insurance carried by the OWNER.

9.05.2 ENFORCEMENT OF DECLARATION. The ASSOCIATION may enter into any UNIT for the purpose of enforcing this DECLARATION or ASSOCIATION RULES (including, without limitation, the performance of the ASSOCIATION'S duties under the Article of this DECLARATION entitled "REPAIR AND MAINTENANCE"), all in the manner and subject to the limitations set forth in the easement granted the ASSOCIATION for such purposes in Paragraph 14.05 of Article XIV of this DECLARATION.

9.06 PERSONAL LIABILITY. No member of the BOARD or of any committee of the ASSOCIATION, or any officer of the ASSOCIATION, or the DEVELOPER, or the manager, if any, shall be personally liable to any OWNER, or to any other party, including the ASSOCIATION, for any damage or loss suffered or claimed on account of any act, omission, error or negligence of the ASSOCIATION, the BOARD, manager or any other representative or employee of the ASSOCIATION, the DEVELOPER, the Architectural Committee, or any other committee, or any officer of the ASSOCIATION, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, and without willful or intentional misconduct.

9.07 LIMITATION ON POWERS. In the exercise of the powers granted to the BOARD by this DECLARATION, the approval of any of the following action by the BOARD must first be obtained by the vote or written assent of a MAJORITY OF MEMBERS (excluding the vote or assent of DEVELOPER).

9.07.1 Incurring aggregate expenditures for capital improvements to the COMMON AREA in any FISCAL YEAR in excess of 5% of the total of the REGULAR MONTHLY ASSESSMENT established for such FISCAL YEAR.

9.07.2 Selling during any FISCAL YEAR property of the ASSOCIATION having an aggregate fair market value in excess of 5% of the total of the REGULAR MONTHLY ASSESSMENT established for such FISCAL YEAR.

9.07.3 Levying an increase in the REGULAR MONTHLY ASSESSMENT and certain SPECIAL and EMERGENCY ASSESSMENTS pursuant to Article XI.

9.07.4 Paying any compensation to members of the BOARD of Directors or to officers of the ASSOCIATION for services performed in the conduct of the ASSOCIATION'S business. A member of the BOARD or an officer of the ASSOCIATION may, however, be reimbursed for expenses incurred in carrying on the business of the ASSOCIATION without obtaining the vote or written assent of a MAJORITY OF MEMBERS pursuant to this Paragraph.

9.07.5 Entering into a contract or agreement for the furnishing of goods or services, including any contract with the DEVELOPER, for a term in excess of one year with the exception of the following:

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

9.07.5.2 Prepaid casualty, fire and/or liability insurance policies of not to exceed three years duration provided that the policies permit for short rate cancellation by the insured.

9.07.6 Filling of a vacancy on the BOARD created by the removal of a BOARD member.

9.08 FINANCIAL STATEMENTS. The BOARD shall prepare or cause to be prepared and mailed to all OWNERS such Notices of Assessments, budgets and financial statements as may be prescribed by the DECLARATION, the BY-LAWS or by the State of California, Department of Real Estate, from time to time.

9.09 MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS. The BOARD shall maintain or cause to be maintained, current copies of the DECLARATION, ARTICLES and ASSOCIATION RULES. The BOARD shall also maintain or cause to be maintained, a membership register, books of account and minutes of the meetings of the MEMBERS, the BOARD and of all committees.

During normal business hours, or under other reasonable circumstances, the BOARD shall permit the inspection and copying of all such books and records, or any part or portions thereof, by OWNERS, INSTITUTIONAL MORTGAGEES and prospective purchasers of UNITS in THE PROJECT.

9.10 VIOLATION OF GOVERNING DOCUMENTS. The BOARD shall have the power to adopt a schedule of reasonable fines and penalties for violations of the terms of the DECLARATION and ASSOCIATION RULES by any OWNER, his family, guests, licensee, lessee or invitee. Any such schedule of fines must be approved by the vote or written assent of a MAJORITY OF MEMBERS present either in person or by proxy and entitled to vote at a meeting called for such purpose at which a quorum is present. All such fines authorized by this Paragraph shall not exceed $50.00 for each violation, and shall constitute an INDIVIDUAL ASSESSMENT under Article XI. Any schedule of penalties so adopted shall include the power of the ASSOCIATION to suspend the rights of an OWNER, his family, guests, lessees, or invitees to use the recreational facilities upon the COMMON AREA of THE PROJECT. All such fines and penalties shall be levied or assessed only after notice and hearing pursuant to the BY-LAWS.

ARTICLE X
ARCHITECTURAL CONTROL

10.01 APPOINTMENT OF ARCHITECTURAL COMMITTEE. The DEVELOPER shall initially appoint an Architectural Committee consisting of three (3) members who shall remain in office until the expiration of one (1) year from the issuance of the public report for the CONDOMINIUM PROJECT. Upon the expiration of one (1) year from the issuance of such public report for the CONDOMINIUM PROJECT, DEVELOPER shall appoint two members of the Architectural Committee and the BOARD of DIRECTORS shall appoint one (1) member of the Architectural Committee, and such members shall remain in office until: (a) three years from the date of the recordation of this DECLARATION; or (b) the recordation of deeds evidencing the conveyance by DEVELOPER of ninety percent (90%) of the CONDOMINIUMS in the PROJECT, whichever shall first occur. From and after such time or event, as the case may be, the Architectural Committee shall be appointed by the Board of Directors of the ASSOCIATION, with each member to serve for a term of two (2) years.

10.02 MEMBERSHIP OF ARCHITECTURAL COMMITTEE. Members of the Architectural Committee appointed by the DEVELOPER need not be MEMBERS of the ASSOCIATION. Members of the Architectural Committee appointed by the Board of Directors shall be MEMBERS of the ASSOCIATION. In the event of the death or resignation of any member of the committee prior to the expiration of his term, the DEVELOPER or BOARD who appointed such deceased or resigning member shall have the power to appoint his successor.

10.03 MEETINGS OF COMMITTEE. The Architectural Committee shall meet from time to time as may be necessary to perform its duties hereunder. Any action taken by the Architectural Committee shall require the written approval of a majority of its members.

10.04 RULES AND REGULATIONS. The Architectural Committee shall have the power by a majority of its members to adopt such reasonable rules and regulations governing the organization and administration of its duties.

10.05 AUTHORITY. No construction, alteration, addition, modification, or reconstruction of a STRUCTURE in THE PROJECT shall be commenced or maintained, until the plans and specifications therefore showing the nature, kind, shape, height, width, color, materials and location thereof shall have been submitted to the Architectural Committee and approved in writing by the Committee. The Committee shall approve plans and specifications submitted for its approval only if it deems that the construction, alterations, addition or modifications contemplated thereby in the locations indicated will be in architectural harmony with THE PROJECT. In exercise of its authority, the Committee may:

10.05.1 Condition its approval of proposals and plans and specifications on such changes or conditions thereto as it deems appropriate.

10.05.2 Require submission of additional plans and specifications or other information prior to approval or disapproval of the proposed construction, alterations or additions.

10.05.3 Require a nominal fee payable to the ASSOCIATION to accompany each application for approval.

10.06 DECISIONS OF COMMITTEE. Decisions of the Architectural Committee and the reason therefor shall be transmitted by the Committee to the applicant within thirty days after receipt by the Committee of all materials required by the Committee. Any application submitted pursuant to this DECLARATION shall be deemed approved, unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the applicant within thirty days after the date of receipt by the Committee of all required materials.

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

10.08 INSPECTION. Inspection of work and correction of defects therein shall proceed as follows:

10.08.1 The Committee may at any time inspect any

STRUCTURE for which approval of plans is required under the DECLARATION; provided, however, that the Committee's right of inspection shall terminate sixty days after the work of improvement shall have been completed and the respective owners shall have given written notice to the Committee of such completion. If, as a result of such inspection, the Committee finds that such improvement was done without obtaining the approval of the plans therefor or was not done in substantial compliance with the plans approved by the Committee, it shall notify the OWNER in writing of the failure to comply with the DECLARATION within sixty days from the inspection, specifying the particulars of noncompliance. The Committee shall have the authority to require the OWNER to take such actions as may be necessary to remedy the noncompliance.

10.08.2 If upon the expiration of sixty days from the date of such notification, the OWNER shall have failed to remedy such noncompliance, the Committee shall notify the BOARD in writing of such failure. The BOARD shall, upon sixty days written notice to the OWNER conduct a hearing upon the COMMON AREA for the purposes of determining whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the OWNER shall remedy or remove the same within a period of not more than forty-five days from the date that notice of the BOARD ruling is given, in writing, to the OWNER. If the OWNER does not comply with the BOARD ruling within such period, the BOARD shall have the right to levy an INDIVIDUAL ASSESSMENT against such OWNER pursuant to the provisions of Paragraph 11.05 of Article XI of this DECLARATION to cover the costs to remedy or correct the noncompliance, and the BOARD shall cause such work to be done.

10.08.3 VARIANCE. The Architectural Committee may authorize variances from compliance with any of the Architectural provisions of this DECLARATION when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require. Such variances must be evidenced in writing and must be signed by at least two members of the Architectural Committee. If variances are granted, no violation of the DECLARATION shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of the DECLARATION for any purpose except as to the particular improvement and particular provision hereof covered by the variance, nor shall it affect in any way the OWNER'S obligation to comply with all governmental laws and regulations affecting his use of all or any portion of THE PROJECT.

10.09 LIABILITY OF COMMITTEE MEMBERS. Neither DEVELOPER nor the Committee, nor any member of the BOARD nor their duly authorized representative shall be liable to the ASSOCIATION, or to any OWNER for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Committee.

ARTICLE XI
ASSESSMENTS

11.01 CREATION OF LIEN AND OBLIGATION OF ASSESSMENTS. The DEVELOPER, for each CONDOMINIUM owned by it within THE DEVELOPER, for each CONDOMINIUM owned by it within THE PROJECT hereby covenants, and each OWNER of a CONDOMINIUM

PROJECT hereby covenants, and each OWNER of a CONDOMINIUM within THE PROJECT, by acceptance of a deed therefore, is deemed to covenant and agree to pay to the ASSOCIATION the following assessments:

11.01.1 Regular monthly assessments or charges.

11.01.2 Special assessments for capital improvements.

11.01.3 Emergency assessments, and

11.01.4 Individual assessments.

All fines and assessments provided by this DECLARATION, together with such interest thereon and the cost for collection thereof shall be a charge on the CONDOMINIUM against which each assessment is made, which lien shall be created and enforced in accordance with the provisions of this Article. Each assessment prescribed by this Article, together with interest and the cost of collection thereof, shall further be the joint and several personal obligation of each person who was an OWNER of such CONDOMINIUM at the time when such assessment fell due.

11.02 REGULAR MONTHLY ASSESSMENT. The term "REGULAR MONTHLY ASSESSMENT" as used herein shall mean and refer to the following assessments.

11.02.1 Initial REGULAR MONTHLY ASSESSMENT. The first day of the calendar month immediately following the date of the recordation of a deed to the first purchaser of a CONDOMINIUM other than the DEVELOPER, in THE PROJECT shall be hereinafter referred to as the "INITIATION DATE". Until January 1 of the FISCAL YEAR immediately following the INITIATION DATE the REGULAR MONTHLY ASSESSMENT shall be $__________ per CONDOMINIUM per month.

11.02.2 REGULAR MONTHLY ASSESSMENT. Not less than sixty (60) days prior to the beginning of each FISCAL YEAR following the INITIATION DATE, the ASSOCIATION shall estimate the net cash requirements for the ensuing FISCAL YEAR for the ASSOCIATION to operate and maintain THE PROJECT, including reasonable reserves for the replacement or repair of all STRUCTURES situate thereon, in accordance with the ASSOCIATION'S duties as set forth in this DECLARATION, and each CONDOMINIUM in THE PROJECT shall be assessed for its share of the amount so estimated.

11.02.3 Decrease or Increase in REGULAR MONTHLY ASSESSMENT. The REGULAR MONTHLY ASSESSMENT may be decreased or increased by the BOARD of Directors without a vote of the MEMBERS of the ASSOCIATION commencing January 1 of each FISCAL YEAR following the INITIATION-DATE. Provided, however, that any such increase shall not be more than 20% of the REGULAR MONTHLY ASSESSMENT in effect during the previous FISCAL YEAR, without the approval of the MEMBERS as provided by Paragraph 11.02.5 of this Article.

11.02.4 Determination of REGULAR MONTHLY ASSESSMENTS. All REGULAR MONTHLY ASSESSMENTS, including increases thereto, shall be fixed and determined by the BOARD not less than sixty (60) days prior to the beginning of each FISCAL YEAR and all MEMBERS shall be notified of the assessment by the BOARD in writing at least thirty (30) days prior to the beginning of the FISCAL YEAR. All REGULAR MONTHLY ASSESSMENTS shall continue in effect until the end of the FISCAL YEAR during which they become effective, and for each FISCAL YEAR thereafter unless increased or decreased in accordance with and at the time and in the manner provided for by this DECLARATION.

11.02.5 Increase by ASSOCIATION. From and after January 1, of the FISCAL YEAR immediately following the INITIATION DATE, the REGULAR MONTHLY ASSESSMENT may be increased by the BOARD in an amount greater than provided in Section 11.02.3 of this Article for the next succeeding twelve (12) calendar months, (FISCAL YEAR), and at the end of each such period, for each succeeding FISCAL YEAR. Any such increase must be fixed and determined by the Board of Directors not less than sixty (60) days prior to the first day of the FISCAL YEAR during which such increase is to be in effect. Any such increase must, however, first be approved by the vote or written assent of a MAJORITY OF MEMBERS (excluding the votes or assents of the DEVELOPER. Any meeting of MEMBERS called to approve such increase in the REGULAR MONTHLY ASSESSMENT shall be deemed a "special meeting" of MEMBERS and shall be called and conducted in accordance with the BY-LAWS of the ASSOCIATION. Such meeting must be held not less than forty (40) days prior to the commencement of the FISCAL YEAR for which such increase is to be effective. Notice of the adoption and approval of the increase in the REGULAR MONTHLY ASSESSMENT pursuant to this Section 11.02.5 shall be given by the BOARD to each OWNER at least thirty (30) days prior to the commencement of the FISCAL YEAR for which such increase is to be effective.

11.02.6 Certificate of Payment. The ASSOCIATION shall, upon demand, furnish to any OWNER liable for any assessment a certificate in writing signed by an officer of the ASSOCIATION, setting forth whether the assessments on a specified CONDOMINIUM have been paid, and the amount of the delinquency, if any. A charge of $10.00 per certificate may be made by the BOARD for the issuance of those certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

11.03 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the REGULAR MONTHLY ASSESSMENTS authorized by Section 11.02 hereof, the BOARD may levy, during any FISCAL YEAR, but in no event prior to the INITIATION DATE, special assessments ("SPECIAL ASSESSMENTS") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of a capital improvement upon the COMMON AREA and personal property related thereto; provided, however, that each such SPECIAL ASSESSMENT in excess of 5% of the total REGULAR MONTHLY ASSESSMENT for the FISCAL YEAR for which the SPECIAL ASSESSMENT is assessed must first be approved by the vote or written assent of a MAJORITY OF MEMBERS, (excluding the votes or assents of the DEVELOPER). Any meeting of MEMBERS called for the purpose of approving a SPECIAL ASSESSMENT shall be a "special meeting" of MEMBERS and shall be called and conducted in accordance with the BY-LAWS of the ASSOCIA-

TION. Notice of the adoption and approval of the SPECIAL ASSESSMENT pursuant to this Section 11.03 shall be given by the BOARD to each OWNER within fifteen (15) days following the adoption of the ASSESSMENT.

11.04 EMERGENCY ASSESSMENTS. In the event the BOARD shall determine that its REGULAR MONTHLY ASSESSMENT for any current month from and after the INITIATION DATE is, or will become inadequate to meet all expenses hereunder for any reason, including nonpayment of any OWNER'S assessment on a current basis, it shall immediately determine the approximate amount of such inadequacy for such month and issue a supplemental budget, noted as to the reason therefore, and levy an emergency assessment ("EMERGENCY ASSESSMENT") for the amount required to meet all such expenses on a current basis against the OWNERS of each CONDOMINIUM in THE PROJECT on the date of such levy; provided, however, that any such EMERGENCY ASSESSMENT in excess of 5% of the REGULAR MONTHLY ASSESSMENT must first be approved by the vote or written assent of a MAJORITY OF MEMBERS (excluding the votes or assents of the DEVELOPER on the date of such levy). Any meeting of MEMBERS called for the purpose of approving an EMERGENCY ASSESSMENT shall be a "special meeting" of MEMBERS and must be called and conducted in accordance with the BY-LAWS of the ASSOCIATION. Notice of the adoption and approval of an EMERGENCY ASSESSMENT shall be given by the BOARD to each OWNER within fifteen (15) days of the adoption. EMERGENCY ASSESSMENTS properly levied in accordance with this Section 11.04 shall be due and payable within thirty (30) days following written notice thereof by the BOARD.

11.05 INDIVIDUAL ASSESSMENTS. Each CONDOMINIUM shall also be assessed from time to time for all fines, penalties and damages to which its OWNER is subject as a result of a violation of the terms of this DECLARATION, any rules prescribed by the BOARD for use of the COMMON AREA, for damage caused to the COMMON AREA by the negligence or willful misconduct of such OWNER, and for any other liability, indebtedness or other obligation of the OWNER to the ASSOCIATION arising under the provisions of this DECLARATION. Notice of all INDIVIDUAL ASSESSMENTS shall be given by the BOARD to the OWNER of each CONDOMINIUM assessed within fifteen (15) days of the adoption of the INDIVIDUAL ASSESSMENT. INDIVIDUAL ASSESSMENTS shall be due and payable within thirty (30) days following written notice thereof by the BOARD.

11.06 RATE OF ASSESSMENT. REGULAR MONTHLY and EMERGENCY ASSESSMENTS must be fixed at a uniform rate for all CONDOMINIUMS in THE PROJECT. Monthly assessments shall be collected on a monthly basis and INDIVIDUAL and EMERGENCY ASSESSMENTS shall be paid in full within 30 days from notice thereof.

11.07 DATE OF COMMENCEMENT, DUE DATE. The REGULAR MONTHLY ASSESSMENT shall commence on the INITIATION DATE as to all CONDOMINIUMS in THE PROJECT, including those owned by the DEVELOPER. For each FISCAL YEAR commencing January 1 of the year following the INITIATION DATE, the BOARD may increase or decrease the amount of the REGULAR MONTHLY ASSESSMENT for such year against each CONDOMINIUM in THE PROJECT as provided in Section 11.02.3 and Section 11.02.5 of this Article in the manner and upon the notice prescribed therein. REGULAR MONTHLY and SPECIAL ASSESSMENTS shall be due and payable in advance on the first day of each month. REGULAR MONTHLY ASSESSMENTS and SPECIAL ASSESSMENTS shall be due and payable as required by this DECLARATION regardless of the lack of any monthly notice thereof.

11.08 ALLOCATION OF ASSESSMENT FUNDS.

11.08.1 REGULAR MONTHLY AND SPECIAL ASSESSMENTS. All REGULAR MONTHLY ASSESSMENTS and SPECIAL ASSESSMENTS shall be segregated by the BOARD as to the purpose for which they were assessed. Following such segregation, such funds shall be transferred and held in trust by the BOARD in an operating trust fund and a capital reserve trust fund. That portion of such assessments for operating purposes shall be deposited with banks or savings and loan associations selected by the BOARD in an account or accounts designated "THE MARTINIQUE ASSOCIATION OPERATION AND MAINTENANCE TRUST FUND ACCOUNT" and the funds held therein shall be used by the BOARD to discharge the expenses for the annual operation, repair or maintenance of the COMMON AREA and such portion of each UNIT the ASSOCIATION is obligated to repair, maintain and replace pursuant to this DECLARATION. That portion of all assessments collected for capital reserves shall be designated "THE MARTINIQUE ASSOCIATION CAPITAL RESERVE TRUST FUND ACCOUNT" and the funds held therein shall be used by the BOARD solely for the purpose of discharging the costs of painting, replacement and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) to the COMMON AREA of THE PROJECT. All checks, drafts, withdrawals and other instruments obligating the ASSOCIATION to pay money, shall be signed on behalf of the corporation by any two officers.

11.08.2 SPECIAL ASSESSMENTS. Except as hereinafter provided, SPECIAL ASSESSMENTS shall be levied at a uniform rate for all CONDOMINIUMS in THE PROJECT and shall be prorated over the number of months remaining in the FISCAL YEAR in which they are assessed.

A SPECIAL ASSESSMENT against OWNERS to raise funds for the rebuilding or major repair of the structural COMMON AREA housing such OWNER'S UNIT shall be levied on the basis of the ratio of the square footage of the floor area of the UNIT to be assessed bears to the total square footage of floor areas of all UNITS to be assessed.

The provisions with respect to SPECIAL ASSESSMENTS do not apply to an assessment levied pursuant to Paragraph 11.05 of this DECLARATION.

11.08.3 INDIVIDUAL ASSESSMENTS. All INDIVIDUAL ASSESSMENTS shall be segregated by the BOARD as to the purpose or purposes for which they were collected. Following such segregation, such funds shall be transferred to and held in trust by the BOARD on deposit with banks or savings and loan associations selected by the BOARD in a segregated account or accounts. Such ASSESSMENTS shall be used by the BOARD for the purpose or purposes for which the ASSESSMENT was levied.

The BOARD shall have the control of all accounts and shall be responsible to the OWNERS for the maintenance of accurate records thereof at all times.

11.09 EFFECT OF NONPAYMENT OF ASSESSMENTS. Every OWNER, including DEVELOPER, shall be deemed to covenant and agree to pay the assessments provided for in this DECLARATION, and further agree to the enforcement of such assessments in the manner provided for in this Section.

11.09.1 DELINQUENCY. Any assessment provided for in this

DECLARATION which is not paid when due shall become delinquent on the date on which such assessment is due ("DATE OF DELINQUENCY"). A late charge of $5.00 for each delinquent assessment shall be payable with respect to each assessment not paid within fifteen (15) days after the DATE OF DELINQUENCY. Assessments not paid within thirty (30) days after the DATE OF DELINQUENCY shall thereafter bear interest at the rate of 9.5% per annum from the DATE OF DELINQUENCY, and the BOARD, its attorney or other authorized representative may, at its option at any time after such thirty (30) day period, and in addition to any other remedies herein set forth or granted by law or in equity, enforce the obligation to pay assessments in any manner provided by law or in equity, and without limiting the generality of the foregoing, by any or all of the following:

11.09.1.1 <u>Enforcement by Suit</u>. The BOARD may cause a suit at law to be commenced and maintained in the name of the ASSOCIATION against any OWNER or OWNERS, or any of them, personally obligated to pay assessments for such delinquent assessments as to which they are personally obligated. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of 9.5% per annum from and after the DATE OF DELINQUENCY, court costs and reasonable attorneys fees in such amount as the court may award. A suit to recover a money judgment for unpaid assessments shall be maintainable by the BOARD, or its authorized agent, without foreclosing or waiving the lien hereinafter provided for.

11.09.1.2 <u>Enforcement by Lien</u>. The BOARD may proceed to record, or cause to be recorded, a Notice of Assessment with respect to the CONDOMINIUM as to which assessments are delinquent as provided in Section 1356 of the Civil Code of California as the same may be amended, modified or superseded, from time to time. Such notice of assessment shall be recorded in the office of the Fresno County Recorder and shall set forth all assessments which have become delinquent as of the date of the recording thereof, together with all costs (including a reasonable attorneys fee) and all late charges and interest accrued thereon. The Notice of Assessment shall also set forth the description of the CONDOMINIUM with respect to which it is recorded and the name of the record owner thereof. The Notice of Assessment shall be signed by any officer of the ASSOCIATION or by any authorized representative of the BOARD. Immediately upon the recordation of a Notice of Assessment pursuant to the provisions of this Paragraph 11.09.1.2 the amounts set forth in said Notice of Assessment shall be a lien upon the CONDOMINIUM described in the Notice of Assessment, which lien shall also secure all other assessments which shall become due and payable with respect to the CONDOMINIUM as to which the notice of Assessment was recorded following the date of the recordation of the Notice of Assessment, together with all costs (including reasonable attorneys fees), and all late charges and interest whether accruing thereon or accruing on the deliquent assessment set forth in the Notice of Assessment. The lien so created may thereafter be enforced by sale of the CONDOMINIUM as to which the lien is created, by the BOARD, its attorney, or any person authorized by the BOARD to make the sale. Such sale shall be conducted in accordance with the provisions of California law applicable to the exercise of powers of sale of mortgages and deeds of trust. The BOARD, or its duly authorized representative, on behalf of the ASSOCIATION shall have the power to bid on the CONDOMINIUM at foreclosure sale and hold, lease, mortgage, and convey the same.

11.09.2 CURING OF DEFAULT. Upon the timely payment, or other satisfaction, of all delinquent assessments set forth in the Notice of Assessment filed and recorded in accordance with this Article and all other assessments which have become due and payable with respect to the CONDOMINIUM as to which such Notice of Assessment was filed and recorded following the date of such recordation, together with all costs (including reasonable attorneys fees), and all late charges and interest which have accrued thereon, the BOARD shall cause to be filed and recorded a further notice stating the satisfaction and the release of the lien created by the Notice of Assessment. A fee in the amount of $10.00 covering the cost of the preparation and recordation of the notice of release and satisfaction shall be paid to the ASSOCIATION prior to the execution, filing and recordation of such notice of release and satisfaction by the BOARD. The notice of release and satisfaction of the lien created by the Notice of Assessment shall be executed by any officer of the ASSOCIATION or by any authorized representative of the BOARD. For the purposes of this Paragraph 11.09.2 and the provisions of 11.09.1.2 of this DECLARATION, the term "costs" shall include costs and expenses actually incurred or expended by the ASSOCIATION in connection with the cost of preparation and recordation of the Notice of Assessment and in efforts to collect the delinquent assessment secured by the lien created by the Notice of Assessment, and shall also include a reasonable sum for attorneys fees actually incurred in an amount not to exceed 20% of the delinquent assessment secured by the lien created by the recordation of the Notice of Assessment.

11.09.3 ADDITIONAL COSTS SECURED BY LIEN. In the event the lien created by Paragraph 11.09.1.2 of this Article is foreclosed judicially by action in court, reasonable attorneys fees and court costs as the court may award, title search fees, interest at the rate of 9.5% per annum from the DATE OF DELINQUENCY, late charges as provided by this DECLARATION, and all other costs and expenses shall be allowed to the extent permitted by law.

11.09.4 NOTICE OF CREATION OF ASSESSMENT LIEN. Notwithstanding anything contained in this DECLARATION, no action shall be brought to foreclose any lien created pursuant to the recordation of a Notice of Assessment, whether judicially, by power of sale, or otherwise, less than twenty (20) days after the date that a copy of the Notice of Assessment, showing the recording date thereon, is deposited in the United States Mail, postage and fees prepaid, addressed to each of the OWNERS of the CONDOMINIUMS as to which the Notice of Assessment relates at the address provided for by this DECLARATION for the giving of notice to an OWNER.

11.09.5 PRIORITY OF LIEN. The lien created pursuant to this DELCARATION upon the recordation of a Notice of Assessment shall be prior and superior to all liens except:

11.09.5.1 All taxes, bonds, assessments and other similar levies which by law would be superior thereto, and

11.09.5.2 The rights of lenders as prescribed by Article XVIII of this DECLARATION.

11.09.6 EXPIRATION OF LIEN. Notwithstanding anything herein contained, the lien created pursuant to this DECLARATION shall expire and be of no further force and effect one year from the date of the recordation of the Notice of Assessment unless sooner released and satisfied pursuant to Paragraph 11.09.2 unless enforcement thereof as herein provided has been initiated within one year of such recordation; provided, however, that such one year period may be extended by the BOARD for an additional period not to exceed one year by the recordation of a written notice of extension thereof complying in all respects with Section 1356 of the Civil Code of California.

11.10 DEVELOPER'S OBLIGATIONS. From and after the INITIATION DATE DEVELOPER shall be obligated to pay to the ASSOCIATION assessments assessed against all CONDOMINIUMS owned by DEVELOPER in THE PROJECT in the same manner and amount as such assessments are imposed upon OWNERS of CONDOMINIUMS other than the DEVELOPER from and after the INITIATION DATE. Provided, however, such obligations shall terminate as to the DEVELOPER as to each CONDOMINIUM sold by DEVELOPER after the INITIATION DATE upon the recordation of the deed of conveyance with respect thereto.

11.11 PURPOSE OF ASSESSMENTS. The assessments levied by the ASSOCIATION pursuant to this DECLARATION shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the ASSOCIATION, for the purpose of improving, protecting, repairing, refurbishing, operating and maintaining the COMMON AREA and the facilities, improvements, landscaping and STRUCTURES located thereon, for the purpose of maintaining, repairing and replacing such portions of the UNITS which the ASSOCIATION is obligated to maintain, repair or replace pursuant to this DECLARATION, and providing for the acquisition and maintenance of property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the COMMON AREA and the UNITS in the PROJECT, and otherwise providing for the performance by the BOARD of each and every of the powers and duties of the BOARD.

ARTICLE XII
LIMITATION UPON THE RIGHTS TO PARTITION AND SEVERANCE

12.01 NO PARTITION. The right of partition is hereby suspended, except that the right to partition shall revive and THE PROJECT may be sold as a whole when the conditions set forth in the Articles hereof entitled DESTRUCTION OF IMPROVEMENTS and EMINENT DOMAIN have been met. Provided, however, any OWNER may, upon the prior written approval of the MORTGAGEE encumbering his CONDOMINIUM, bring an action for partition by sale of the entire project as if the OWNERS of all CONDOMINIUMS in THE PROJECT were tenants-in-common in the entire PROJECT, with each OWNER owning an undivided interest therein in the same proportions as such OWNER'S undivided fractional interest in the COMMON AREA of THE PROJECT, upon any showing of any occurrence of any of the events provided in Section 1354 of the Civil Code of California or any similar statute then in effect. Nothing herein contained shall prevent the partition or division of interest between joint or common OWNERS of one CONDOMINIUM.

12.02 NO SEVERANCE. No OWNER shall be entitled to sever his UNIT from his undivided interest in the COMMON AREA nor shall the respective undivided interests in the COMMON AREA conveyed with each respective UNIT be modified or otherwise changed. The undivided interests in the COMMON AREA established hereby and the fee title to the respective UNITS conveyed therewith shall not be separated, severed or separately conveyed encumbered or otherwise transferred, and each such undivided interest in the COMMON AREA shall conclusively be deemed to be conveyed, transferred or encumbered with its respective UNIT even though the description in the instrument of conveyance or encumbranse may refer only to the UNIT. It is intended hereby to restrict severability of the various components of a CONDOMINIUM in a manner provided in Section 1355 (g) of the Civil Code of California. Nothing herein contained shall be construed to preclude an OWNER of any CONDOMINIUM from creating a co-tenancy in the ownership of a CONDOMINIUM with any other person or persons.

ARTICLE XIII
INSURANCE

13.01 PUBLIC LIABILITY. The BOARD shall purchase and maintain in effect comprehensive public liability insurance and maintain such insurance in full force and effect at all times. The amount of coverage shall be determined by the BOARD from time to time so as to provide such coverage as the BOARD may deem prudent, provided, however, that the minimum amounts of coverage shall be $300,000.00 for personal injury to any one person, $500,000.00 for any one accident or occurrence and $100,000.00 for property damage. Such policy shall name all OWNERS as insureds, and shall name as additional insureds, such persons or entities, including the ASSOCIATION, and the BOARD, as the BOARD may deem necessary or required in order to insure the ASSOCIATION, the BOARD, its agents, guests and invitees, and the OWNERS against liability to the public, including the OWNERS, their guests, tenants, family members and invitees, or any other persons whatsoever in connection with any damage or injury occurring in the COMMON AREA or arising as a result of the ownership or use of the COMMON AREA or any part thereof. Such policy shall include if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such policy shall be in such form and content and contain such endorsements as the BOARD deems appropriate.

13.02 FIRE AND EXTENDED COVERAGE. The BOARD shall purchase and maintain a master or blanket fire insurance policy. Such insurance shall insure against loss from fire and such other hazards as the BOARD may deem appropriate, and shall insure all structures and improvements in THE PROJECT and all personal property owned by the ASSOCIATION or by all the OWNERS as tenants in common for not less than 100% of the full insurable replacement cost thereof (as determined annually by the BOARD in conjunction with the insurance company issuing such policy). Such policy and any endorsements thereon shall be in the form and content for such term and in such company as may be satisfactory to any INSTITUTIONAL MORTGAGEE; and, if more than one INSTITUTIONAL MORTGAGEE exists, such policy endorsement shall meet the maximum standards of such INSTITUTIONAL MORTGAGEES. (Such policy shall contain extended coverage and replacement costs endorsements, if available, and may also contain vandalisim and malicious mischief coverage, together with such other endorsements, and adjustment clauses as the BOARD shall deem appropriate). Such policy shall name as insured the ASSOCIATION, the OWNERS and DEVELOPER, so long as DEVELOPER is an OWNER of any CONDOMINIUM in THE PROJECT, and all MORTGAGEES as their respective insterests may appear. All such policies shall provide that the insurer shall notify the CITY, in care of the office of the CITY attorney, prior to the cancellation or other termination of insurance coverage prescribed by this Paragraph.

All insurance proceeds payable under this Section shall be paid to the BOARD, as trustee or such trustee as may be appointed by the BOARD pursuant to this Paragraph. The trustee shall hold, distribute and expend such proceeds for the benefit of the OWNERS, MORTGAGEES and others, as their respective interest shall appear, pursuant to the provisions of the Article of this DECLARATION entitled "DESTRUCTION OF IMPROVEMENTS". The trustee, if other than the BOARD, shall be appointed by the BOARD and shall be a commercial bank, or branch thereof, or a trust company in Fresno County, California, which has agreed in writing to accept such trust.

13.03 FIDELITY BOND. The BOARD shall purchase and maintain fidelity bonds or insurance for any person or entity handling funds of the ASSOCIATION including, but not limited to, employees of any professional management firm with which the ASSOCIATION has contracted, in an amount not less than 150% of each year's estimated annual operating expenses and reserves and which shall contain an endorsement of coverage of any person who may serve without compensation, sufficient to meet the requirements of any INSTITUTIONAL MORTGAGEE.

13.04 ADDITIONAL INSURANCE. The BOARD may, and if required by an INSTITUTIONAL MORTGAGEE, shall purchase and maintain in force demolition insurance in adequate amounts to cover demolition in the event of total or partial destruction and a decision not to rebuild as well as a blanket policy of flood insurance. The BOARD shall also purchase and maintain workmen's compensation insurance, to the extent that the same shall be required by law, for all employees of the ASSOCIATION. The BOARD shall also purchase and maintain in effect such insurance on personal property owned by the ASSOCIATION, and such other insurance, as it deems necessary or as is required by any INSTITUTIONAL MORTGAGEE including, without limitation, earthquake insurance, plate-glass insurance and officers and directors liability insurance.

13.05 PREMIUMS. The premiums for all insurance contracted by the BOARD pursuant to this DECLARATION shall be paid from the REGULAR MONTHLY ASSESSMENT.

13.06 OWNER INSURANCE. Any OWNER may, at his option and at his sole cost and expense, purchase such fire, casualty, personal liability and personal property insurance as he may desire; provided, however, that any policy purchased by the OWNER shall not alter the obligations of the BOARD to obtain insurance as provided in this Article. Under no circumstances shall the BOARD be required to purchase any insurance covering the personal property of the OWNERS or any of them not owned in common with the other OWNERS of THE PROJECT.

13.07 AUTHORITY OF BOARD. Each of the OWNERS, and every other person named or covered as an insured in connection with any of the policies purchased by the BOARD hereby irrevocably delegates to the BOARD any authority which it may otherwise have to negotiate loss settlements with the appropriate insurance carriers. The BOARD shall have the sole and exclusive authority and right to negotiate any such loss settlements relating to insurance purchased by the BOARD pursuant to this Article.

Provided, however, that any execution of a loss claim form and release form in connection with the settlement of a loss claim shall be binding on all of the OWNERS, and upon any other person named as an insured on such policy or policies only upon the execution thereof by a majority of the members of the BOARD.

13.08 ANNUAL INSURANCE REVIEW. The BOARD shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for THE PROJECT in light of increased construction costs, inflation, practice in the COUNTY, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the OWNERS and of the ASSOCIATION. If the BOARD determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

13.09 INDIVIDUAL CASUALTY INSURANCE. Except as provided in Section 13.06 no OWNER will separately insure his CONDOMINIUM against loss by fire or other casualty covered by any insurance carried under this section by the ASSOCIATION. Should any OWNER violate this provision, and should any loss intended to be covered by insurance covered by the ASSOCIATION occur, and the proceeds payable thereunder be reduced by reason of insurance covered by an OWNER, such OWNER shall assign the proceeds of such insurance carried by it to the extent of such reduction to the trustee for application by the BOARD to the same purposes as the reduced proceeds are to be applied.

In the event that such OWNER has failed to pay such amount within thirty days of a written demand therefore by the ASSOCIATION or by the trustee, the BOARD may levy a SPECIAL ASSESSMENT against such OWNER.

13.10 REQUIRED WAIVER. All policies for physical damage insurance shall provide for waiver of the following rights to the extent such waivers are obtainable from the respective insurers:

13.10.1 Subrogation of claims against the tenants of the OWNER;

13.10.2 Any defense based on Co-insurance;

13.10.3 Any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the ASSOCIATION;

13.10.4 Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the ASSOCIATION, any OWNER or tenant of any OWNER arising from any act, neglect or omission of any named insured or their respective agents, contractors and employees of any insured;

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

13.10.6 Notice of the assignment of any OWNER of its interest in the insurance by virtue of a conveyance of any CONDOMINIUM; and

13.10.7 Any right to require any assignment of any MORTGAGE to the insurer.

13.11 ABANDONMENT OF REPLACEMENT COST INSURANCE. Unless 75% of the INSTITUTIONAL MORTGAGEES based on one vote for each FIRST MORTGAGE held have given their prior written approval, the ASSOCIATION shall not be entitled to fail to maintain the extended coverage fire and casualty insurance required by this Article on less than 100% of the current replacement cost value.

13.12 REQUIREMENTS OF FEDERAL AGENCIES AND CORPORATIONS. Notwithstanding the other provisions of this Article, the ASSOCIATION shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for CONDOMINIUM projects established by Federal National Mortgage Association (FNMA), Government National

Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation (FHLMC), Federal Housing Administration (FHA), or Veterans Administration (VA), so long as either is a MORTGAGEE, OWNER, or insures or guarantees a MORTGAGE within THE PROJECT, except to the extent such coverage is not available or has been waived in writing by the foregoing entities.

ARTICLE XIV
EASEMENTS

14.01 ENCROACHMENTS. There is reserved for the benefit of each UNIT an easement of maintenance and use to which the entire PROJECT shall be subject for any and all encroachments resulting from roof, balcony or deck overhangs, and any other causes attributable to the design, construction, or reconstruction, repair, shifting, settlement or movement of any portion of the UNIT. Such easement for encroachment and for the maintenance thereof shall exist for so long as the encroachment exists.

14.02 COMMON AREA ENCROACHMENTS. If any portion of the COMMON AREA encroaches upon a UNIT as shown on the CONDOMINIUM PLAN or subsequently reconstructed after destruction thereof, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist.

14.03 OWNERS EASEMENT OF ENJOYMENT. Every OWNER, and his tenants, servants, family members, guests and invitees, to the extent permitted by such OWNER, shall have a nonexclusive easement of access to, use and enjoyment of, and ingress and egress through the COMMON AREA and such easement shall be appurtenant to and shall pass with the title to every CONDOMINIUM, subject to the following provisions:

14.03.1 The right of the ASSOCIATION to reasonably limit the number of guests of OWNERS using the COMMON AREA.

14.03.2 The right of the BOARD to establish ASSOCIATION RULES pertaining to the use of the COMMON AREA.

14.03.3 The right of the BOARD to assign parking spaces within the COMMON AREA as provided by Paragraphs 8.19 and 8.20 of Article VIII.

14.03.4 The right of the ASSOCIATION to suspend the use of the recreational facilities by an OWNER for any period during which any assessment against such OWNER'S UNIT remains unpaid and delinquent as provided for by this DECLARATION and the BY-LAWS.

14.03.5 The right of the ASSOCIATION to dedicate, release, alienate or transfer all or any part of the COMMON AREA to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the MEMBERS.

No such dedication, release, alienation or transfer shall be effective unless an instrument signed by 66 2/3% of all votes of the ASSOCIATION agreeing to such dedication, release, alienation or transfer has been recorded in the office of the Fresno County Recorder. The Certificate of the President and the Secretary of the ASSOCIATION attached to such instrument certifying that the members signing such instrument represent 2/3rds of the voting power of the ASSOCIATION shall be deemed conclusive proof thereof.

14.03.6 The right of the DEVELOPER, its agents and representatives, to the non-exclusive use of the COMMON AREA and the facilities thereof, without charge, for sales, display, access, ingress, egress and exhibit purposes in connection with the sale or lease of all or any portion of THE PROPERTY, which rights DEVELOPER hereby expressly reserves. Provided, however, that such use shall not be for any period of more than two years after the date of the original issuance of a public report for THE PROJECT, and that such use by DEVELOPER or it's agents and representatives shall not restrict the MEMBERS in their use and enjoyment of the COMMON AREA.

14.03.7 The right of the ASSOCIATION to reconstruct, replace or refinish any improvement or portion thereof upon the COMMON AREA, in accordance with the original design, finish or standard of construction of such improvement, or the general improvements within THE PROJECT, as the case may be.

14.03.8 The right of the ASSOCIATION to replace destroyed trees or other vegetation and to plant trees and shrubs and generally landscape all or any portion of the COMMON AREA.

14.03.9 The specific easements affecting the use of the COMMON AREA.

14.04 DELEGATION OF USE. Any OWNER may delegate his right of enjoyment to the COMMON AREA to the MEMBERS of his family or his tenants who reside in his UNIT, or to his guests, subject to ASSOCIATION RULES.

14.05 RIGHTS OF ASSOCIATION. There is expressly reserved to the ASSOCIATION an easement, to which the entire PROJECT shall be subject, of entry and access for the performance generally of its rights and duties as provided in this DECLARATION. Entry into the UNIT of an OWNER pursuant to this easement shall be restricted to reasonable times and must be preceded by reasonable notice to the occupant, unless entry is required by an emergency. Any damage caused to a UNIT or to the COMMON AREA by their exercise of the rights of the ASSOCIATION granted pursuant this Paragraph shall be repaired by the ASSOCIATION.

14.06 UTILITIES. There is reserved for the benefit of each OWNER and the ASSOCIATION an easement over, under and through each UNIT and the COMMON AREA for the installation, maintenance and repair of each and every utility service, including but not limited to sewage, storm drainage, water, electricity, gas, telephone and television service for the PROJECT; provided, however, that the exercise of the easements reserved by this Paragraph shall not result in damage to existing improvements including lawns, shrubbery or trees, unless adequate compensation is made for any such damage by the OWNER or ASSOCIATION exercising the rights granted by this Paragraph.

14.07 LOCATION OF EASEMENT. Easements granted or reserved pursuant to Paragraph 14.06 hereof shall at all times be and remain substantially in accordance with the initial construction of THE PROJECT, or THE PROJECT as reconstructed upon damage or destruction pursuant to Article XVI.

14.08 VEHICULAR TRAFFIC. There shall be, and DEVELOPER hereby expressly reserves and covenants for itself the future OWNERS of CONDOMINIUMS in THE PROJECT, and all future OWNERS of THE PROPERTY, or any part thereof, and every such OWNER shall have a nonexclusive easement appurtenant to such property or CONDOMINIUM for purposes of ingress and egress to and from such property or CONDOMINIUM over all roads, and other private streets within THE PROPERTY.

14.09 PUBLIC SERVICE USE. DEVELOPER hereby reserves and covenants for itself, each OWNER, and the OWNERS of all or any portion of THE PROPERTY, an easement for the CITY, COUNTY, State of California, and the government of the United States, and any department, bureau or agency thereof, for the purpose of preserving the public health and safety and welfare.

14.10 UTILITIES-COMMON AREA. Within the easements existing or created for the installation and maintenance of utilities STRUCTURES and facilities, no STRUCTURE, planting or material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may damage, interfere or change the direction or flow of drainage facilities in the easement. The easement areas in the COMMON AREA and all improvements located thereon, shall be maintained by the ASSOCIATION, except for those improvements for which a public authority or utility company is responsible.

Utility easements in the COMMON AREA shall at all times be open and accessible to public and quasi-public utility corporations and other persons erecting, constructing, or servicing such utilities and to DEVELOPER and its successors and assigns, all of whom shall have the right of ingress and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations and rights of way are reserved or granted.

14.11 PATIO EASEMENT. There is reserved for the benefit of each OWNER an easement of encroachment appurtenant to each UNIT for any encroachment upon the air space of the COMMON AREA in connection with the PATIO ELEMENT of such UNIT for recreational or horticultural purposes. Such easement shall be limited in its vertical dimensions to not more than 70 feet as measured from the lowest point on the vertical boundary of such PATIO ELEMENT as defined in the CONDOMINIUM PLAN, and to such lateral dimensions so as to coincide with the lateral dimensions of the PATIO ELEMENT as shown on said CONDOMINIUM PLAN.

14.12 OWNER'S EASEMENTS IN COMMON AREA. There is expressly reserved to the DEVELOPER, and all OWNERS in THE PROJECT, the following easements which shall be appurtenant to the UNITS:

14.12.1 The nonexclusive easement and right of way over the COMMON AREA of THE PROJECT for the purpose of maintenance, replacement and repair to the UNIT pursuant to Article XV.

14.12.2 The exclusive right to the use of the air conditioning system which serves his UNIT, together with the exclusive easement and right of way over and upon the COMMON AREA for the purpose of maintaining, repairing and replacing such air conditioning system.

With respect to each of the foregoing exclusive easements, the UNIT shall be the dominant tenement and each such easement shall burden the appropriate portions of the COMMON AREA, as the servient tenement.

ARTICLE XV
REPAIR AND MAINTENANCE

15.01 REPAIR AND MAINTENANCE OF UNIT. Except to the extent that the ASSOCIATION is obligated hereunder to maintain a portion of a UNIT, each OWNER shall maintain, repair, replace and restore all portions of his UNIT, including, without limitation, the interior walls, ceilings, floors, and doors in a clean, sanitary and attractive condition. All such repairs, and maintenance pursuant to this Section shall be subject to ASSOCIATION RULES. With respect to window glass, the following shall apply:

15.01.1 OWNERS shall be responsible for the interior and exterior cleaning of all window glass;

15.01.2 All window glass is specifically declared to be part of the COMMON AREA, and

15.01.3 The OWNER of a UNIT shall be responsible for the repair and replacement of all window glass for his own CONDOMINIUM, at his cost and expense.

15.02 MAINTENANCE OF NON-RESIDENTIAL ELEMENTS OF UNIT. The repair and maintenance obligations of OWNERS pursuant to Section 15.01 of this Article shall include all of the RESIDENTIAL elements and the floor surfaces of the PATIO elements. Without limiting the generality of the foregoing, OWNERS shall maintain all plants or other growing things emplaced or located within such non-residential elements, and such plants and other growing things shall be permitted to encroach into or onto the COMMON AREA, subject to the Architectural Committee.

15.03 DAMAGE TO COMMON AREA. In the event the BOARD shall determine that the walls, ceilings, floors, doors or any other portion of the COMMON AREA forming the boundaries of a UNIT have been damaged from within the UNIT, notwithstanding that such damage may be to the COMMON AREA, the OWNER of the UNIT shall be responsible for repairing such damage in a timely manner and in accordance with ASSOCIATION RULES and the Architectural Committee. In the event such repair is not accomplished by the OWNER within thirty days notice from the BOARD to do so, the ASSOCIATION shall have the right at reasonable times to enter the UNIT to effect such repair, and the cost thereof shall be charged to the OWNER of the UNIT and, if not paid in a timely manner, shall be an INDIVIDUAL ASSESSMENT.

15.04 HEATING AND AIR CONDITIONING SYSTEM. Each OWNER shall, at his sole cost and expense, maintain, repair and replace the heating, and air conditioning system which serves his UNIT, regardless of whether or not all or any portion of such system shall be located upon the roof of his UNIT or other COMMON AREA of THE PROJECT.

15.05 REPAIR AND MAINTENANCE OF COMMON AREA. The ASSOCIATION shall be obligated to maintain, repair, restore, replace and make necessary improvements to the COMMON AREA, except for such portions thereof as the OWNERS are to maintain and repair pursuant to this Article. The costs of such maintenance and repair, unless otherwise specified by the DECLARATION, shall be paid from the REGULAR MONTHLY ASSESSMENTS of the ASSOCIATION. Without limiting the foregoing, the ASSOCIATION shall maintain and repair the exterior surfaces of all STRUCTURES, including the painting thereof, all roofs, landscaping in the COMMON AREA, driveways, all sewer and water lines located within the COMMON AREA, carports and recreational facilities.

15.06 REPAIR AND MAINTENANCE OF PATIO ELEMENTS. The ASSOCIATION shall maintain, repair, restore, replace and make necessary improvements to the surface of all boundaries of the PATIO ELEMENTS of the UNITS which are not ground or floor surfaces.

15.07 MAINTENANCE OF PUBLIC UTILITIES. Nothing contained in this DECLARATION shall require or obligate the ASSOCIATION to maintain, replace, or restore the underground facilities of the public utilities which are located within the COMMON AREA. However, the ASSOCIATION shall take such steps as are necessary or convenient to insure that such facilities are properly maintained, replaced or restored by the public utility utilizing the same.

15.08 BOUNDARIES OF UNIT DETERMINED. For the purposes of the repair and maintenance provisions of this Section, the boundaries of a UNIT and of the COMMON AREA shall be determined by the BOARD, and such determination shall be conclusive upon the OWNERS, MORTGAGEES, and the ASSOCIATION.

15.09 APPROVAL OF PLANS. No work provided for in this Article or elsewhere in this DECLARATION shall be commenced and no STRUCTURE or improvement in THE PROJECT shall be painted or repainted on the exterior thereof or constructed, altered or repaired until complete plans and specifications for the work, including color schemes, shall have been submitted to and approved by the Architectural Committee. All such repair, replacement or reconstruction pursuant to this Article shall be substantially in accordance with the original plans and specifications for THE PROJECT.

ARTICLE XVI
DESTRUCTION OF IMPROVEMENTS

16.01 AUTOMATIC RECONSTRUCTION. In the event of partial or total destruction of any STRUCTURE in THE PROJECT, the BOARD shall promptly take the following action:

16.01.1 Ascertain the cost of reconstruction by obtaining fixed price bids from at least two reputable contractors, including the obligation to obtain a performance bond, if the BOARD deems the same to be necessary or appropriate.

16.01.2 Determine the amount of insurance proceeds, if any, payable by contacting the appropriate representatives of the insurer of said STRUCTURE.

16.01.3 The BOARD shall meet and determine whether the insurance proceeds, if any, will cover 85% or more of the estimated cost of reconstruction as determined pursuant to Section 16.01 of this Article ("ACCEPTABLE COST", herein). If the BOARD finds that a bid is within the ACCEPTABLE COST, the BOARD shall cause a notice to be sent to all OWNERS of CONDOMINIUMS within the partially or totally destroyed STRUCTURE ("AFFECTED OWNERS", herein) and to the MORTGAGEES of MORTGAGES encumbering such CONDOMINIUMS, setting forth such findings and informing the OWNERS and said MORTGAGEES that the BOARD intends to commence reconstruction pursuant to this DECLARATION.

16.01.4 In the event that at least 20% of the AFFECTED OWNERS, based on one vote for each CONDOMINIUM, object in writing to such reconstruction by the date indicated therefore on such notice (which in no event shall be sooner than 10 days or later than 30 days after the date on which the BOARD sends such notice to the MEMBERS), the BOARD shall call a meeting of the AFFECTED OWNERS pursuant to 16.02 of this Article. In the event that the foregoing requirements are satisfied and the requisite number of AFFECTED OWNERS do not object in writing by such date, the trustee shall pay such insurance proceeds as are available to the BOARD and the BOARD shall cause reconstruction to take place as promptly as practicable pursuant to the bids received under Section 16.01.1 and shall levy a SPECIAL ASSESSMENT against each AFFECTED OWNER (in the ratio that the square footage of the floor area of each OWNER'S UNIT to be assessed bears to the total square footage of the floor area of all UNITS to be assessed as prescribed by Paragraph 11.06 hereof) at such time and in such amount as the BOARD shall determine necessary to cover the costs of reconstruction in excess of insurance proceeds.

16.01.5 If the BOARD in good faith determines that none of the bids submitted under 16.01 reasonably reflects the anticipated reconstruction costs, the BOARD shall proceed according to Section 16.02 of this Article.

16.01.6 The foregoing determination shall be made by the BOARD as soon as possible. However, if such determination cannot be made within 60 days of the date of destruction because of the unavailability of an insurance estimate or reconstruction bids, or otherwise, the BOARD shall immediately call a meeting of the AFFECTED OWNERS pursuant to Section 16.02 of this Article.

16.01.7 If the BOARD determines that any UNIT has become uninhabitable by reason of its total or partial destruction, the REGULAR MONTHLY ASSESSMENT with respect to such UNIT shall abate against th. OWNER thereof until the BOARD determines that the reconstruction of the UNIT has restored its habitability.

16.02 RECONSTRUCTION PURSUANT TO MEETING. If the BOARD determines that the requirements of the ACCEPTABLE COST have not been met, or if the requisite number of AFFECTED OWNERS object in writing to the decision by the BOARD to reconstruct pursuant to Section 16.01 hereinabove, the BOARD shall call a meeting of the AFFECTED OWNERS by mailing notice of such determination and of the meeting to such OWNER at his address as shown on the records of the ASSOCIATION. Such meeting shall be held not less than 14 days and not more than 21 days after the (i) the meeting at which the BOARD makes its determination that the costs of reconstruction was not within the acceptable costs or (ii) the date indicated on the notice of the BOARD sent to MEMBERS pursuant to Section 16.01.3 as the case may be. The AFFECTED OWNERS may, by a vote at such meeting or by the written consent of not less than 66 2/3% of the AFFECTED OWNERS based on one vote for each CONDOMINIUM determine to proceed with the reconstruction. If the AFFECTED OWNERS so determine to reconstruct the partially or totally destroyed STRUCTURE, the BOARD shall levy a uniform individual ASSESSMENT against each AFFECTED OWNER at such time and in such amount as the BOARD shall determine necessary to cover the costs of reconstruction in excess of insurance proceeds.

16.03 DECISION TO RECONSTRUCT AFTER MEETING. In the event that the ASSOCIATION undertakes reconstruction pursuant to Section 16.02 the following shall apply:

16.03.1 Immediately after such meeting, the BOARD shall notify by first class mail, all INSTITUTIONAL MORTGAGEES of CONDOMINIUMS in totally or partially destroyed STRUCTURES of the ASSOCIATION'S decision to undertake reconstruction. The BOARD shall also send a true copy of all such notices to the trustee, if other than the BOARD.

16.03.2 In the event that any such INSTITUTIONAL MORTGAGEE desires to apply insurance proceeds allocable to the CONDOMINIUM encumbered by its MORTGAGE to the reduction or elimination of the indebtedness secured by such MORTGAGE, such INSTITUTIONAL MORTGAGEE shall notify the trustee and the ASSOCIATION in writing of such election within thirty days of the date the notice of the BOARD sent pursuant to Section 16.03.1 is deposited in the United States Mail. Upon receipt of timely notice from any such INSTITUTIONAL MORTGAGEE, the BOARD, or the trustee, as the case may be, shall promptly pay to such INSTITUTIONAL MORTGAGEE the insurance proceeds allocable to the CONDOMINIUM and covered by the MORTGAGE of such INSTITUTIONAL MORTGAGEE for the purpose of the reduction or elimination of the obligation secured by such MORTGAGE; provided, however, in no event shall the trustee pay to such INSTITUTIONAL MORTGAGEE an amount greater than (i) the outstanding indebtedness secured by said MORTGAGE, or (ii) the insurance proceeds allocated to such CONDOMINIUM whichever shall be the lesser amount. Simultaneously with such payment, the trustee shall notify the BOARD of the amount of such payment. The trustee shall not make any payments to INSTITUTIONAL MORTGAGEES pursuant to this Section 16.02 unless such INSTITUTIONAL MORTGAGEE notifies the trustee of its election prior to the expiration of the thirty day period following the deposit of the notice pursuant to said Section 16.02.

16.03.3 As to each CONDOMINIUM for which insurance proceeds have been paid to the BOARD, or the trustee, as the case may be, and for which an INSTITUTIONAL MORTGAGEE has not timely notified the trustee of its election to apply such proceeds to the reduction or elimination of the obligation owing to such INSTITUTIONAL MORTGAGEE, the trustee promptly upon expiration of the appropriate time period shall pay all proceeds allocable to such CONDOMINIUM to the BOARD to be applied to reconstruction undertaken by the ASSOCIATION pursuant to Section 16.02. In the event that the trustee has paid a portion of the insurance proceeds allocable to a CONDOMINIUM to an INSTITUTIONAL MORTGAGEE after timely request therefore, simultaneously with such payment the trustee shall pay all remaining proceeds, if any, allocable to such CONDOMINIUM to the BOARD to be applied to reconstruction undertaken by the ASSOCIATION pursuant to said Section 16.02.

16.03.4 For the purposes of this Article, the amount of insurance proceeds "allocated" or "allocable" to a CONDOMINIUM shall be determined pursuant to this Section 16.03.4. In the event that the insurance carrier allocates casualty insurance proceeds among CONDOMINIUMS for which such proceeds are payable, such allocation shall be final and binding on the OWNERS, the MORTGAGEES, the ASSOCIATION and the trustee. The BOARD shall make every possible effort to cause such insurance carrier to make such allocation. In the event such allocation is not made, the BOARD, or the trustee, as the case may be, shall allocate such proceeds among such CONDOMINIUMS in totally or partially destroyed STRUCTURES based upon the relative value of the CONDOMINIUMS as established by the assessed valuation of each CONDOMINIUM as last determined by the Fresno County tax assessor and to the extent to which the UNITS involved have been effected by the destruction. Such allocation made by the BOARD or the trustee shall be final and binding on the OWNERS, the MORTGAGEES and the ASSOCIATION.

16.03.5 In the event that the BOARD, or the trustee, as the case may be, pays insurance proceeds to any INSTITUTIONAL MORTGAGEE pursuant to this Section, the OWNER of the CONDOMINIUM which was encumbered by the MORTGAGE of such INSTITUTIONAL MORTGAGEE shall pay to the ASSOCIATION an amount equal to the insurance proceeds paid by the trustee to such INSTITUTIONAL MORTGAGEE. In the event that such OWNER has failed to pay such amount within thirty days of a written demand therefore by the ASSOCIATION, the BOARD may levy an INDIVIDUAL ASSESSMENT against such OWNER. Such INDIVIDUAL ASSESSMENT and any REGULAR MONTHLY ASSESSMENT levied subsequent thereto shall not be a personal liability of the OWNER against whom such assessments are levied and shall only be charged against his CONDOMINIUM.

16.04 DECISION NOT TO RECONSTRUCT. In the event that the AFFECTED OWNERS decide not to reconstruct or rebuild, insurance proceeds received by the BOARD, as Trustee, on account of the destruction of such structural portion of the COMMON AREA shall be distributed by the BOARD among the AFFECTED OWNERS and their respective MORTGAGEES proportionately according to the respective fair market values of each OWNER'S UNIT at the time of the destruction as such value is determined by an independent M. A. I. appraiser practicing in the County of Fresno selected by the BOARD within 30 days following the event causing such damage or destruction.

16.05 CERTIFICATE OF INTENTION TO RECONSTRUCT. In the event that the ASSOCIATION under takes reconstruction pursuant to this Article, the BOARD shall execute, acknowledge and record in the office of the Fresno County Recorder, a Certificate declaring the intention of the ASSOCIATION to rebuild not later than 180 days from date of destruction. If no such certificate of reconstruction is so filed within said period, it shall be presumed that the ASSOCIATION has determined not to undertake reconstruction pursuant to this Article.

16.06 PARTITION. In the event that a certificate described in Section 16.05 is not recorded within 180 days as provided therein, the right of any OWNER to partition through legal action pursuant to Section 12.01 shall forthwith revive.

16.07 COMPLIANCE WITH CONDOMINIUM PLAN. Any reconstruction undertaken pursuant to this Article shall substantially conform to the CONDOMINIUM PLAN.

16.08 NEGOTIATIONS WITH INSURER. The BOARD shall have full authority to negotiate in good faith with representatives with the insurer of the totally or partially destroyed STRUCTURES or any other portion of the COMMON AREA, and to make settlement pursuant to Section 13.08 of Article XIII.

16.09 REPAIR OF UNITS. Installation of improvements to, and repair of any damage to the interior of a UNIT, including the RESIDENTIAL, and PATIO elements thereof, shall be made by and at the individual expense of the OWNER of that UNIT and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner. No such improvements or repairs to a UNIT shall in any respect reduce or otherwise impair the fire resistant qualities of all walls separating individual UNITS in THE PROJECT.

16.10 AMENDMENT OF PLAN. In the event that reconstruction is to take place pursuant to this Article, the BOARD shall have the power to record an amendment to the CONDOMINIUM PLAN so that the PLAN, as amended conforms to the reconstructed STRUCTURES and other portions of the COMMON AREA; provided, however, the BOARD shall not file an amendment to the CONDOMINIUM PLAN without the prior authorization of the MORTGAGEE of a MORTGAGE encumbering any CONDOMINIUM, the plan of which shall be altered by such amendment. In the event that the BOARD, together with said MORTGAGEES, if appropriate, decide to record such amendment to the CONDOMINIUM PLAN, all OWNERS and the record holders of all security interests in the PROJECT shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said OWNERS and holders of security interests shall also execute such other documents or take such other actions as are required to make such amendment effective.

16.11 RECONSTRUCTION OF COMMON AREA. If the COMMON AREA, other than a STRUCTURE is totally or partially destroyed, the BOARD shall cause reconstruction to take place by the earlier of (i) 30 days after the ASSOCIATION'S receipt of the insurance proceeds payable by such destruction, or (ii) 90 days after such destruction. All insurance proceeds payable by reason of such destruction shall be paid to the BOARD who shall apply such proceeds to the cost of reconstruction. In the event that the insurance proceeds are not sufficient to pay the cost of reconstruction of the COMMON AREA, the BOARD shall levy a SPECIAL ASSESSMENT against all OWNERS in a total amount equal to such difference. If the insurance proceeds exceed the cost of reconstruction, the BOARD shall distribute the excess in equal shares to each OWNER or to their MORTGAGEE'S as their interests may appear.

16.12 AVAILABILITY OF LABOR AND MATERIALS. In determining whether the Plans for a reconstructed STRUCTURE are in substantial compliance with the CONDOMINIUM PLAN, the BOARD may take into consideration the availability and expense of the labor and materials in the original construction of the PROJECT. If such labor or materials are not available or is prohibitedly expensive at the time of reconstruction, the BOARD may permit the substitution of other labor or materials as it deems architecturally compatible with the original construction.

16.13 CONTRACTS DEEMED FOR RECONSTRUCTION. In the event repair or reconstruction is undertaken pursuant to this Article, other than Section 16.09, the BOARD or its delegate shall have the sole ability to contract for such work as it may deem necessary for said repair and reconstruction.

16.14 75% REQUIRED. All insurance proceeds available from any total or partial destruction of any STRUCTURE in THE PROJECT (whether UNITS or improvements to the COMMON AREA) shall be applied for the repair, replacement or reconstruction of such STRUCTURES except upon the vote or written assent of 75% of the INSTITUTIONAL MORTGAGEES based on one (1) vote for each FIRST MORTGAGE owned.

ARTICLE XVII
EMINENT DOMAIN

17.01 DEFINITION OF TAKING. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or any part of THE PROJECT.

17.02 REPRESENTATION BY BOARD. In the event of a taking the BOARD shall, subject to the right of all MORTGAGEES who have requested the right to join the BOARD in the proceedings, represent all of the OWNERS in an action to recover all awards. No OWNER shall challenge the good faith exercise of the discretion of the BOARD in fulfilling its duties under this Article for the BOARD is further empowered, subject to the limitations herein, as the sole representative of the OWNERS, in all aspects of condemnation proceedings not specifically covered herein.

17.03 PROCEDURE AFTER A TAKING. In the event of a taking, the BOARD shall distribute the award according to the provisions of this section after deducting therefrom fees and expenses related to the condemnation procedure including, but without limitation, fees for attorneys and appraisers and court costs. In the event that the taking is by judgment of condemnation and said judgment apportions the award among the OWNERS and their respective MORTGAGEES, the BOARD shall distribute the amount remaining after such deductions among such OWNERS and MORTGAGEES on the allocation basis set forth in such judgment. In the event that the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the BOARD shall distribute the award among the OWNERS and their respective MORTGAGEES according to the relative value of the CONDOMINIUM UNITS at the time of the trial, should taking be by judgment, prior to the execution of the deed in lieu of condemnation in the event sale is under threat of condemnation. The determination of the M. A. I. appraiser selected by the BOARD as to the fair market value of each UNIT affected by the taking shall be final and binding on all OWNERS and MORTGAGEES.

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

17.05 NOTICE TO OWNERS AND MORTGAGEES. The BOARD, immediately upon having knowledge of any taking or threat thereof with respect to THE PROJECT, or any portion thereof, shall promptly notify all OWNERS and all MORTGAGEES.

17.06 INVERSE CONDEMNATION. The BOARD is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

17.07 CHANGE OF CONDOMINIUM INTEREST. In the event of a taking, the BOARD may amend the CONDOMINIUM PLAN to reflect the change in the PROJECT affected by the taking. In the event that the BOARD decides to record such amendment to the CONDOMINIUM PLAN, all OWNERS and holders of all security interests in THE PROJECT shall execute and acknowledge said amendment so that it will comply with Section 1351 of the Civil Code or any similar statute then in effect. Said OWNER and holders of security interests shall also execute such other documents or take such other action as may be required by to make such amendment effective. The BOARD shall cause a notice of the change in the CONDOMINIUM PLAN to be sent to each OWNER and MORTGAGEE in THE PROJECT within ten days of the filing of such amendment in the office of the Fresno County Recorder.

ARTICLE XVIII
RIGHTS OF LENDERS

18.01 NOTICE TO MORTGAGEE. A MORTGAGEE, upon delivery to the BOARD of a written notice stating that such MORTGAGEE is the holder of a MORTGAGE encumbering a UNIT within THE PROJECT, shall be entitled to receive any notice which this DECLARATION requires the ASSOCIATION to deliver to MORTGAGEES. Such notice need not state which UNIT is encumbered by such MORTGAGE, but must state whether such MORTGAGE is a FIRST MORTGAGE as defined in Section 1.15 of this DECLARATION.

18.02 PERCENTAGE OF MORTGAGEES DEFINED. Whenever the approval of all or a specified percentage of MORTGAGEES is required pursuant to this DECLARATION, it shall be deemed to mean the vote or approval of all or a specified percentage only of those MORTGAGEES which have delivered such notice prescribed by Section 18.02 of this Article to the BOARD. Notwithstanding the foregoing, if any right of a MORTGAGEE under this DECLARATION is conditioned upon a specific written request to the ASSOCIATION, in addition to having delivered the notice provided in Section 18.01 of this Article, a MORTGAGEE must also make such request, either in a separate writing delivered to the ASSOCIATION or in the notice provided in said Section 18.02, in order to be entitled to such right.

18.03 PRIORITY RESERVED. Except as provided in Section 18.01 of this Article, a MORTGAGEES rights pursuant to this DECLARATION, including, without limitation, the priority of the lien of MORTGAGES over the lien of assessments levied by the ASSOCIATION pursuant to Article XI of this DECLARATION, shall not be affected by the failure to deliver a notice to the BOARD. Any notice or request delivered to the BOARD by MORTGAGEE shall remain effective without any further action by such MORTGAGEE for so long as the facts set forth in said notice or request remain unchanged.

18.04 PRIORITY OF MORTGAGE LIEN. No breach of the covenants, conditions, restrictions or easements herein contained, nor the enforcement of any lien provisions pursuant to Article XI, shall affect, impair, defeat or render invalid the lien or charge of any MORTGAGE made in good faith and for value encumbering any CONDOMINIUM, but all of said covenants, conditions and restrictions shall be binding upon and effective against any OWNER whose title is derived through foreclosure or trustees sale, or otherwise, with respect to a CONDOMINIUM except as otherwise provided in this Article.

18.05 CURING DEFAULTS. A MORTGAGEE or the immediate transferee of such MORTGAGEE, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this DECLARATION which is noncurable or of a type which is not practicable or feasible to cure. The determination of the BOARD made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all MORTGAGEES.

18.06 RESALE. It is intended that any loan to facilitate the resale of any CONDOMINIUM after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other MORTGAGEES.

18.07 RELATIONSHIP WITH ASSESSMENT LIENS.

18.07.1 SUBORDINATION OF ASSESSMENT LIEN. The lien prescribed by Section 11.09.1.2 of Article XI for the payment of assessments shall be subordinate to the lien of any FIRST MORTGAGE which was recorded prior to the date any such assessment becomes due, ("PRIOR MORTGAGE", herein).

18.07.2 FORECLOSURE. If any CONDOMINIUM subject to a monetary lien created by any provision of Article XI ("ARTICLE XI LIEN", herein) shall be subject to the lien of a PRIOR MORTGAGE: (i) the foreclosure of any ARTICLE XI LIEN shall not operate to affect or impair the lien of such PRIOR MORTGAGE; and (ii) the foreclosure of the lien of said PRIOR MORTGAGE or the sale under power of sale included in such MORTGAGE ("FORECLOSURE", herein) shall not operate to affect or impair the ARTICLE XI LIEN, except that any person who obtains an interest in a CONDOMINIUM in THE PROJECT through FORECLOSURE, and their successors in interest, shall take title to such CONDOMINIUM free of the ARTICLE XI LIEN or any personal obligation for any charges or assessments pursuant to said ARTICLE XI which have accrued up to the time of FORECLOSURE, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges subject to the ARTICLE XI LIEN for all charges that shall accrue upon such CONDOMINIUM subsequent to FORECLOSURE.

18.07.3 OWNER LIABLE. Nothing in this Section shall be construed to release any OWNER from his obligations to pay for any assessments levied pursuant to Article XI of the DECLARATION, while such OWNER is an OWNER as defined in Section 1.17 of the DECLARATION.

18.08 VOTE OF INSTITUTIONAL MORTGAGEES. Except upon the prior written approval of the INSTITUTIONAL MORTGAGEES, based on one (1) vote for each FIRST MORTGAGE held, neither the ASSOCIATION nor the MEMBERS shall be entitled to do any of the following:

18.08.1 ABANDON PROJECT. Dissolve the ASSOCIATION or abandon or terminate the maintenance of the COMMON AREA by the ASSOCIATION, except for abandonment or termination provided by law or by this DECLARATION in the case of substantial destruction by fire or other casualty or in the case of a substantial taking by condemnation or eminent domain.

18.08.2 AMEND DECLARATION. Amend a material provision of this DECLARATION, the BY-LAWS or the ARTICLES. Without limiting the generality of the foregoing, the provisions of the Article of this DECLARATION entitled "INSURANCE", this Article, or any other rights granted specifically to MORTGAGEES pursuant to any other provision of this DECLARATION, or any provision of the ARTICLES or BY-LAWS which is a requirement of F.N.M.A., G.N.M.A., F.H.L.M.C., F.H.A. or V.A. shall be deemed to be material.

18.08.3 TERMINATION OF MANAGEMENT. Effectuate any decision to terminate professional management and assume self-management of THE PROJECT.

18.08.4 ABANDONMENT/PARTITION. Abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the COMMON AREA; provided, however, the granting of easements for public utilities or other public purposes consistent with the intended use of the COMMON AREA on THE PROJECT shall not require such approval.

18.08.5 PARTITION. Partition or subdivide a CONDOMINIUM or any element thereof.

18.08.6 ALTERATION OF OWNERSHIP. Change the ownership interest of a CONDOMINIUM as specified in Paragraph 7.01 of this DECLARATION or alter the share of assessments charged to any UNIT pursuant to Paragraph 11.06 of this DECLARATION.

18.08.7 PROPERTY OF MORTGAGEE. Change the provisions of the CONDOMINIUM documents so as to give an OWNER, or any other party, priority over the rights of MORTGAGEES pursuant to their MORTGAGES in the case of a distribution to OWNERS of insurance proceeds or condemnation awards or loses for the taking of UNITS and/or COMMON AREA.

18.09 OTHER RIGHTS OF FIRST MORTGAGEES. Any FIRST MORTGAGEE or its MORTGAGE servicing contractor shall, upon written request to the ASSOCIATION, be entitled to:

18.09.1 Inspections. Inspect the books and records of the ASSOCIATION during normal business hours pursuant to Section 9.09 of Article IX.

18.09.2 Receipt of Financial Statements. Receive the annual audited financial statements of the ASSOCIATION ninety (90) days following the end of the ASSOCIATION'S FISCAL YEAR.

18.09.3 Notice of Meetings. Receive written notice of all annual and special meetings of the MEMBERS or of the BOARD, and FIRST MORTGAGEES shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of the DECLARATION which have not been corrected or made the subject of remedial action by the ASSOCIATION; provided, however, nothing contained in this Section shall give a FIRST MORTGAGEE the right to call a meeting of the BOARD or the MEMBERS for any purpose or to vote at any such meeting; and

18.09.4 Notice of Default. Receive written notification from the ASSOCIATION of any default in the performance of the obligations imposed by this DECLARATION by the OWNER whose CONDOMINIUM is encumbered by such FIRST MORTGAGEE'S MORTGAGEE, which default has not been cured within sixty days of a request therefore by the ASSOCIATION.

18.10 MORTGAGEE INFORMATION. MORTGAGEES are hereby authorized to furnish information to the BOARD concerning the status of any MORTGAGE.

18.11 RIGHT OF FIRST REFUSAL. In the event this DECLARATION is amended to provide for any right of first refusal to purchase or lease a CONDOMINIUM in THE PROJECT, a MORTGAGEE who comes into possession of a CONDOMINIUM pursuant to a FORECLOSURE shall be exempt therefrom. In addition conveyances to and from third party FORECLOSURE purchases and MORTGAGE insurors and guarantors shall also be exempt.

18.12 CONFLICTS. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this DECLARATION, the provisions of this Article shall control.

18.13 NOTICE OF DESTRUCTION OR TAKING. In the event any CONDOMINIUM or the COMMON AREA, or any portion thereof, is substantially damaged or is made the subject of any condemnation proceeding or is otherwise sought to be acquired by a condemning authority, and such taking or threatened taking is substantial, the BOARD shall promptly notify any INSTITUTIONAL MORTGAGEE affected by such destruction, taking or threatened taking. As used herein, "substantially damaged" or "substantial taking" shall mean damage or taking of the COMMON AREA exceeding $10,000.00 or damage or taking to a CONDOMINIUM exceeding $1,000.00. If requested in writing by an INSTITUTIONAL MORTGAGEE, the ASSOCIATION shall evidence its obligations under this Section in a written agreement in favor of such INSTITUTIONAL MORTGAGEE.

ARTICLE XIX
RIGHTS OF CITY OF FRESNO

In addition to all other rights granted to the CITY by other provisions of this DECLARATION, the CITY shall have the following additional rights:

19.01 NOTICE OF DECREASE IN REGULAR MONTHLY ASSESSMENT. Should the association decrease the REGULAR MONTHLY ASSESSMENT for any FISCAL YEAR of the ASSOCIATION following the INITIATION DATE, notice of such decrease must be given by the ASSOCIATION to the CITY in writing at least sixty (60) days prior to the beginning of such FISCAL YEAR.

19.02 POWER OF CITY TO REJECT DECREASE. Should the CITY determine that a decrease in the REGULAR MONTHLY ASSESSMENT could or would adversely affect the maintenance of proper reserves for the repair and replacement of the COMMON AREA of THE PROJECT, the CITY may, within thirty (30) days following the receipt of written notice of such decrease, reject such decrease by written notice thereof served upon the ASSOCIATION. Should the CITY reject such decrease in the manner prescribed herein, the amount of the REGULAR MONTHLY ASSESSMENT in effect for the preceding FISCAL YEAR shall remain in effect. Should the CITY fail to serve its written rejection within the time prescribed by this Paragraph, the proposed decrease in the REGULAR MONTHLY ASSESSMENT shall be conclusively presumed to be accepted by the CITY.

19.03 CONSENT TO AMENDMENT. There shall be no amendments of this Article XIX or of Paragraphs 8.24, 9.03.5, 13.02, 14.09 and 16.09 of this DECLARATION without the prior written consent of the CITY.

ARTICLE XX
GENERAL PROVISIONS

20.01 CONSTRUCTION. The provisions of this DECLARATION shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a CONDOMINIUM PROJECT, and this DECLARATION shall be construed and governed in accordance with California law.

20.02 MORTGAGEE PROTECTION. No breach of any provision of this DECLARATION nor the enforcement of any assessment lien as provided herein shall defeat or render invalid the lien of any MORTGAGE made in good faith and for value encumbering any CONDOMINIUM, but all the provisions of this DECLARATION shall be binding upon and shall be effective against any OWNER whose title is derived through judicial foreclosure or trustee sale or otherwise.

20.03 SEVERABILITY. The provisions of this DECLARATION shall be deemed independent and severable. The invalidity or partial invalidity or unenforceability of any of the provisions of the DECLARATION shall not affect the validity of the remaining provisions.

20.04 SUCCESSORS AND ASSIGNS. This DECLARATION shall inure to the benefit of and be binding upon the successors and assigns of DEVELOPER, and to the heirs, personal representatives, grantees, lessees, successors and assigns of the OWNERS.

20.05 REMEDIES CUMULATIVE. Each remedy provided for by this DECLARATION for the breach of any of the covenants, conditions, restrictions, reservations, easements, liens or charges contained herein shall be in addition to any other available remedy whether provided for by law or in equity, and all of such remedies whether provided for by this DECLARATION or otherwise shall be cumulative and not exclusive.

20.06 DELIVERY OF NOTICES AND DOCUMENTS. Any written notice or other document relating to or required by this DECLARATION may be delivered personally or by mail. If by mail, such notice, unless expressly provided herein or in the BY-LAWS to the contrary with regard to the type of notice to be given, shall be deemed to have been delivered and received forty-eight (48) hours after a copy thereof is deposited in the United States Mail, postage and fees prepaid, addressed as follows:

20.06.1 If to an OWNER, other than DEVELOPER, to the address of any CONDOMINIUM in THE PROJECT owned by him, in whole or in part, or to the address last furnished by such OWNER to the secretary of the ASSOCIATION for the purpose of giving notice and delivering documents. Each OWNER, other than DEVELOPER, shall file in writing with the BOARD promptly upon becoming an OWNER his address for the purpose of giving notice and delivering documents, and shall promptly notify the BOARD in writing of any subsequent change of address.

20.06.2 If to a MORTGAGEE or its MORTGAGEE servicing contractor to the address furnished to the ASSOCIATION by such MORTGAGEE or such contractor for the purposes of notice or, if no such address is furnished, to any office of the MORTGAGEE in Fresno County, California, or if no such office is located in said County, to any office of such MORTGAGEE.

20.06.3 If to the DEVELOPER, whether in its capacity as an OWNER, or in any other capacity:

MARTINIQUE LTD.,
A California Limited Partnership
2607 Fresno Street
Fresno, CA 93721

20.06.4 If to the CITY:

City of Fresno
Office of City Attorney
2326 Fresno Street
Fresno, California 93721

Or at such other address as the CITY may file with the BOARD.

20.06.5 Prior to the initial organizational meeting of the members, notices to the BOARD shall be addressed to the address set forth in this Paragraph for the giving of notices to the DEVELOPER. Thereafter, notices to the BOARD shall be addressed to the Secretary of the ASSOCIATION, and the BOARD shall cause the address of the Secretary of the ASSOCIATION to be posted at all times in a conspicuous place upon the COMMON AREA of the PROJECT. Notice of the address of the Secretary of the ASSOCIATION shall be given by the BOARD to each OWNER within a reasonable time after the BOARD has received actual notice of such OWNER'S purchase of a CONDOMINIUM.

20.06.6 The affidavit of an officer or authorized agent of the ASSOCIATION declaring under penalty of perjury that a notice has been mailed to any OWNER or OWNERS or to any MORTGAGEE or MORTGAGEES, or to all MEMBERS or all MORTGAGEES, to the addresses or address shown on the records of the ASSOCIATION, shall be deemed conclusive proof of such mailing, whether or not such notices are actually received.

20.07 NOTIFICATION OF SALE OF CONDOMINIUM. Concurrently with the consummation of the sale of any CONDOMINIUM under circumstances whereby the transferee becomes an OWNER thereof, the transferee shall notify the BOARD in writing of such sale. Such notification shall set forth (i) the name of the transferee and his transferor, (ii) the street address or unit number of the CONDOMINIUM purchased by the transferee, (iii) the transferee's mailing address, and (iv) the date of sale. Prior to receipt of such notification, any and all communication required or permitted to be given by DEVELOPER, the BOARD, the ASSOCIATION, or the Architectural Committee shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor.

20.08 AMENDMENTS. Subject to the other provisions of this DECLARATION, this DECLARATION may be amended only in the following manner:

20.08.1 For so long as there are two classes of members, by the vote or written assent of 66 2/3% of the voting power of each class of membership.

20.08.2 Upon the conversion of Class B memberships in the ASSOCIATION to Class A memberships, by the vote or written assent of members representing 66 2/3% of the total votes of the ASSOCIATION and by a bare majority of the votes of the ASSOCIATION excluding the votes of the DEVELOPER. Any such amendment shall be evidenced by an instrument certified by the Secretary of the ASSOCIATION or other duly authorized officer of th ASSOCIATION which certificate shall make appropriate reference to this DECLARATION in its amendment and shall be acknowledged and recorded in the office of the Fresno County Recorder.

20.08.3 Provided, however, the votes necessary to amend a specific clause or provision of this DECLARATION shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision.

20.09 JOINT AND SEVERAL LIABILITY. In the event of joint ownership of a CONDOMINIUM, the liability of each of the OWNERS thereof in connection with the liability and obligations of OWNERS set forth in or imposed by this DECLARATION shall be joint and several.

20.10 ARBITRATION. If the ASSOCIATION, or one or more OWNERS are unable to agree on the meaning or effect of any part of this DECLARATION, the dispute shall be conclusively settled by arbitration. The ASSOCIATION shall name one arbitrator; the OWNER or OWNERS shall name one arbitrator. The two arbitrators so named shall select a third, and these three shall resolve the dispute.

20.11 APPROVAL OF ASSOCIATION. Any provision of this DECLARATION calling for membership approval of action to be taken by the ASSOCIATION shall require the vote or written assent of a majority of each class of membership during the time there are two outstanding classes of membership.

IN WITNESS WHEREOF, MARTINIQUE LTD., a California limited partnership, as DEVELOPER has executed this DECLARATION this 16th day of April, 1980, at Fresno, California.

MARTINIQUE LTD.
A California Limited Partnership

By KLEIN GROUP, INC.
A California Corporation

By [signature]
ROBERT W. KLEIN II

By [signature]
DEBRA A. KLEIN

OFFICIAL SEAL
NEOMA GLAZEBROOK
Notary Public, California
Principal Office in
Fresno County
My Com. Expires Jan. 14, 1984

OFFICIAL SEAL
NEOMA GLAZEBROOK
Notary Public, California
Principal Office in
Fresno County
My Com. Expires Jan. 14, 1984

[signature]

STATE OF CALIFORNIA)
)
COUNTY OF FRESNO)

On April 15, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared ROBERT N. KLEIN II, known to me to be the President and DEBRA A. KLEIN, known to me to be the Vice President of the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the partners of MARTINIQUE, LTD., a California limited partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

Sandi Stults
Notary Public in and for
Said State

OFFICIAL SEAL
SANDI STULTS
NOTARY PUBLIC CALIFORNIA
NOTARY BOND FILED IN
FRESNO COUNTY
My Commission Expires September 29, 1981

My Commission Expires 9-29-81

APRIL 10, 1980

BOOK 7511 PAGE 916

SUBORDINATION

ROBERT N. KLEIN AND HELEN S. KLEIN, AS CO-TRUSTEES TO THE KLEIN LIVING TRUST DATED JUNE 23, 1976, as the holder of the beneficial interest in and under that certain Deed of Trust dated September 19, 1979, and recorded on August 28, 1979, in Book 7382 Page 493 (Document No. 114989) in the office of the Fresno County Recorder of which the Deed of Trust is by and between MATINIQUE, LTD, a limited partnership, as Trustor, TITLE INSURANCE AND TRUST COMPANY, a California corporation, as Trustee, and ROBERT N. KLEIN AND HELEN S. KLEIN, AS CO-TRUSTEES TO THE KLEIN LIVING TRUST DATED JUNE 23, 1976, as Beneficiary hereby expressly subordinate said Deed of Trust and their beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions, Restrictions and Easements Establishing a Plan for Condominium Ownership ("DECLARATION, herein); provided, however, that for the purposes of the DECLARATION, said Deed of Trust for the benefit of ROBERT N. KLEIN AND HELEN S. KLEIN, AS CO-TRUSTEES TO THE KLEIN LIVING TRUST DATED JUNE 23, 1976 shall be deemed to be a FIRST MORTGAGE as said term is defined inParagraph 1.15 of the DECLARATION.

DATED: 12-10, 1979.

Robert N. Klein
ROBERT N. KLEIN

Helen S. Klein
HELEN S. KLEIN

CO-TRUSTEES TO THE KLEIN LIVING TRUST DATED JUNE 23, 1976

STATE OF CALIFORNIA
COUNTY OF Fresno } SS

ON December 10, 1979 ...., 19......, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert N. Klein and Helen S. Klein, Co-Trustees

OFFICIAL SEAL
SANDI STULTS
NOTARY PUBLIC, CALIFORNIA
NOTARY BOND FILED IN
FRESNO COUNTY
My Commission Expires September 23, 1981

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary's Signature Sandi Stults

GENERAL ACKNOWLEDGMENT
Form No. 16

FRESNO COUNTY RECORDER'S OFFICE

APRIL 30, 1980

BOOK 7511 PAGE 917

SUBORDINATION

GUARANTEE SAVINGS AND LOAN ASSOCIATION, a California corporation as holder of the beneficial interest in and under that certain Deed of Trust dated June 11, 1975, recorded on June 18, 1975, in Book 6445, page 345 (Document No. 43279), in the office of the Fresno County Recorder, of which the deed of trust is by and between ROBERT N. KLEIN AND HELEN S. KLEIN, husband and wife, Trustor, GUARANTEE FINANCIAL CORPORATION OF CALIFORNIA, a California corporation as Trustee, and GUARANTEE SAVINGS AND LOAN ASSOCIATION, as Beneficiary hereby expressly subordinates said Deed of Trust and its beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions, Restrictions and Easements Establishing a Plan for Condominium Ownership ("DECLARATION", herein); provided, however, that for the purposes of the DECLARATION, said Deed of Trust for the benefit of GUARANTEE SAVINGS AND LOAN ASSOCIATION shall be deemed to be a FIRST MORTGAGE as said term is defined in Paragraph 1.15 of the DECLARATION.

DATED: December 14, 1979

GUARANTEE SAVINGS AND LOAN ASSOCIATION

By H. Paul Heppner

State of California }
County of Fresno } ss.

On this 14th day of December in the year one thousand nine hundred and seventy nine before me, the undersigned a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared H. Paul Heppner known to me to be the Vice President and .... known to me to be the Secretary of the Guarantee Savings & Loan Association the corporation that executed the within instrument, and known to me to be the person ...... who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said County, the day and year in this Certificate first above written.

OFFICIAL SEAL
WILDON L. CUTTS
Notary Public, California
Principal Office in
Fresno County
My Com. Expires Jan. 28, 1980

CORPORATION ACKNOWLEDGMENT
Kilner Stationery Co.
1916 Echo

Wildon L. Cutts
Notary Public in and for said County and State
Wildon L. Cutts