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Irvine, California 92715  
Attention: Dorothy A. Urbanec

By: O. J. T. T. T.

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SUPPLEMENTARY DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS

RANCHO SANTA MARGARITA  
ALICANTE - PHASE 1  
ORANGE COUNTY, CALIFORNIA

THIS SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter "Supplementary Declaration") is made this 9th day of October, 1989, by RANCHO SANTA MARGARITA JOINT VENTURE, a California general partnership, its successors and assigns ("Company") and J.M. PETERS COMPANY, INC., a Nevada corporation, its successors and assigns ("Participating Builder"), sometimes hereinafter collectively referred to as the "Declarant."

R E C I T A L S

A. Participating Builder is the fee owner of certain property in the County of Orange, State of California, described as:

Units 1 through 40 on Lot 1 of Tract Map No. 13237 as per map filed in Book 633, Pages 9 through 13 of Miscellaneous Maps, records of said County (the "Residential Lots"); and

Lot 5 of Tract Map No. 13237 as per map filed in Book 633, Pages 9 through 13 of Miscellaneous Maps, records of said County (the "Common Area Lots")

(hereinafter referred to as the "Annexed Property").

B. The Annexed Property is part of the "Annexation Property" as such term is defined in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded on April 24, 1986, as Instrument No. 86-162928, of Official Records of said County, and any amendments thereto (the "Declaration").

C. Declarant now desires that the Annexed Property be conveyed subject to the covenants, conditions, restrictions, reservations, liens and charges hereinafter set forth and as set forth in the Declaration.

NOW THEREFORE, it is declared as follows:

1. Except as defined herein, and unless the context clearly indicates otherwise, the terms used in this Supplementary Declaration are defined to mean the same as such terms are defined in the Declaration.

2. All of the Annexed Property is hereby made subject to all of the terms, covenants, conditions and provisions as set forth in the Declaration and specifically pursuant to the provisions of the Section entitled "Annexation Without Approval and Pursuant to General Plan" of the Article entitled "Annexations" of the Declaration to all intents and purposes as though said land were a part of the Initial Covered Property.

3. The recordation of this Supplementary Declaration shall constitute and effectuate the annexation of the Annexed Property, make said real property subject to the Declaration and subject to the functions, powers and jurisdiction of SAMLARC as provided in the Declaration, and thereafter said real property shall be part of the Covered Property and all of the Owners of Residences in the Annexed Property shall automatically be Members of SAMLARC and Owners under the Declaration.

4. All rights and easements reserved by the Declarant in the Declaration are hereby reserved over the Annexed Property, and any easements reserved in the Declaration to Company as Declarant for the benefit of Owners in and to any Community Property are hereby granted to the Participating Builder, together with the right and obligation of such Participating Builder to grant and transfer all of such easements to Owners as provided in the Declaration, including, without limitation, the nonexclusive easement for ingress and egress as such easement is more particularly described in the Section entitled "Certain Easements for Owners" of the Article entitled "Rights of Ownership and Easements" of the Declaration.

5. All obligations of Declarant under the Declaration are hereby extended to the Annexed Property as provided in the Declaration.

6. The Residential Lots and the Common Area Lots are hereby designated to belong to the Alicante Delegate District pursuant to the Section entitled "Establishment of Delegate Districts" of the Article entitled "Membership Voting Rights" of the Declaration.

7. As provided in the Declaration, Regular Assessments and the entitlement to vote shall commence as to all Owners within the Annexed Property on the first day of the month following the first conveyance of a Residence by Declarant within the Annexed Property.


8. This Supplementary Declaration cancels and supercedes that certain Supplementary Declaration of Covenants, Conditions and Restrictions recorded on January 5, 1989, as Instrument No. 89-007071 as to the Annexed Property only and not as to any other property that may be encumbered by the said recorded Supplementary Declaration. There has been no conveyance of a Residence within the Annexed Property as of the date of the recording of this Supplementary Declaration.

IN WITNESS WHEREOF, this instrument is executed as of the day and year above written.

RANCHO SANTA MARGARITA JOINT  
VENTURE, a California General  
Partnership

By: SANTA MARGARITA REALTY  
COMPANY, a California  
corporation, a General Partner

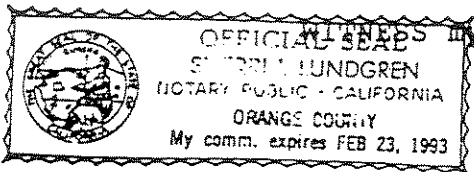
By:   
David B. Placek, Vice President

By:   
Elizabeth A. Jahn, Associate Director  
J.M. PETERS COMPANY, INC., a Nevada  
corporation

By:   
Richard E. Bradsher, Vice President

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On Oct. 9 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared David B. Placek and Elizabeth A. Jahn personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed the within instrument as Vice President and Associate Director on behalf of SANTA MARGARITA REALTY COMPANY, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors, said corporation being known to me to be one of the partners of RANCHO SANTA MARGARITA JOINT VENTURE, the 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.



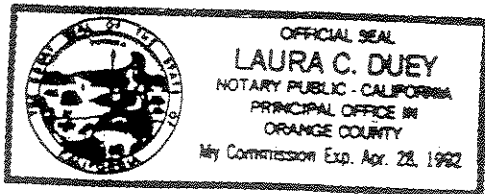
WITNESS my hand and official seal.

S. Lundgren  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On October 4, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard D. Bradshaw, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who executed the within instrument as Vice President on behalf of J.M. PETERS COMPANY, INC., the corporation that executed the within instrument and acknowledged to me that said corporation executed the within instrument pursuant to its Bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



Laura C. Duey  
Notary Public in and for said State



SUBORDINATION

The undersigned, beneficiary under that certain deed of trust encumbering all or a portion of the Covered Property defined in the Declaration which deed of trust was recorded on January 5, 1989 as Instrument No. 89-007075 of Official Records of the said County, hereby consents to the Declaration, and subordinates the lien of said deed of trust to the provisions of such Declaration and any amendment thereto that may be required for the purpose of complying with any law, regulation or other requirement of any of the Federal Agencies.

RANCHO SANTA MARGARITA JOINT VENTURE, a California General Partnership

By: SANTA MARGARITA REALTY COMPANY, a California corporation, a General Partner

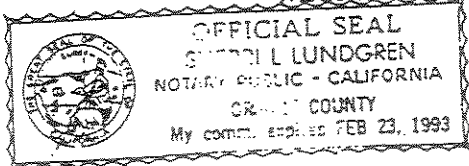
By: [Signature]  
David B. Placek, Vice President

By: [Signature]  
Elizabeth A. Jahn, Associate Director

STATE OF CALIFORNIA )  
                                  ) ss.  
COUNTY OF ORANGE )

On Oct. 9 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared David B. Placek and Elizabeth A. Jahn personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed the within instrument as Vice President and Associate Director on behalf of SANTA MARGARITA REALTY COMPANY, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors, said corporation being known to me to be one of the partners of RANCHO SANTA MARGARTIA JOINT VENTURE, the 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.

WITNESS my hand and official seal.



[Signature]  
Notary Public in and for said State

CONSENT OF ENCUMBRANCER

The undersigned beneficiary under that certain Deed of Trust recorded on September 28, 1989 as Instrument No. 89-522640, of Official Records of Orange County, California, hereby consents to the within Supplementary Declaration of Covenants, Conditions and Restrictions, and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration as defined therein.

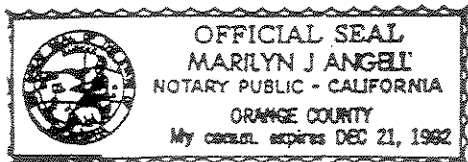
THE BANK OF CALIFORNIA  
National Association

By: Robert C. Levissee  
Robert C. Levissee  
Vice President

STATE OF CALIFORNIA )  
                                  ) ss.  
COUNTY OF ORANGE )

On October 3rd, 1989, before me, the undersigned a Notary Public in and for said State, personally appeared Robert C. Levissee personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the instrument as Vice President on behalf of The Bank of California, the association that executed the within instrument, and personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the association therein name, pursuant to its by-laws or a Resolution of its Board of Directors, and acknowledged to me that such association executed the same.

WITNESS my hand and official seal.



Marilyn J. Angeli  
Notary Public in and for said State.

89-551398

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

J.M. Peters Company, Inc.  
3501 Jamboree Road, Suite 200  
Newport Beach, California 92658

Attn: Ms. Nancy Sparks



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FIRST AMER. TITLE INS. CO.  
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*Lee A Branch* Recorder

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DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP  
FOR  
ALICANTE MAINTENANCE CORPORATION

9/19/89

THIS INSTRUMENT FILED FOR RECORD BY  
FIRST AMERICAN TITLE INSURANCE COMPANY AS AN  
ACCOMMODATION ONLY. IT HAS NOT BEEN EXAMINED AS TO  
ITS EXECUTION OR AS TO ITS EFFECT UPON THE TITLE.

INDEX FOR DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
RESERVATION OF EASEMENTS ESTABLISHING A PLAN OF CONDOMINIUM  
OWNERSHIP FOR ALICANTE MAINTENANCE CORPORATION

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DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP  
FOR  
ALICANTE MAINTENANCE CORPORATION

This Declaration of Covenants, Conditions, Restrictions and Reservation of Easements Establishing a Plan of Condominium Ownership for Alicante Maintenance Corporation ("Declaration") is made this 12th day of September, 1989, by J.M. Peters Company, Inc., a Nevada corporation (hereinafter called "Declarant").

R E C I T A L S:

A. Declarant is the owner of certain real property ("the Property") located in the County of Orange, State of California, and described on Exhibits "A" and "B" attached hereto and incorporated herein by this reference, and the real property which hereafter from time to time is annexed pursuant to this Declaration and thereby becomes a part of the Property.

B. Declarant has improved or intends to improve the Property by constructing improvements thereon consisting of dwelling units and recreational and other facilities in accordance with plans and specifications on file with the County of Orange, California.

C. By this Declaration, Declarant intends to establish a plan of condominium ownership for the Property.

D. Declarant has deemed it desirable to establish covenants, conditions and restrictions upon the Property and each and every portion thereof, which will constitute a general scheme for the management of the Property and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property. The Property is also subject to and governed by that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rancho Santa Margarita recorded April 24, 1986 as Instrument No. 86-162928 in the Official Records of Orange County, California.

E. It is desirable for the efficient management of the Property and the preservation of the value, desirability and attractiveness of the Property to create a corporation to which shall be delegated and assigned the powers of managing the Property, maintaining and administering the Common Area and Recreational Facilities and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the Assessments and charges hereinafter created and referred to and to perform such other acts as shall generally benefit the Property.

F. Alicante Maintenance Corporation, a nonprofit mutual benefit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid.

G. Declarant will hereafter hold and convey title to all of the Property subject to certain protective covenants, conditions and restrictions hereafter set forth.

DECLARATION:

Declarant declares that the Property is, and shall be, held, assigned, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of Condominium ownership as described in California Civil Code Sections 1350-1372 for the subdivision, improvement, protection, maintenance, and sale of Condominiums within the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code, Sections 1351, 1353 and 1354.

## ARTICLE I

DEFINITIONS

Section 1.1 "Architectural Committee" shall mean and refer to the committee or committees provided for in the Article hereof entitled "Architectural Control".

Section 1.2 The "Articles" mean the Corporation's Articles of Incorporation and their amendments.

Section 1.3 "Assessments". The following meanings shall be given to the Assessments hereinafter defined:

"Compliance Assessments" shall mean a charge against a particular Owner and his Residence, directly attributable to the Owner, to reimburse the Corporation for costs incurred in bringing the Owner and his Residence into compliance with the provisions of this Declaration, the Articles, Bylaws, or Corporation Rules as a means of reimbursing the Corporation for costs incurred by the Corporation in the repair of damage to the Common Area or Recreational Facilities for which the Owner was allegedly responsible, or any other charge designated as a Compliance Assessment in this Declaration, the Articles, Bylaws, or Corporation Rules, together with Attorneys' fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

"Reconstruction Assessment" shall mean a charge against each Member and his Residence representing a portion of the cost to the Corporation for reconstruction of the Common Area or Recreational Facilities pursuant to the provisions of this Declaration entitled "Destruction of Improvements."

"Regular Assessments" shall mean the amount which is to be paid by each Member to the Corporation for Common Expenses for the forthcoming fiscal year.

"Special Assessments" shall mean that amount, as determined by the Board, which is to be paid by each Member to the Corporation for the cost of any action or undertaking on behalf of the Corporation, which is not specifically covered under any other Assessment, and addressing emergency situations (as more fully set forth in Section 6.4 below).

Section 1.4 The "Board" means the Board of Director of the Corporation .

Section 1.5 The "Bylaws" mean the Corporation's Bylaws and their amendments.

Section 1.6 The "Common Area" shall mean any portion of the Property designated in this Declaration or in a Supplementary Declaration of Covenants, Conditions, Restrictions and Reservation of Easements and Notice of Annexation for the primary benefit of, or maintenance by, the Owners of Condominiums within the Property to be owned: (i) in common by such Owners; or (ii) separately by individual Owners over which the Corporation may have an easement for use and maintenance purposes. The Common Area is designated as the entire Property except the Recreational Facilities and except all Units as defined in this Declaration or as shown on the Condominium Plan, and without limiting the generality of the foregoing, specifically includes all structural projections within a Unit which are required for the support of a condominium building, gas, water, waste pipes, utility meter cabinets, all sewers, all ducts, chutes, conduits, wires and other utility installations of the structures wherever located (except the outlets thereof when located within the Units), the land upon which the structures are located, the air space above these structures, all bearing walls, columns, exterior doors, floors (not including floor coverings), the roof, the foundation, common stairways, window and skylight glass, if any, and the like. Common Area shall specifically exclude all garage door opening systems notwithstanding that the foregoing are located in the Common Area. The Common Area shall include those portions of the Annexation Property described as additional "Common Area" in any Supplementary Declaration of Annexation recorded in accordance with Article XVIII of the Declaration.

Section 1.7 "Common Expenses" shall include, without limitation, and shall mean and refer to the actual and estimated:

(a) Costs of maintenance, management, operation, repair and replacement of the Common Area and Recreational Facilities, and all other areas on and off the Property which are maintained by the Corporation;

(b) Unpaid Assessments;

(c) Costs of management and administration of the Corporation, including but not limited to compensation paid by the Corporation to managers, accountants, attorneys and employees;

(d) Costs of utilities, trash pick up and disposal, gardening and other services which generally benefit and enhance

the value and desirability of the Property;

(e) Costs of fire, casualty, liability, workmen's compensation and other insurance covering the Common Area and Recreational Facilities;

(f) Costs of any other insurance obtained by the Corporation;

(g) Reasonable services and reserves (including, but not limited to a reserve fund to cover the deductibles under Corporation insurance policies and an adequate reserve for the replacement of improvements to the Common Areas and Recreational Facilities) as deemed appropriate by the Board;

(h) Costs of bonding (including but not limited to fidelity bonds) of the members of the Board, any professional managing agent, or any other person handling the funds of the Corporation;

(i) Taxes paid by the Corporation;

(j) Amounts paid by the Corporation for discharge of any lien or encumbrance levied against the Common Area and Recreational Facilities or portions thereof;

(k) Costs incurred by the Architectural Committee or other committees established by the Board; and

(l) Other expenses incurred by the Corporation for any reason whatsoever in connection with the Common Area and Recreational Facilities or the costs of any other item or items designated by the Governing Instruments, or in furtherance of the purposes of the Corporation or in the discharge of any duties or powers of the Corporation.

Section 1.8 A "Condominium" means an estate in real property as defined in California Civil Code, Section 783 consisting of an undivided interest as a tenant in common in certain Common Area, together with an interest in a Unit shown and described on a Condominium Plan, and all easements appurtenant thereto. The fractional undivided interest of each Owner as a tenant in common in the Common Area of Lot 1 of Tract Map No. 13231 of the Property shall be a one-fortieth (1/40th) interest, such fractional undivided interest shall be appurtenant to each Unit within such property shall be described in the instrument conveying a Condominium to the Owners of such Units.

Section 1.9 A "Condominium Building" shall mean a separate building containing one or more Units.

Section 1.10 The "Condominium Plan" means the Condominium Plan recorded pursuant to California Civil Code, Section 1351 respecting the Property, and any amendments to the plan. In interpreting deeds, leases, declarations and plans, the existing physical boundaries of a Unit and Exclusive Use Common Area constructed in substantial accordance with the Condominium Plan shall be conclusively presumed to be its boundaries rather than the description expressed in the deed, declaration or plan, regardless of settling or lateral movement of the building and minor variances between boundaries as shown on the plan or in the deed or declaration and those of the buildings as constructed.

Section 1.11 The "Corporation" means the Alicante Maintenance Corporation, a California non-profit mutual benefit corporation, its successors and assigns.

Section 1.12 The "Corporation Rules" mean the rules and regulations regulating the use and enjoyment of the Common Area and Recreational Facilities adopted by the Board from time to time.

Section 1.13 The "Declarant" means J.M. Peters Company, Inc., a Nevada corporation, and its successors and assigns, if such successors and assigns, acquire or hold record title to any portion of the Property for development purposes.

Section 1.14 The "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Reservation of Easements Establishing a Plan of Condominium Ownership for Alicante Maintenance Corporation .

Section 1.15 The "Development" shall mean and refer to all the real property described on Exhibits "A" and "B" hereto and all of the annexable real property described on Exhibit "C" attached hereto.

Section 1.16 The "Exclusive Use Common Area" shall mean and include those portions of the Common Area over which exclusive easements are reserved exclusively for the use and benefit of Owners of the Unit served, including, but not limited to, air conditioning pads as those areas are described on the Condominium Plan.

Section 1.17 "Federal Agencies" shall mean and refer to collectively one or more of the following agencies and the following letter designation for such agencies shall mean and refer to respectively, the agency specified within the parenthesis following such letter designation: FHA (Federal Housing Administration), FHLMC (Federal Home Loan Mortgage Corporation), FNMA (Federal National Mortgage Association), GNMA (Government National Mortgage Association), VA (Veterans Administration).

Section 1.18 The "Governing Instruments" mean the Articles, Bylaws, this Declaration and the Corporation Rules. Unless otherwise stated therein, the terms defined herein in the Declaration shall have the same definitions and meanings when used in said Articles, Bylaws and Corporation Rules.

Section 1.19 A "Member" means every person or entity who holds a membership in the Corporation .

Section 1.20 A "Mortgage" means a Mortgage or deed of trust encumbering a Condominium or other portion of the Property. An "Institutional Mortgagee" is a Mortgagee which is a bank or savings and loan association or mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property, or any insurance company or any federal or state agency. A "First Mortgage" or "First Mortgagee" is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Condominium or other portions of the Property .

Section 1.21 A "Mortgagee" shall mean and refer to the beneficiary under any Mortgage.

The following additional terms describe Mortgagees or insurers or guarantors of Mortgages who are entitled to specific rights in the Governing Instruments: "Eligible Mortgage Holder" shall mean a First Mortgagee who is entitled to receive notification from the Corporation and has the right to vote or approve any proposed amendment or action that requires the consent of a percentage of Eligible Mortgage Holders. Such Eligible Mortgage Holder shall be entitled to receive such notification and to vote on such matters only if such Eligible Mortgage Holder delivered to the Board a prior written request therefor. Wherever the approval of all or a specified percentage of Eligible Mortgage Holders is required it shall be deemed to mean the vote or approval of all or a specified percentage only of those First Mortgagees who have become Eligible Mortgage Holders by reason of having provided such notification to the Board. Wherever the vote or written approval of Eligible Mortgage Holders is required, it shall be deemed to mean such vote or approval of the percentage specified based on one (1) vote for each unit encumbered by a First Mortgage.

"Requesting Mortgagee, Insurer or Guarantor" shall mean the Mortgagee, or Insurer or Guarantor of a Mortgage entitled to receive timely written notification from the Corporation of certain matters as provided elsewhere in the Governing Instruments. Mortgagee, Insurer or Guarantor must deliver to the Corporation a written request therefor stating the name and address of such Mortgagee, or Insurer or Guarantor and the address or other identification of the Condominium encumbered by the Mortgage held, insured, or guaranteed by such Mortgagee, or



Insurer, or Guarantor.

Section 1.22 An "Owner" shall mean and refer to one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Condominium, including Declarant, excluding those having any such interest merely as security for the performance of an obligation. If a Condominium has been sold under a land sale contract in which the State of California is the vendor, then the vendee shall be deemed to be the Owner of such Condominium. If a Condominium is leased by Declarant for a term in excess of ten (10) years and the lease or memorandum thereof is recorded, the lessee or transferee of the leasehold interest and not the Declarant shall be deemed to be the Owner. If fee title to a Condominium is owned other than by Declarant, the Owner of the fee title and not the lessee of such Condominium shall be deemed the Owner regardless of the term of the lease.

Section 1.23 A "Phase" shall mean and refer to (i) all of the Property described in Exhibit "A" attached hereto (Phase 1); or (ii) all the real property covered by a Supplementary Declaration of Annexation to this Declaration pursuant to Article XVIII of this Declaration.

Section 1.24 "Property" shall mean and refer to all of the real property described on Exhibit "A" and "B" hereto and, subsequent to the annexation thereof pursuant to the Article of this Declaration entitled "Annexation," any real property which shall become subject to this Declaration.

Section 1.25 The "Recreational Facilities" shall mean and refer to the real property and the improvements thereon owned or leased by the Corporation for the common use and enjoyment of the Members, including without limitation: pool, spa and restrooms. The real property upon which the Recreational Facilities shall be constructed is described in Exhibit "B". On or before the date of the first conveyance of a Condominium in the Property by Declarant to an Owner, Declarant shall convey to the Corporation title to the real property described in Exhibit "B", free and clear of all encumbrances and liens other than those approved by the California Department of Real Estate.

Section 1.26 A "Residence" shall mean and refer to a Condominium.

Section 1.27 "SAMLARC" shall mean and refer to that nonprofit mutual benefit corporation referenced in the SAMLARC Declaration.

Section 1.28 "SAMLARC Architectural Committee" shall mean and refer to the Architectural Committee created pursuant to Article X of the SAMLARC Declaration.

Section 1.29 "SAMLARC Declaration" shall mean and refer to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rancho Santa Margarita recorded on April 24, 1986 as Instrument No. 86-162928 in the Official Records of the Orange County Recorder.

Section 1.30 "Structural Common Area" shall mean the Condominium Buildings and any Exclusive Use Common Area which, in the original construction of the Condominium Building, or in any Reconstruction thereof, was attached or affixed thereto including but not limited to decks, balconies, patios, exterior doors, door frames, and hardware incident thereto, screens and windows, and shall also include any walls or fences forming the boundaries of a Residence.

Section 1.31 "Supplementary Declaration of Annexation" shall mean those certain Supplementary Declarations of Covenants, Conditions, Restrictions and Reservation of Easements and Notice of Annexation, or similar instruments, annexing additional property extending the plan of this Declaration to such additional property as provided in Article XVIII of this Declaration entitled "Annexation".

Section 1.32 "Trustee" shall mean and refer to the insurance trustee appointed by the Board and shall be a commercial bank, or branch thereof, or a trust company in Orange County, which has agreed in writing to accept such trust; provided, however, if the Board is unable to find such an institution to act as trustee for reasonable compensation after diligent search, the Board may designate itself to act as the Trustee.

Section 1.33 A "Unit" means the separate interest in space as defined in Section 1351(f) of the California Civil Code which is comprised of the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Property, including the Residential Element, Garage, Entry Court, Master Court, as the case may be, and Rear Yard, such Units and their respective elements and boundaries being shown and particularly described in the Condominium Plan. In addition, all air conditioning equipment, which services a particular Unit, shall be deemed a part of such Unit whether or not shown on the Condominium Plan. In interpreting deeds and plans the existing physical boundaries of a Unit and its Exclusive Use Common Area or of a Unit and its Exclusive Use Common Area reconstructed in substantial accordance with the original plans shall be conclusively presumed to be its boundaries rather than the description expressed in the deeds or plans, regardless of minor variance between boundaries shown on the plans or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference is made in this Declaration, in the Condominium Plan, in any deed or elsewhere to

a Unit it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements, and to any and all exclusive easements appurtenant to such Unit over Common Area, if any. For purposes of this section, "Residential Element" shall mean that portion of a Unit designed for use as a single family residence, and shall be identified on the Condominium Plan and bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors of each Residential Element and the outlets of all utility installations therein. "Garage" shall mean that portion of a Unit designed for use as a garage and shall be identified on the Condominium Plan; "Entry Court" shall mean that portion of a Unit between the Unit and the front entry gate of the Unit designed for use as a gardening, and/or landscaping area which boundaries are as follows: (a) The lower vertical boundary is a horizontal plane, the elevation of which is three feet (3') below the finished floor of the adjoining Residential Element of the Unit; (b) The upper vertical boundary is a horizontal plane, the elevation of which is twelve feet (12') above the finished floor of the adjoining Residential Element of the Unit; and (c) The lateral boundaries are the exterior finished surfaces of the perimeter walls, windows, and doors of the adjoining Residential Element of the Unit and the finished surfaces of the contiguous Condominium Buildings, where they exist, and any Common Area walls or fences, where they exist, and each such Entry Court shall include the improvements and earth lying within said boundaries and the air space encompassed by said boundaries; "Rear Yard" shall mean that portion of a Unit designed for use as a yard, recreation, gardening, and/or landscaping area to the side and rear of the Unit which boundaries are as follows: (a) The lower vertical boundary is a horizontal plane, the elevation of which is ten feet (10') below the finished floor of the adjoining Residential Element of the Unit; (b) The upper vertical boundary is a horizontal plane, the elevation of which is twelve feet (12') above the finished floor of the adjoining Residential Element of the Unit; and (c) The lateral boundaries are the exterior finished surfaces of the perimeter walls, windows, and doors of the adjoining Residential Element of the Unit and the finished surfaces of the contiguous Condominium Buildings, where they exist, and any Common Area walls or fences, where they exist, and each such Rear Yard shall include the improvements and earth lying within said boundaries and the air space encompassed by said boundaries and "Master Court" shall mean that portion of certain Units, as shown on the Condominium Plan, designed for use as a recreation, gardening, and/or landscaping area adjacent to the Master Bedroom of said Units which boundaries are as follows: (a) the lower vertical boundary is a horizontal plane, the elevation of which is three feet (3') below the finished floor of the adjoining Residential Element of the Unit; (b) the upper vertical boundary is a horizontal plane, the elevation of which is twelve feet (12') above the finished floor of the adjoining Residential Element of

the Unit, and (c) the lateral boundaries are the exterior finished surfaces of the perimeter walls, windows, and doors of the adjoining Residential Element of the Unit and the finished surfaces of the contiguous Condominium Buildings, where they exist, and any Common Area walls or fences, where they exist and each Master Court shall include the improvements and earth lying within said boundaries and the space encompassed by said boundaries.

Section 1.34 A "Yard" shall collectively refer to the Entry Court, Master Court, as the case may be for certain Units, and Rear Yard as defined in Section 1.33 above.

ARTICLE II

DESCRIPTION OF COMMON INTERESTS, PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS

Section 2.1 Ownership of Condominium. Ownership of each Condominium within the Property shall include a Unit in fee simple, an equal undivided interest in the Common Area, which undivided interest shall be specified in the deed from Declarant to each Owner and which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a Condominium remains in effect as provided in this Declaration, a membership in the Corporation, and any exclusive or non-exclusive easement or easements appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan, or the deed to the Condominium. Each Owner in a Phase shall receive an equal undivided interest in the Common Area of such Phase.

Section 2.2 Reservation of Easements. Declarant expressly reserves for the benefit of the Owners in the Property reciprocal, non-exclusive easements for access, ingress and egress over all of the Common Area and the Recreational Facilities, which easements may be conveyed by Declarant to Owners and to the Corporation for so long as Declarant owns any interest in the Property. Declarant also reserves for the benefit of itself, an easement over the private streets within the Property, together with the right to grant and transfer the same to any other persons or entities who obtain an ownership interest in and to the Annexation Property, described on Exhibit "C" attached hereto. Declarant expressly reserves for the benefit of itself, together with the right to grant and transfer the same, an easement for construction, display, maintenance, sales, and exhibit purposes over the Common Area and Recreational Facilities in connection with the sale or lease of Condominiums within the Property provided, however, that such use shall not be for a period beyond (i) seven (7) years after conveyance of such Common Area or Recreational Facilities, or (ii) the sale by Declarant of all Condominiums within the Development, whichever of (i) or (ii) occurs first. Subject to the provisions of this Declaration governing use and enjoyment thereof, such easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for recreational purposes, walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Condominium in the Property. Declarant expressly reserves for the benefit of the Board and all agents, officers and employees of the Corporation non-exclusive easements over the Common Area and Recreational Facilities as necessary to maintain and repair the Common Area and Recreational Facilities and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common

Area and Recreational Facilities shall be appurtenant to and shall pass with the title to every Condominium conveyed. Declarant expressly reserves for the benefit of certain Owners exclusive easements for the use of the Exclusive Use Common Area defined above and which is depicted and described on the Condominium Plan and assigned to particular Owners for correspondingly numbered Units in the Condominium Plan and on the individual deeds of the respective Condominiums. Declarant expressly reserves, for the benefit of the Corporation the right of Declarant to grant additional easements and rights-of-way over the Property to utility companies and public agencies, as necessary for the proper development and disposal of the Property, until but in no event longer than five (5) years from the date of issuance of the original final public report issued by the California Department of Real Estate. The Board of the Corporation, with a vote or written consent of a majority of both the Class A and Class B Members, shall have the right to grant easements and rights-of-way over the Common Areas after the close of escrow for the sale of the first Condominium from the Declarant in the Property. Declarant, the Corporation and Owners of contiguous Units shall have a reciprocal easement appurtenant to each of the Units over the Units and the Common Area and Recreational Facilities for the purpose of (1) accommodating any existing encroachments of any wall of the building, and (2) maintaining the same and accommodating authorized construction, reconstruction, repair, shifting, movement or development housing their respective Units. There are specifically reserved for the benefit of the Owners easements and reciprocal servient tenements for utility services and repairs, replacement and maintenance of the same over all of the Common Area and Recreational Facilities. Such easements shall not unreasonably interfere with the use and enjoyment by the Owners of adjoining Units.

Section 2.3 Owners Non-Exclusive Easements of Enjoyment, etc. Every Owner of a Condominium shall have a non-exclusive easement of use and enjoyment in, to and throughout the Common Area and Recreational Facilities; however, such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to Units over the Common Area and Recreational Facilities. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Condominium, subject to the following rights and restrictions:

(a) The rights of the Corporation to limit the number of guests, and to adopt and to enforce the Corporation Rules.

(b) The right of the Corporation to charge reasonable admission and other fees for use of the Recreational Facilities situated upon the Common Area.

(c) The right of the Corporation to borrow money to improve, repair or maintain the Recreational Facilities.

(d) The right of the Corporation to assign, rent, license, or otherwise designate and control use of unassigned parking and storage spaces, if any, within the Common Area (other than those portions subject to exclusive easements appurtenant to Units, if any).

(e) The right of the Corporation to impose monetary penalties, temporary suspensions of an Owner's rights as a Member of the Corporation or other appropriate discipline for failure to comply with the Governing Instruments provided that the procedures for notice and hearing, satisfying the minimum requirements of Section 7341 of the Corporations Code, are followed with respect to the accused Members before a decision to impose discipline is reached. Notwithstanding the foregoing, the Corporation has no power to cause a forfeiture or abridgement of an Owner's rights to the full use and enjoyment of his individually-owned subdivision interest on account of a failure by the Owner to comply with provisions of the Governing Instruments or of duly-enacted rules of operation for the Common Area and Recreational Facilities except where the loss or forfeiture is the result of the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Corporation .

(f) The right of Declarant or its designees to enter on the Property to construct the Property and to make repairs and remedy construction defects if such entry shall not unreasonably interfere with the use of any occupied Unit unless authorized by the Unit Owner.

(g) The right of the Corporation, or its agents, to enter any Unit to perform its obligations under this Declaration, including obligations with respect to construction, maintenance or repair for the benefit of the Common Area and Recreational Facilities, or the Owners in common, or to make necessary repairs that the Unit Owner has failed to perform. This right shall be immediate in case of an emergency originating in or threatening such Unit, whether or not the Owner is present.

(h) The right of any Owner, or his representative, to enter the Unit of any other Owner to perform permissible installations, alterations or repairs to mechanical or electrical services, including installation of television antennae and related cables, if requests for entry are made in advance and such entry is at a time convenient to the Owner whose Unit is being entered, except that in the case of emergency such right of entry shall be immediate.

Section 2.4 Delegation of Use; Contract Purchasers; Tenants. Any Owner may delegate his rights of use and enjoyment in the Property, including any Recreational Facilities to Members of his family, guests, invitees, tenants, unrecorded contract purchasers, and to such other persons as may be permitted by the Bylaws and the Corporation Rules, subject however, to this Declaration, to the Bylaws and to the Corporation Rules. Any delegated rights of use and enjoyment are subject to monetary penalties, temporary suspensions, or other appropriate discipline to the same extent as are the rights of Owners.

Section 2.5 Minor Encroachments. If any portion of the Common Area or Recreational Facilities encroaches on any Unit or if any portion of a Unit encroaches on the Common Area or Recreational Facilities, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area and Recreational Facilities are made subject to such easements. If any structure containing a Unit is partially or totally destroyed and then rebuilt and any encroachment on the Common Area and Recreational Facilities results, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area and Recreational Facilities are made subject to such easements.

Section 2.6 Easements Granted by Corporation. The Corporation shall have the right to grant and convey to any third party, easements and rights-of-way in, on, over or under the Common Area and Recreational Facilities for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or such other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to a Condominium, expressly consents to such easement. In addition to the foregoing easements over the Common Area and Recreational Facilities there shall be easements for public services, including, but not limited to, the right of police, fire, ambulance and other public services to enter upon any part of the Common Area and Recreational Facilities for purposes of serving the health and welfare of all Owners in the Property. However, no such easement can be granted if it would interfere with the use, occupancy or enjoyment by any Owner of his Unit.

Section 2.7 Waiver of Use. No Member may exempt himself from personal liability for Assessments duly levied by the Corporation, nor release the Unit owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws and Corporation Rules, by waiver of the use and enjoyment of the Common Area, Recreational Facilities or the abandonment of his Unit.



## ARTICLE III

USE RESTRICTIONS

Section 3.1 Residential Use. Units shall be used for residential purposes only. However, Units owned by Declarant may be used by Declarant or its designees as models, sales offices, and construction offices for the purpose of developing, improving and selling Condominiums in the Property. However, this use shall be limited to no longer than five (5) years from the date of issuance of the original final public report by the Department of Real Estate. Nothing in this Declaration shall prevent an Owner from leasing or renting his Condominium. However, any lease or rental agreement shall be for a period greater than thirty (30) days and shall be in writing and any tenant shall abide by and be subject to all provisions of this Declaration, the Articles, the Bylaws, and the Corporation Rules and any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement. Also, no Owner shall rent, lease or let his Condominium for transient or hotel purposes or for any period less than thirty (30) days.

Section 3.2 Commercial Use. Except as otherwise provided in Section 3.1, no part of the Property shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

Section 3.3 Window Coverings. Windows can be covered only by drapes, shades, blinds, or shutters, and cannot be painted or covered by aluminum foil, cardboard, or other similar materials.

Section 3.4 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in the Property, no oil wells, tanks, tunnels or mineral excavations or shafts shall be permitted on the surface of the Property or within five hundred (500) feet below the surface of the Property. No derrick or other structure designed for use in drilling for water, oil or natural gas shall be erected, maintained or permitted on the Property.

Section 3.5 Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, except for minor repairs, shall be conducted within the Property. Nothing shall be done on or within the Property that may be or may become an annoyance or nuisance to the residents of the Property, or that in any way interferes with the quiet enjoyment of occupants of Units.

Section 3.6 Parking Restrictions; Use of Garage.

Unless otherwise permitted by the Board, no automobile shall be parked or left within the Property other than within a garage, or assigned or appurtenant parking stall or space. No boat, trailer, recreational vehicle, camper, motorhome, truck, or commercial vehicle shall be parked or left within the Property other than in a parking area designated by the Board for the parking and storage of such vehicles. However, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Corporation Rules. Any garages and carports shall be used for parking automobiles only and shall not be converted for living or recreational activities. Any garage doors shall remain closed at all times except when being used to enter or exit.

Section 3.7 Signs.

Until the Property is sold out and/or until improvements to the Condominiums are completed, but in no event longer than five (5) years from the date of issuance of the original final public report by the Department of Real Estate, Declarant or its designees may display signs to the public view for the purpose of developing, selling and improving Condominiums within the Property on or from any Unit or within the Common Area or Recreational Facilities without the approval of the Board. Owners or their agent shall also have the right to display a sign on or from their Unit which sign is of reasonable dimensions and design advertising the Unit for sale, lease or exchange without the approval of the Board. No other signs shall be installed within the Property, within the Common Area or Recreational Facilities, or on or from any Unit without the prior approval of the Board.

Section 3.8 Antennae, External Fixtures, etc.

No television or radio poles, antennae, or antennae device of any type shall hereafter be erected, constructed, placed, or permitted to remain on the Property unless the same be totally contained within a building or underground conduit.

Section 3.9 Fences, etc.

No fences, awnings, patio covers, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any Unit or structure or elsewhere within the Property except those that are installed in accordance with the original construction of the Property, and their replacements or as are authorized and approved by the Architectural Committee and the SAMLARC Architectural Committee.

Section 3.10 Animals.

No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any Unit or elsewhere within the Property except that domestic dogs, cats, fish and birds may be kept as household pets within any Unit and their Rear Yard if they are not kept, bred or raised for commercial purposes. The Board can prohibit maintenance of any

animal that constitutes a nuisance to any other Owner in the sole and exclusive opinion of the Board. Each person bringing or keeping a pet upon the Property shall be absolutely liable to other Owners, their family members, guests and invitees, for any damage to persons or property caused by any pet brought upon or kept upon the Property by such person or by members of his family, his guests or invitees. It shall be the absolute duty of each such Owner to clean up the excrement or other unclean or unsanitary condition caused by said animal on any portion of the Property.

Section 3.11 Restricted Use of Recreation Vehicles, etc. No boat, truck, trailer, camper, motorhome, recreational vehicle or tent shall be used as a living area while located on the Property. However, trailers or temporary structures for use incidental to the initial construction of the Property or the initial sales of Condominiums may be maintained within the Property, but shall be promptly removed on completion of all initial construction and all initial sales.

Section 3.12 Outside Drying and Laundering. No exterior clothesline shall be erected or maintained anywhere within the Property and there shall be no exterior drying or laundering of clothes on balconies, in entryways or other areas anywhere within the Property.

Section 3.13 Structural Alterations. No structural alterations to the interior of or Common Area surrounding any Unit shall be made and no plumbing or electrical work within any bearing or common walls shall be performed by any Owner without the prior written consent of the Architectural Committee.

Section 3.14 Exterior Alterations. No Owner shall at his expense or otherwise make any alterations or modifications to the exterior of the buildings, doors, windows, fences, railings, or walls situated within the Property without the prior written consent of the Architectural Committee and the SAMLARC Architectural Committee.

Section 3.15 Compliance With Laws, etc. Nothing shall be done or kept in any Unit or in the Common Area that might increase the rate of, or cause the cancellation of, insurance for the Property, or any portion of the Property, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

Section 3.16 Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Area and Recreational Facilities that may be sustained by reason of

the negligence of that Owner, members of his family, guests or invitees, but only to the extent that any such damage is not covered by insurance. Provided, however, said Owner shall be responsible to pay all costs associated with said damage, including but not limited to, all costs of repair, without making a claim on the Corporation's insurance. Each Owner, by acceptance of his deed, agrees for himself and for the members of his family, guests or invitees, to indemnify each and every other Owner, and to hold him harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner or within any exclusive easements over the Common Area appurtenant to the Owner's Unit.

Section 3.17 Owner's Obligation for Taxes. To the extent allowed by law, all Condominiums, including their pro rata undivided interest in the Common Area and the membership of an Owner in the Corporation, shall be separately assessed and taxed so that all taxes, assessments and charges which may become liens prior to First Mortgages shall relate only to the individual Condominiums and not to the Property as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the Orange County Assessor against his Condominium and against his personal property.

Section 3.18 Enforcement. The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws or Corporation Rules, or the decisions made shall give rise to a cause of action in the Corporation and any Owner for the recovery of damages or for injunctive relief, or both.

Section 3.19 Drainage. Each Owner agrees for himself and his successors in interest that he will not in any way interfere with the established drainage pattern in his Yard, or that he will make adequate provisions for proper drainage in the event it is necessary to change the established drainage over his Yard. For the purposes hereof, "established" drainage is defined as the drainage which occurred at the time the overall grading of the Property was completed by Declarant.

Section 3.20 Commercial Vehicles. No Commercial vehicle (which shall be defined as a truck of greater than three-quarters (3/4) ton capacity) may be parked or stored in any Unit or in the Common Area or Recreational Facilities. This restriction shall not be deemed to prevent temporary parking in order to provide maintenance or repair services to a Unit.

## ARTICLE IV

THE CORPORATION

Section 4.1 Formation. The Corporation is a nonprofit mutual benefit corporation formed under the laws of California. Upon the close and recording of the first Condominium sale to an Owner, the Corporation shall be charged with the duties and vested with the powers set forth in the Articles, the Bylaws and this Declaration, including, but not limited to, control and maintenance of the Common Area and the Recreational Facilities.

Section 4.2 Corporation Action; Board of Directors and Officers; Members' Approval. Except as to matters requiring the approval of Members as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Corporation shall be conducted by the Board and such officers as the Board may elect or appoint. Such election or appointment shall be in accordance with this Declaration or the Bylaws, and their amendments. Except as otherwise provided in this Declaration, the Articles or the Bylaws, all matters requiring the approval of Members shall be approved in accordance with Section 5.6 hereinbelow.

Section 4.3 Powers of the Corporation. The Corporation shall have all the powers of a nonprofit mutual benefit corporation organized under the General Nonprofit Mutual Benefit Corporation Law of California, subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Corporation under this Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Corporation, including, without limitation, the following:

(a) Assessments. The Corporation shall have the power to establish, fix, and levy Assessments against the Owners and to enforce payment of such Assessments, in accordance with the provisions of this Declaration. Provided, however, under those certain circumstances set forth in Section 6.4 herein, the approval of Members shall be required as set forth therein.

(b) Right of Enforcement. The Corporation in its own name and on its own behalf, or on behalf of any Owner who consents, can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of this Declaration or of the Articles or Bylaws, or of the Corporation Rules or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of the provisions. In addition, the Corporation shall have the powers

to initiate and execute disciplinary proceedings against Members of the Corporation for violations of provisions of the Governing Instruments in accordance with procedures set forth in the Governing Instruments.

(c) Right of Entry. The Corporation shall have the power to enter upon any privately-owned Unit or Exclusive Use Common Area as necessary in connection with construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common. Except in the event of an emergency, the Corporation shall provide the Owner with a minimum of twenty-four (24) hours notice of said entry.

(d) Borrowing Money. The Corporation shall have the power to borrow money and incur indebtedness for the purpose of maintenance of the Corporation's Property and to execute and deliver therefor, in the Corporation's name, promissory notes, bonds, debentures, deeds of trust, Mortgages, pledges or other evidences of debt and security therefor.

(e) Delegation of Powers; Professional Management. The Corporation acting by and through the Board can delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("Manager"). Any agreement for professional management of the Property shall be subject to Sections 4.5(a)(i) and 4.7 hereinbelow.

(f) Corporation Rules. The Board shall have the power to adopt, amend and repeal the Corporation Rules as it deems reasonable. The Corporation Rules shall govern the use of the Common Area and Recreational Facilities by all Owners, and their families, guests, invitees or by any contract purchaser, or tenant, and their respective family members, guests or invitees. However, the Corporation Rules shall not be inconsistent with or alter any provisions of this Declaration, the Articles or the Bylaws. A copy of the Corporation Rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Property. In case of any conflict between any of the Corporation Rules and other provisions of this Declaration, the Articles, or Bylaws, the conflicting Corporation Rule shall be deemed to be superseded by the provisions of this Declaration, the Articles or Bylaws.

(g) Pledge of Assessment Rights. The Corporation shall have the power to pledge the right to exercise its Assessment powers in connection with obtaining funds to repay a debt of the Corporation; provided, however, any such pledge shall require the prior affirmative vote or written assent of not less than seventy-five percent (75%) of the Class A Members and seventy-five percent (75%) of the Class B Members and shall require the affirmative vote of not less than seventy-five

percent (75%) of the First Mortgagees based on one (1) vote for each Unit encumbered by a First Mortgage. Said power shall include, but not be limited to, the ability to make an assignment of Assessments which are then payable to or which will become payable to the Corporation, which assignment may be then presently effective but shall allow said Assessments to continue to be paid to and used by the Corporation as set forth in this Declaration, unless and until the Corporation shall default on the repayment of the debt which is secured by said assignment. The Corporation may levy Special Assessments against the Members to obtain such funds. Upon the failure of any Member to pay said Special Assessment when due, the Corporation may exercise all of its rights including, without limitation, the right to foreclose its lien, pursuant to Article VII hereof.

Section 4.4 Duties of the Corporation. In addition to the powers delegated to it by its Articles or the Bylaws, and without limiting their generality, the Corporation, acting by and through the Board, or persons or entities described in Section 4.3(e), has the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

(a) Operation and Maintenance of Common Area and Recreational Facilities. To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area and all of its facilities and the Recreational Facilities, and any other property acquired by the Corporation, including personal property, in a good condition and in a good state of repair. In this connection, the Corporation may enter into contracts for services or materials for the benefit of the Corporation or the Common Area and Recreational Facilities, including contracts with Declarant.

(b) Taxes and Assessments. To pay all real and personal property taxes and assessments and all other taxes levied against the Corporation. Such taxes and assessments may be contested or compromised by the Corporation; provided, that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

(c) Water and Other Utilities. To acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, cable television, gas, and other necessary utility services for the Common Area, the Recreational Facilities, and for Condominiums when Condominiums are not separately billed.

(d) Insurance. To obtain, from reputable insurance companies, and maintain the insurance described in Article VIII.

(e) Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Declaration, that may be reasonably necessary to enforce any of the provisions of this Declaration, the Articles and Bylaws, and the Corporation's Rules and Board resolutions.

(f) Preparation of Budgets and Financial Statements. To prepare budgets and financial statements for the Corporation as required by the Declaration or Bylaws.

(g) Election of Officers. To elect officers of the Corporation .

(h) Filling of Vacancies on Board. To fill vacancies on the Board except for a vacancy created by the removal of a director.

(i) Enforcement of Bonded Obligation. If the Corporation is the obligee under a bond or other arrangement ("Bond") to secure performance of a commitment of the Declarant or its successors or assigns to complete Common Area improvements or improvements on the Recreational Facilities, not completed at the time the California Commissioner of Real Estate issues a final subdivision public report for the Property, the Board shall consider and vote on the question of action by the Corporation to enforce the obligations under the Bond with respect to any improvement for which a notice of completion has not been filed within sixty (60) days after the completion date specified for that improvement in the "planned construction statement" appended to the Bond. However, if the Corporation has given an extension in writing for the completion of any Common Area improvement or improvements on the Recreational Facilities, the Board shall consider and vote on the action to enforce the obligations under the Bond only if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. If the Board fails to consider and vote on the action to enforce the obligations under the Bond, or if the Board decides not to initiate action to enforce the obligations under the Bond, then on the petition in writing to the Board signed by Members of the Corporation representing not less than five percent (5%) of the total voting power of the Corporation, the Board shall call a special meeting of Members for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the Bond. The meeting shall be called by the Board by fixing a date not less than thirty-five (35) days nor more than forty-five (45) days after the receipt by the Board of said petition and by giving written notice to all Owners entitled to vote in the manner provided in this Declaration or in the Bylaws for notices of special meetings of Members of the Corporation. At the meeting, the vote in person or by proxy of a majority of the Owners entitled to vote (other than Declarant) in favor of taking



action to enforce the obligations under the Bond shall be deemed to be the decision of the Corporation and the Board shall then implement this decision by initiating and pursuing appropriate action in the name of the Corporation .

(j) Review Accounts and Statements. The Board shall review a current reconciliation of the Corporation's operating accounts and reserve accounts on at least a quarterly basis. On at least a quarterly basis, the Board shall also review the current year's actual reserve revenues and expenses compared to the current year's budget. The Board shall review the latest account statements prepared by the financial institutions where the Corporation has its operating and reserve accounts and the Board shall also review an income and expense statement for the Corporation's operating and reserve accounts on at least a quarterly basis.

(k) Distribution to Members. The Board shall prepare and distribute a copy of the review of the financial statement of the Corporation, which has been prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the Corporation exceeds Seventy Five Thousand Dollars (\$75,000.00). A copy of the review of said financial statement shall be distributed within One Hundred Twenty (120) days after the close of each fiscal year. The Board shall also annually distribute to the Members a statement describing the Corporation's policies and practices in enforcing lien rights or other legal remedies for default in payment of its Assessments against its Members. Said statement shall be delivered annually to the Members during the sixty (60) day period immediately preceding the beginning of the Corporation's fiscal year.

(l) Execute Certain Documents. Join with the Declarant in the execution of any lot line adjustment and to accept title to additional property or to quitclaim all right, title, and interest in and to any Corporation Property as necessary to transfer title in accordance with any lot line adjustment; provided that such lot line adjustment and the resulting conveyance (i) are made for the purpose of eliminating encroachments due to engineering error or errors in construction of any improvements upon any of the affected property, (ii) are made to permit changes in the development plan in circumstances where such changes are the result of topography, obstruction, hardship, aesthetic, or other environmental conditions, (iii) are the requirement of a regulatory agency, (iv) do not have a significant negative impact upon the Corporation or the Owners, or (v) are made to transfer the burden of management and maintenance of any Corporation Property, which in the reasonable judgment of the Board is generally inaccessible or is not likely to be of any particular use or benefit to the Owners.

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

Section 4.5 Limitations on Authority of Board. The Board of the Corporation shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of each class of Members during the time of the two-class voting structure and after the termination of the two-class voting structure the vote or written assent of a majority of the voting power of the Corporation and a majority of Members other than the Declarant:

- (a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area, the Recreational Facilities, or to the Corporation for a term longer than one (1) year with the following exceptions:
- (i) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.
  - (ii) A contract with a public utility company if the rates charged for the material or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
  - (iii) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.
  - (iv) Agreements for cable television services and equipment of not to exceed five (5) years duration provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.
  - (v) Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years duration provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.
  - (vi) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services

of not to exceed five (5) years duration provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(b) Incurring aggregate expenditures for capital improvements to the Common Area or Recreational Facilities in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Corporation for that fiscal year.

(c) Selling during any fiscal year property of the Corporation having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Corporation for that fiscal year.

(d) Paying compensation to directors or to officers of the Corporation for services performed in the conduct of the Corporation's business provided, however, that the Board may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Corporation .

(e) Filling of a vacancy on the Board created by the removal of a director.

Section 4.6 Personal Liability. No Member of the Board, or of any committee of the Corporation, or any officer of the Corporation, or any manager, or Declarant, or any agent of Declarant, shall be personally liable to any Owner, or to any other party, including the Corporation, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted on in good faith without willful or intentional misconduct.

Section 4.7 Professional Management Contract. Any agreement for professional management or any other contract providing for the services of the Declarant may not exceed three (3) years. Any such agreement must provide for the termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

## ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership Qualifications. Each Owner of a Condominium, including Declarant, shall be a Member of the Corporation. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Corporation. Each Owner shall remain a Member of the Corporation until his ownership or ownership interest in all Condominiums in the Property ceases at which time his membership in the Corporation shall automatically cease. Persons or entities who hold an interest in a Condominium merely as security for performance of an obligation shall not be regarded as Members.

Section 5.2 Members' Rights and Duties. Each Member shall have the rights, duties, and obligations set forth in this Declaration, the Articles, the Bylaws and the Corporation Rules, as the same may from time to time be amended.

Section 5.3 Transfer of Membership. The Corporation membership of each person or entity who owns, or owns an interest in, one or more Condominiums shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title of each such Condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest in it shall operate automatically to transfer the appurtenant membership rights in the Corporation to the new Owner.

Section 5.4 Classes of Voting Membership. The Corporation shall have two (2) classes of voting membership:

Class A: Class A Members are all Owners, with the exception of Declarant during such time or times that it shall have Class B membership. Each Class A Member shall be entitled to one (1) vote for each Condominium in which such Member owns an interest. However, when more than one Class A Member owns an interest in a Condominium, the vote for such Condominium shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Condominium.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Condominium owned in the Property.

The Class B membership shall cease and be converted to Class A membership on the happening of one of the

following events, whichever occurs earlier:

(a) The date which is the second anniversary of the original issuance of the most recently issued public report for a Phase of the Property; or

(b) The date which is the fourth anniversary of the original issuance of the subdivision public report for the first Phase of the Property.

Section 5.5 Special Class A Voting Rights. Notwithstanding the provisions of Section 5.4, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Declaration to elect at least one director at any meeting at which directors are to be elected, and at which Class A Members are entitled to vote, then such Class A Members shall, by majority vote, among themselves, elect at least one director and the remaining vacancies on the Board shall be elected by the Class B Member.

Section 5.6 Voting of Members. A Member's right to vote shall vest immediately upon the date Regular Assessments are levied against the Condominium of such Member. All voting rights shall be subject to the restrictions and limitations provided herein and in the Governing Instruments. Except as provided elsewhere in the Governing Instruments, any action by the Corporation which must have the approval of the membership of the Corporation before being undertaken, shall require the vote or written assent of the bare majority of the Class B voting power as well as the vote or written assent of a bare majority of the Class A voting during the time there are two (2) outstanding classes of membership. After the conversion of Class B to Class A shares, the vote or written assent of a bare majority of the total voting power of the Corporation, as well as the vote or written assent of a bare majority of the total voting power other than Declarant shall be required. Any requirement that the vote of the Declarant is to be excluded in any such determinations shall not be applicable.

Section 5.7 Joint Owner Votes. The voting rights for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) person or entity exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

Section 5.8 Cumulative Voting. Election to and removal from the Board shall be by secret written ballot. Cumulative voting in the election of directors shall be prescribed for all elections in which more than two positions on the Board are to be filled, subject only to the procedural prerequisites to cumulative voting prescribed in Section 7615(b) of the Corporations Code. Pursuant to such cumulative voting, no Member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the Member has given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any one Member has given notice, all Members may cumulate their votes for candidates in nomination.

Section 5.9 Suspension and Penalties. The Corporation shall be authorized to impose monetary penalties, temporary suspensions of an Owner's rights as a Member of the Corporation or other appropriate discipline for failure to comply with this Declaration, the Bylaws, the Corporation Rules or any other Governing Instruments provided that the procedures for notice and hearing, satisfying the minimum requirements of Section 7341 of the Corporations Code are followed with respect to the accused Member before a decision to impose said discipline is reached. However, a monetary penalty imposed by the Corporation as a disciplinary measure for failure of a Member to comply with this Declaration, the Bylaws, the Corporation Rules or any other Governing Instruments or as a means of reimbursing the Corporation for costs incurred by the Corporation in the repair of damage to Common Areas and/or Recreational Facilities or other facilities for which the Member was allegedly responsible or in bringing the Member and his Unit into compliance with the Governing Instruments shall not be an Assessment which may become a lien against the Member's Unit enforceable by a sale of interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the California Civil Code. The aforesaid sentence shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent Assessments and/or charges to reimburse the Corporation for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments.

ARTICLE VI

ASSESSMENTS

Section 6.1 Agreement to Pay. The Declarant, for each Condominium owned by it in the Property which is expressly made subject to assessment as set forth in this Declaration, covenants and agrees, and each purchaser of a Condominium by his acceptance of a deed, covenants and agrees, for each Condominium owned, to pay to the Corporation Regular Assessments, Compliance, Reconstruction, and Special Assessments, late charges, fines, penalties or any other Assessment properly levied by the Corporation, in accordance with the terms and provisions of the Declaration.

Section 6.2 Personal Obligations. Each Assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the person or entity who was an Owner at the time such Assessment, or installment, became due and payable. If more than one person or entity was the Owner of a Condominium, the personal obligation to pay such Assessment, or installment, respecting such Condominium shall be both joint and several. The personal obligation for delinquent Assessments, or delinquent installments, and other such sums, shall not pass to an Owner's successors in interest unless expressly assumed by them. No Owner may exempt himself from payment of Assessments, or installments, by waiver of the use or enjoyment of all or any portion of the Common Area, the Recreational Facilities, or by waiver of the use or enjoyment of, or by abandonment of, his Condominium.

Section 6.3 Purpose of Assessments. The Assessments levied by the Corporation shall be used exclusively to promote the recreation, health, safety and welfare of the Members of the Corporation, the improvement, replacement, repair, operation and maintenance of the Common Area, the Recreational Facilities, and the performance of the duties of the Corporation as set forth in this Declaration.

Section 6.4 Regular Assessments. The Board shall prepare or cause to be prepared a budget for the forthcoming fiscal year not less than forty-five (45) days and not more than sixty (60) days before the beginning of each fiscal year of the Corporation. The budget shall be prepared each year regardless of the number of Members or the amount of assets of the Corporation. A copy of the budget shall be located at the business office of the Corporation or at another suitable location within the boundaries of the Development. A copy of the budget shall be distributed to each Owner and to each Mortgagee which has requested in writing that copies be sent to it. The budget shall at least include the following information:

(a) Estimated revenue and expenses on an accrued basis;

(b) The amount of the total cash reserves of the Corporation currently available for replacement or major repair of the Common Area, Recreational Facilities and for contingencies;

(c) An estimate of the current replacement costs of the estimated remaining useful life of, and the methods of funding to defray repair, replacement or additions to major components of the Common Area, Recreational Facilities and any other facilities or Property for which the Corporation is responsible; and

(d) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the future repair, replacement or additions to major components of the Common Area, Recreational Facilities and any other facilities or property for which the Corporation is responsible.

In lieu of the foregoing budget, the Board may elect to distribute a summary of the budget to all of its Members with a written notice on the front page of the summary of the budget that the budget is available at the business office of the Corporation or at another suitable location within the boundaries of the Property and that copies will be provided upon request and at the expense of the Corporation. If any Member requests a copy of the budget, referenced above, to be mailed to the Member, the Corporation shall provide the copy to the Member by First-Class United States mail, at the expense of the Corporation, and the same shall be delivered within five (5) days. The written notice that is distributed to each of the Corporation Members shall be in at least 10-point bold type on the front page of the summary of the budget.

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

A report consisting of the following shall be distributed within one hundred and twenty (120) days after the close of the fiscal year:



- (i) A balance sheet as of the end of the fiscal year;
- (ii) An operating (income) statement for the fiscal year;
- (iii) A statement of changes in financial position for the fiscal year.

For any fiscal year in which the gross income to the Corporation exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy shall also be distributed. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Corporation that the statement was prepared from the books and records of the Corporation without independent audit or review.

In addition to financial statements, the Corporation shall annually distribute a statement of the Corporation's policies and practices in enforcing its remedies against Members for defaults in the payment of Assessments including the recording and foreclosing of liens against Members' Condominium interests. This statement shall be distributed within sixty (60) days prior to the beginning of each fiscal year.

Not more than sixty (60) days nor less than forty-five (45) days before the beginning of each fiscal year of the Corporation, the Board shall meet for the purpose of establishing the Regular Assessment for the forthcoming fiscal year. At such meeting the Board shall review the budget, any written comments received and any other information available to it and, after making any adjustments that the Board deems appropriate, without a vote of the Members of the Corporation, shall establish the Regular Assessment for the forthcoming fiscal year; provided, however, notwithstanding more restrictive limitations placed on the Board by the Governing Instruments, the Board may not establish a Regular Assessment for any fiscal year of the Corporation which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year, or impose Assessments to defray the costs of any action or undertaking on behalf of the Corporation which in the aggregate exceed five percent (5%) of the Common Expenses of the Corporation for that fiscal year without the vote or written assent of Owners constituting a quorum, casting a bare majority of the votes at a meeting or election of the Corporation conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code. For purposes of this section, quorum means more than fifty percent (50%) of the Owners in the Corporation. Provided, however, the foregoing does not limit Assessment increases

necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following: (i) an extraordinary expense required by an order of a Court; (ii) an extraordinary expense necessary to repair or maintain the Property or any part of it for which the Corporation is responsible when a threat to personal safety within the Property is discovered; and (iii) an extraordinary expense necessary to repair or maintain the Property or any part of it for which the Corporation is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the budget, as referenced hereinabove. However, prior to the imposition or collection of an Assessment under this section, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of Assessment.

Unless the Corporation or its Assessment income shall be exempt from federal or state income taxes, to the extent possible, all reserves shall be accounted for and handled as contribution to the capital of the Corporation and as trust funds segregated from the regular income of the Corporation or in such other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board as will prevent such funds from being taxed as income of the Corporation. A reserve fund shall be expressly established to cover the deductibles under Corporation insurance policies and a reserve fund shall be expressly established and maintained for the replacement of improvements to the Common Areas and Recreational Facilities.

#### Section 6.5 Assessment Allocation.

(a) Equal Assessments. Assessments which are to be fixed at an equal amount for each Condominium shall be (i) Regular Assessments, (ii) Reconstruction Assessments levied for the repair, replacement, or Reconstruction of Common Area other than Structural Common Area, and (iii) Special Assessments levied against all Condominiums for an act or undertaking of the Corporation not covered under any other Assessment.

(b) Square Footage. Reconstruction Assessments and Special Assessments levied for the repair, replacement, or reconstruction of Structural Common Area shall be determined by multiplying the total amount required to be collected by a fraction, the denominator of which is the total square feet of the floor area for all Residential Elements of the Units which are to be assessed, and the numerator of which is the total square feet of the floor area of the Residential Element of the appropriate Unit for which such Assessment is being determined as such square footage is shown on the Condominium Plan or Plans

describing such Residences. Special Assessments pursuant to this paragraph shall be calculated on the basis that such square footage of each such Owner's Unit bears to such total square footage of the Units of all such Owners. Reconstruction Assessments pursuant to this paragraph shall be calculated on the basis that such square footage of each such insured Owner's Unit bears to such total square footage of the Units of all insured Owners.

(c) Affected Owners. A Reconstruction Assessment levied for the repair, replacement or reconstruction of any improvements within the Unit and the Exclusive Use Common Area covered by the fire and casualty insurance policy maintained by the Corporation shall be levied individually against the Owner of such Unit and Exclusive Use Common Area improvements in the amount necessary to cover the cost of repair, replacement, or reconstruction in excess of insurance proceeds available for such purpose.

All Assessments may be collected at intervals selected by the Board except that Regular Assessments which include reserves must be paid in regularly scheduled installments as set forth hereinbelow.

Section 6.6 Not Subject to Lien. Compliance Assessments may not be characterized nor treated as an Assessment which may become a lien against an Owner's Condominium enforceable in accordance with the Section entitled "Notice of Default; Foreclosure" of Article VII. Nothing in this Declaration, however, shall prevent the Corporation from bringing an action at law or in equity against an Owner to collect Compliance Assessments.

Section 6.7 Commencement of Regular Assessments; Assessment Period. The Regular Assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and Regular Assessments shall be payable in equal monthly installments unless the Board adopts some other basis for collection. However, the initial Regular Assessment period shall commence on the first day of the calendar month following the date on which the sale of the first Condominium to a purchaser is closed and recorded (the "Initiation Date") and shall terminate on December 31 of the year in which the initial sale is closed and recorded. The first Regular Assessment shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other basis for collection. The Regular Assessments for any annexed Units described in any Supplementary Declaration of Annexation shall commence on the first day of the month following the sale of the first Condominium in the annexed Property, described in such Supplementary Declaration of Annexation, and the first Regular Assessment for Units described

in such Supplementary Declaration of Annexation, shall be adjusted according to the number of months remaining in the calendar year.

Section 6.8 Notice and Assessment; Installment Due Dates. A single ten (10) day prior written notice of each Assessment shall be given to each Owner of every Condominium subject to Assessment in which the due dates for the payments of installments shall be specified. The due dates for the payment of installments normally shall be the first day of each month unless some other due date is established by the Board. Each installment of Assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge not exceeding ten percent (10%) of the delinquent Assessment, or Ten Dollars (\$10.00), whichever is greater, together with interest at the rate of twelve percent (12%) per annum commencing thirty (30) days after the Assessment becomes due. Reasonable costs incurred in collecting the delinquent Assessment, including reasonable attorney's fees, and interest on all sums imposed in accordance with this Section may be charged by the Corporation. In any event said charges and interest shall not exceed the maximum amount permitted under the laws of the State of California.

Section 6.9 Certificate of Payment. The Corporation shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or authorized agent of the Corporation setting forth whether the Assessment on a specified Condominium has been paid; such certificate shall be conclusive evidence of such payment upon any third party relying thereupon in good faith.

Section 6.10 Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of the First Mortgage. Sale or transfer of any Condominium shall not affect the Assessment lien. However, the sale or transfer of any Condominium pursuant to foreclosure of the First Mortgage or as the result of the exercise of a power of sale shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such new Condominium Owner from liability for any Assessments thereafter becoming due or from the lien thereof. A First Mortgagee's rights pursuant to this section shall not be affected by the failure of such First Mortgagee to deliver a notice to the Board.

Section 6.11 Excessive Fees. The Corporation shall comply with Sections 1366.1 and 1368(c) of the California Civil Code and until such sections are amended to provide otherwise, shall not:

(a) impose or collect an Assessment, penalty, or fee that exceeds the amount necessary for the purposes for which it is levied; and

(b) impose or collect any Assessment, penalty, or fee in connection with a transfer of title or any other interest except the Corporation's actual cost to change its records and that authorized in connection with the Bylaws to provide copies of Governing Instrument documents, copies of financial statements and statements of unpaid Assessments.

Section 6.12 Capitalization of Corporation. Each Owner in the Property shall contribute to the capital of the Corporation an amount equal to one-sixth (1/6th) of the amount of the annual Regular Assessment levied against the Condominium of such Owner as of the date of such Owner's acquisition of title. This amount shall be deposited by the buyer into the purchase and sale escrow and at the close of escrow disbursed therefrom to the Corporation. Any amounts paid into this fund pursuant to this section should not be considered as advance payments of Regular Assessments.

## ARTICLE VII

COLLECTION OF ASSESSMENTS: LIENS

Section 7.1 Rights to Enforce. The right to collect and enforce Assessments is vested in the Board acting for and on behalf of the Corporation. The Board or its authorized representative, including any Manager, can enforce the obligations of the Owners to pay Assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.2 below, to enforce the lien rights created therein. Suit to recover a money judgment for unpaid Assessments together with all other amounts described in Section 6.2 above shall be maintainable without foreclosing or waiving the lien rights.

Section 7.2 Creation of Lien. If there is a delinquency in the payment of an Assessment or installment on a Condominium, as described in Section 6.7 above, any amounts that are delinquent, together with the late charge described in that section, interest at the rate of twelve percent (12%) per annum, and all costs that are incurred by the Board or its authorized representative in the collection of the amounts, including reasonable attorneys' fees, shall be a lien against such Condominium from and after the time the Corporation causes to be recorded in the Office of the Orange County Recorder a notice of delinquent Assessment as provided in California Civil Code, Section 1367(b). However, a monetary penalty imposed by the Corporation as a disciplinary measure for failure of a Member to comply with the Governing Instruments or as a means of reimbursing the Corporation for costs incurred by the Corporation in the repair of damage to the Common Area, the Recreational Facilities and to any other property or facilities for which the Member was allegedly responsible or in bringing the Member and his Condominium into compliance with the Governing Instruments may not become a lien against the Member's Condominium enforceable by a sale of the Unit in accordance with the provisions of Section 2924, 2924(b) and 2924(c) of the Civil Code. Provided however, the above statement does not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent Assessments and/or charges to reimburse the Corporation for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent Assessments. The notice of Assessment shall not be recorded until fifteen (15) days after the Board or its authorized representative has mailed by first class mail to the delinquent Owner or Owners a written notice of delinquency and a demand for payment.

Section 7.3 Notice of Default; Foreclosure. Not less than fifteen (15) days after the recording of the notice of

Assessment, the Board or its authorized representative can record a notice of default and can cause the Condominium with respect to which a notice of default has been recorded to be sold in the same manner as a sale is conducted under California Civil Code, Section 2924, 2924(b) and 2924(c), or through judicial foreclosure. However, as a condition precedent to the holding of any such sale under Section 2924(c) appropriate publication shall be made. In connection with any sale under Section 2924(c) the Board is authorized to appoint its attorney, any officer or director, or any title insurance or foreclosure company authorized to do business in California as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the Office of the Orange County Recorder, a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorneys' fees by any delinquent Owner. On becoming delinquent in the payment of any Assessments, or installments, each delinquent Owner shall be deemed to have absolutely assigned all rents, issues and profits of his Condominium to the Corporation and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Corporation, be enforced by the Corporation through specific performance). The Corporation, acting on behalf of the Owners, shall have the power to bid upon the Condominium at the foreclosure sale and to acquire, hold, lease, mortgage and convey the Condominium.

Section 7.4 Waiver of Exemption. Each Owner, to the extent permitted by law, waives to the extent of any liens created pursuant to this Article VII, the benefit of any homestead or exemption laws of California in effect at the time any Assessment, or installment, becomes delinquent or any lien is imposed.

## ARTICLE VIII

INSURANCE

Section 8.1 Obligation to Insure. The Corporation shall obtain and maintain in effect insurance and fidelity bond coverage in the amounts and with endorsements deemed adequate by the Board which shall be not less than the coverages hereinafter required in this Section. All insurance policies shall name the Corporation as the insured. In addition, the Corporation shall obtain such additional endorsements coverages meeting the requirements established by any of the Federal Agencies of condominium planned developments, when any such Federal Agency first becomes and as long as it continues to be either a Mortgagee, Owner, Insurer, or Guarantor of a Mortgage within the Property except to the extent such coverage or endorsements are not available or have been waived in writing by the applicable Federal Agencies.

(a) Public Liability Insurance. The comprehensive liability insurance policy shall insure the Corporation, the Declarant for as long as Declarant is an Owner, and the agents and the employees of each of the Owners and their respective family members, guest and invitees of the Owners against any liability incident to the ownership for the use of the Common Area, the Recreational Facilities or any other areas under the supervision of the Corporation. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000.00) for claims arising out of a single occurrence for bodily injury, deaths of persons and property damage. Coverage under this policy shall include without limitation liability of the insured's property damage, bodily injury and deaths of persons in connection with the operation, maintenance or use of the Common Area, and the Recreational Facilities and legal liability arising out of lawsuits related to employment contracts of the Corporation. If such policy does not includes "severability of interest" in its terms, a specific endorsement will be required precluding the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners and such other coverage in kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

(b) Fire and Casualty Insurance. The master or blanket policy of fire and casualty insurance shall cover all of the insurable improvements within the Property, including the Recreational Facilities, Residence Improvements, and fixture and building service equipment that are part of the Common Area as well as common personal property and supplies belonging to the Corporation. The policy shall be in an amount equal to one hundred percent (100%) of the current replacement cost, without deduction for depreciation or coinsurance, of all of the property



covered by the policy. Such insurance must afford protection against at least loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, and other perils which are customarily covered and required by private institutional mortgage investors with respect to similar planned development projects in the area of the Property, including all perils normally covered by the standard "all risk" endorsement. The policy shall name as insured the Corporation for the use and benefit of the Owners.

(c) Fidelity Bonds. The blanket fidelity bond shall cover losses resulting from dishonest or fraudulent acts on the part of anyone who handles or is responsible for funds held or administered by the Corporation, including directors, officers, trustees, employees, or volunteers of the Corporation. Where the Corporation delegates some or all of the responsibility of the handling of funds to a management agent, fidelity bonds are required for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Corporation. A management agent who handles funds for the Corporation should also be covered by its own fidelity bond which must provide the same coverage required by the Corporation and must submit evidence of such coverage to the Corporation. The Corporation shall be named as an additional obligee in the management agent's bond. The fidelity bond should cover the maximum funds that will be in the custody of the Corporation or its management agent at any time while the bond is in force. In addition, the fidelity bond shall be written in an amount equal to three (3) month's aggregate Regular Assessments on all Units, plus reserves. Fidelity bonds shall name the Corporation as obligee and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(d) Flood Insurance. If the Common Area, Recreational Facilities, or any portion thereof is located within an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Corporation shall obtain a policy of flood insurance providing the coverage customarily required by private institutional Mortgage investors with respect to similar planned developments in the area of the Property and the Corporation shall also be required to obtain whatever flood insurance is required by any Federal Agencies for condominium projects.

(e) Worker's Compensation Insurance. The Board shall purchase and maintain in force worker's compensation insurance, to the extent that the same shall be required by law, for all employees of the Corporation.

(f) Mortgage Clause. All insurance policies must have the "standard mortgage clause" or equivalent endorsement

providing that coverage of a Mortgagee under the insurance policy will not be adversely affected or diminished by an act or neglect of the Mortgagor, which is commonly accepted by private institutional Mortgage investors in the area in which the Property is located, unless such coverage is prohibited by applicable law and in the case of Mortgages owned by FNMA, must name as Mortgagee either FNMA or the servicers for the Mortgages held by FNMA encumbering the Condominiums. When a servicer is named as the Mortgagee, its name should be followed by the phrase "its successors and assigns." A Mortgage clause in favor of Mortgagees holding Mortgages on Condominiums is not required on a policy insuring the Corporation.

Section 8.2 Notice of Cancellation or Modification.

All insurance policies maintained by the Corporation must provide that such policies may not be cancelled, reduced, or substantially modified without at least ten (10) day's prior written notice to the Corporation and to each First Mortgagee listed as a scheduled First Mortgagee in the policy. All fidelity bonds maintained by the Corporation must provide that such fidelity bonds may not be cancelled or substantially modified without at least ten (10) day's written notice to the Corporation or the Trustee and each mortgage servicing contractor acting on behalf of any of the Federal Agencies.

Section 8.3 Waiver by Owners.

All insurance obtained by the Corporation shall be maintained by the Corporation for benefit of the Corporation, the Owners and the Mortgagees as their interest may appear. As to each of said policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Corporation, the Board, other Owners, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 8.4 Required Waiver.

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

(a) Subrogation of claims against the Owners or tenants of the Owners;

(b) Any defense based on co-insurance;

(c) Any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Corporation;

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

(e) Any right of the insurer to repair, rebuild, or replace and, in the event the building is not repaired, rebuilt, or replaced 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;

(f) Notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Condominium; and

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

Section 8.5 Annual Insurance Review. The Board shall at least annually determine whether the amounts and types of insurance it has obtained provide adequate coverage in light of increased construction costs, inflation, practice in the area in which the Property is located, 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 interest of the Owners and of the Corporation. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 8.6 Rights of Owners to Insure. Nothing contained in this Declaration shall preclude an Owner from insuring improvements not insured by the Corporation pursuant to the subsection entitled "Fire and Casualty Insurance" of this Article. Should any Owner separately insure his Residence or any part thereof against loss by fire or other casualty, and should any loss intended to be covered by insurance carried by the Corporation occur and the proceeds payable thereunder be reduced by reason of insurance carried by such Owner, such Owner shall assign the proceeds of such insurance carried by it to the extent of such reduction to a 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 (30) days of a written demand therefor by the Corporation of said Trustee, the Board may levy a Special Assessment against such Owner and his Condominium for such amount. It is the responsibility of each Owner to insure his personal property against loss by fire or other casualty and to carry public liability insurance covering his individual liability for damage to persons or property occurring inside his individual Residence. All such policies as may be carried by the Owners shall contain waivers of subrogation of claims against the Corporation, the

Board, other Owners, Declarant, and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only; provided, however, such other policies shall not adversely affect or diminish any liability under any insurance obtained by the Corporation. Duplicate copies or certificate of such other policies shall be deposited with the Board.

Section 8.7 Trustee. All insurance proceeds payable under this Article, subject to the rights of Mortgagees hereunder, may be paid to a Trustee, to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. If repair or reconstruction is authorized, the Board shall have the duty to contract for such work as provided for in this Declaration.

Section 8.8 Federal Requirements. Notwithstanding the foregoing provisions of this Article, the Corporation shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by FNMA, GNMA, FMLMC, FHA and VA, so long as either is a Mortgagee or Owner within the Property, or insures or guarantees a Mortgage, as the case may be, except to the extent such coverage is not available or has been waived in writing by the foregoing entities. The Corporation shall also continuously maintain all insurance and bond coverage required by Federal Agencies for condominium projects.

## ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

Section 9.1 Definitions. The following terms used in this Article are defined to mean as follows:

(a) "Insured Improvements" shall mean the improvements on the Property insured under the fire and casualty insurance policy maintained by the Corporation and shall consist of Structural Common Area, Residence improvements and Recreational Facilities.

(b) "Affected Condominium" shall mean and refer to a Condominium the Unit of which is situated within partially or totally destroyed insured Structural Common Area or contains partially or totally destroyed insured Residence improvements.

(c) "Affected Recreational Facility" shall mean the partially or totally destroyed insured Recreational Facility.

(d) "Acceptable Range of Reconstruction Cost" shall mean that the amount of the insurance proceeds paid for partially or totally destroyed insured improvements together with the amount of any deductible amount designated in the fire and casualty insurance policy maintained by the Corporation, which totals at least ninety percent (90%) of the estimated cost to repair, replace or reconstruct such partially or totally destroyed insured improvements.

(e) "Substantial Destruction" shall mean a destruction of insured improvements representing at least seventy-five percent (75%) of the current replacement cost value of all insured improvements upon the Property.

Section 9.2 Board Action. In the event any Insured Improvements are damaged, the Board shall take the following action:

(a) Acceptable Range of Reconstruction Cost. The Board shall ascertain the cost of repair, replacement, or reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, which bids shall include the obligation of the contractor to obtain a performance bond, if the Board deems that such bids are necessary or appropriate. The Board shall further have full authority to negotiate with representatives of the insurer and to make settlement with the insurer for less than full insurance coverage on the damage. Any settlement made by the Board in good faith shall be binding upon all Owners with the exception of the Administrator of Veterans Affairs, an Officer of the United States of America. After the settlement has been approved by the Board, any two (2) directors

of the Corporation may sign a loss claim form and release form in connection with the settlement of a loss claim.

(b) Notice of Reconstruction Assessments. The Board shall promptly cause notice to be delivered to all affected insured Owners if, during the process of determining the Acceptable Range of Reconstruction Cost, it appears likely that the repair, replacement, or reconstruction of a partially or totally destroyed insured improvement will result in the levying of Reconstruction Assessments against such Owners. Such notice shall specify the estimated amount of any such Reconstruction Assessment.

(c) Vote of Members. The Board shall call a special meeting or shall distribute written ballots to the insured Owners for action to be taken without a meeting to determine whether not to proceed with the repair, replacement, or reconstruction of partially or totally destroyed Insured Improvements upon the happening of any one of the following events:

- (i) a Substantial Destruction;
- (ii) a determination that the requirements of the Acceptable Range of Reconstruction Cost have not been met;
- (iii) receipt of a written request of insured Owners representing at least five percent (5%) of the total voting power of the insured Owners requesting such action; or
- (iv) failure or inability to make a determination as to the Acceptable Range of Reconstruction Cost within sixty (60) days of the date of the destruction.

Section 9.3 Reconstruction. The repair, replacement or reconstruction shall commence as soon as practicable following any one of the following events:

(a) A determination that the requirements of the Acceptable Range of Reconstruction Cost have been met, except that if Reconstruction Assessments must be levied, such work shall not commence until ten (10) days have elapsed following the delivery of the notice of the Reconstruction Assessment to all insured Owners required to pay Reconstruction Assessments. The notice of estimated Reconstruction Assessment required to be delivered to each such insured Owner as hereinabove provided in this Article shall satisfy this condition if the actual amount of the Reconstruction Assessment does not exceed the estimated amount set forth in the said notice;

(b) Approval of such action by not less than thirty-three percent (33%) of the voting power of the insured Owners; or

(c) Failure to receive written approval not to proceed with the repair, replacement, or reconstruction of the required percentage of Eligible Mortgage Holders and Owners required under the Article entitled "Protection of Mortgagees" of the Declaration within one hundred twenty (120) days of the date of the destruction.

Notwithstanding the foregoing, the Board may delegate its responsibility to repair, replace or reconstruct any damage to Residence improvements to the Owner of such Residence improvements if the Board deems that such damage is less than the amount that would require notice to Requesting Mortgagees pursuant to the Article entitled "Protection of Mortgagees" of this Declaration. Any such repair, replacement, or reconstruction shall be commenced and completed as soon as practicable following such damage.

Section 9.4 Proceeds of Insurance. All insurance proceeds shall be paid to the Trustee unless the proceeds from a single claim do not exceed Ten Thousand Dollars (\$10,000.00) in which event such insurance proceeds shall be paid directly to the Corporation to be used as provided in this Article. The Trustee shall hold, distribute, and expend such proceeds for the benefit of Owners, Mortgagees and others as their respective interests shall appear. In the event any portion of the insurance proceeds were paid to a Mortgagee of a Mortgage encumbering an Affected Condominium, such amount shall be paid to the Board by the Owner of such Affected Condominium. In the case of payment of such proceeds to a Mortgagee of a Mortgage encumbering an Affected Recreational Facility, such amount shall be paid in equal amounts by all insured Owners. In the event any insured Owner or Owner of an Affected Condominium fails to pay such amount within thirty (30) days of a written demand therefor by the Corporation, the Board may levy a Special Assessment against any such Owner and his Condominium for such amount.

Section 9.5 Reconstruction Assessments. If necessary, the Board shall levy a Reconstruction Assessment against any insured Owner of Residence improvements to cover the cost of the repair, replacement, or reconstruction of any damage to such Residence improvements in excess of the insurance proceeds available for such purpose and shall levy Reconstruction Assessments against all insured Owners at such time and in such amount determined necessary to cover the cost of repair, replacement, or reconstruction in excess of insurance proceeds of all other insured improvements.

Section 9.6 Compliance with Plans.

(a) Condominiums. Any reconstruction of a Condominium Building undertaken pursuant to this Article shall substantially conform to the Condominium Plan, as amended pursuant to this section, or other provisions of this Declaration, and the original plans and specifications. In determining whether the plans for a reconstructed Condominium Building are in substantial conformance with its Condominium Plan, the Board may take into consideration the availability and expense of the labor and materials in the original construction of such Condominium Building. If such labor or material is not available or is prohibitively expensive at the time of reconstruction, the Board may permit the substitution of other labor or material as it deems proper. In the event the Condominium Plan is amended, such instrument must be executed by all persons or entities whose signatures would be required to record that Condominium Plan pursuant to Section 1351(e) of the California Civil Code. Said persons or entities shall also execute such other document or take such other actions as required to make such amendment effective.

(b) Common Area and Recreational Facilities. Any reconstruction of Common Area or Recreational Facilities undertaken pursuant to this Article shall substantially conform to the original plans and specifications unless other action is approved by a majority of the voting power of the Corporation.

Section 9.7 Abatement of Regular Assessments. If the Board determines that any Residence has become uninhabitable by reason of its total or partial destruction, it may exempt such Owner from the payment of that portion of the Regular Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and the use of the uninhabitable Residence. The exemption may include, but shall not be limited to, the portion of such Regular Assessment attributable to refuse disposal and domestic water supplied to the Residence.

Section 9.8 Certificate of Intention Not to Reconstruct. In the event there has been a decision not to reconstruct pursuant to this Article, the Board shall execute, acknowledge and record in the Official Records of Orange County, not later than one hundred twenty-five (125) days from the date of destruction, a certificate declaring the intention of the Corporation not to rebuild. If no such certificate is so filed within said time limitation, it shall be conclusively presumed that the Corporation has determined to undertake reconstruction pursuant to this Article.

Section 9.9 Partition. In the event that a certificate described in the Section entitled "Certificate of



Intention Not to Reconstruct" of this Article is recorded within the time period provided therein, the right of any Owner to partition through legal action as described in the Article hereof entitled "Partition" shall forthwith revive.

Section 9.10 Determination of Allocable Proceeds. The amount of insurance proceeds "allocated" or "allocable" to an Affected Condominium or to an Affected Recreational Facility shall be determined pursuant to this section as follows:

(a) In the event the insurance carrier allocates insurance proceeds among Affected Condominiums and Affected Recreational Facilities, and such allocation is approved by the Board, such allocations shall be final and binding upon the Owners and Mortgagees.

(b) In the event the insurance carrier fails to allocate the insurance proceeds, such allocation shall be determined by multiplying the amount of insurance proceeds available for distribution by a fraction, the denominator of which is the total decrease of M.A.I. appraised fair market value of all of the partially or totally destroyed insured improvements for which insurance proceeds have been paid by reason of the casualty and the numerator of which is the decrease of M.A.I. appraised fair market value of each such Affected Condominium or Affected Recreational Facilities. The appraised values shall be determined by a M.A.I. appraiser selected by the Trustee. Such allocation shall be final and binding on the Owners, the Mortgagees and the Corporation.

Section 9.11 Distribution of Insurance Proceeds. In the event there has been a decision not to repair, replace, or reconstruct any partially or totally destroyed insured improvements, the Trustee shall distribute the insurance proceeds allocated to each Affected Condominium and to each Affected Recreational Facilities as follows:

(a) In the case of proceeds allocated to an Affected Condominium, to the Owner of the Affected Condominium subject to the prior rights of all Mortgagees holding Mortgages encumbering such Affected Condominium;

(b) In the case of Affected Recreational Facilities, to the Board for retention in the general funds of the Corporation subject to the prior rights of all Mortgagees holding Mortgages encumbering the particular Affected Recreational Facilities for which such insurance proceeds have been allocated.

Allocable proceeds paid to Mortgagees shall be paid in the order of their recorded priority on the Affected Condominium or such Affected Recreational Facilities as the case may be.

Section 9.12 Payment of Mortgagees. Any insurance proceeds paid to a Mortgagee pursuant to this Article shall be paid in the amount required by such Mortgagee, but not to exceed (i) the outstanding indebtedness secured by said Mortgage, or (ii) the insurance proceeds allocated to such Affected Condominium or Affected Recreational Facilities and hereinabove provided in this Article, whichever of (i) or (ii) is the lesser.

Section 9.13 Requirements of Federal Agencies. In addition to the foregoing, the Board must also comply with the requirements of the Article entitled "Protection of Mortgagee" of the Declaration as to notice which must be provided to Requesting Mortgagees, Insurers, and Guarantors. Notwithstanding the foregoing sections of this Article, any partially or totally destroyed improvements will be repaired, replaced, reconstructed or restored substantially to their condition prior to the destruction unless there has also been compliance with the requirements of the said Article entitled "Protection of Mortgagee." The vote or consent of Eligible Mortgage Holders required under said Article may be solicited concurrently or subsequent to the vote of the insured Owners required under this Article.

## ARTICLE X

EMINENT DOMAIN

Section 10.1 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 part of the Property.

Section 10.2 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 or the discretion of the Board in fulfilling its duties under this Article. 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. The award or proceeds shall be payable to the Corporation for the use and benefit of the Owners and their Mortgagees as their interest may appear.

Section 10.3 Award for Recreational Facilities. Any awards received on account of the taking of the Recreational Facilities, shall be paid to the Corporation and shall be retained in the general funds of the Corporation subject to the prior rights of any Mortgagee holding an encumbrance upon the Recreational Facilities for which such award has been paid.

Section 10.4 Award for Condominium. In the event of a taking of Property other than that described in the section entitled "Award for Recreational Facilities" of this Article, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this section after deducting therefrom fees and expenses related to the condemnation proceeding including, 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 the condemnation award is not apportioned among the affected Owners by Court judgment or by agreement between the condemning authority and each of the affected Owners, the Board shall distribute the award among the affected Owners and their respective Mortgagees according to the relative decreases in values of the Residences affected by the condemnation as determined by an M.A.I appraiser selected by the Board. In no event shall any portion of such award be distributed by the Board to an Owner and/or the Mortgagees of the Condominium in a total amount greater than the portion allocated hereunder to such Condominium.

Section 10.5 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.

Section 10.6 Revival of Right to Partition. Upon a taking which renders more than fifty percent (50%) of the Residences in any Condominium project incapable of being restored to at least ninety-five percent (95%) of their floor area and substantially their condition prior to the taking, the right of any Owner within such Condominium project to partition through legal action as described in the Article entitled "Partition" of this Declaration shall forthwith revive. The determination as to whether Residences partially taken are capable of being so restored shall be made by the Board, and this decision shall be final and binding on all Owners and Mortgagees.

Section 10.7 Personal Property and Relocation Allowances. Where all or part of the Property 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 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 Owner's personal property which is taken with all or part of the Property as is at the time of any taking, as a matter of law, part of the real estate comprising the Condominium, and shall allocate to such Owner so much of any awards as is attributable in the taking proceedings, or failing such attribution, attributable by the Board to such portion of Owner's personal property.

Section 10.8 Change of Condominium Interest. In the event of a taking, and notwithstanding the Section entitled "Amendment" of this Declaration, in the event it is necessary to record an amendment to a Condominium Plan, such instrument must be executed by all persons or entities whose signatures would be required to record that Condominium Plan pursuant to Section 1351(e) of the California Civil Code or any similar statute then in effect and such other documents as required to make such amendment effective.

Section 10.9 Requirements of Federal Agencies. In addition to the requirements of this Article, the Board and the Owners must also comply with the requirements of the Article entitled "Protection of Mortgagees" of this Declaration in the event of any taking.

## ARTICLE XI

PARTITION

Section 11.1 No Partition. The right of partition is hereby suspended, except that the right to partition shall revive and a Condominium project may be sold as a whole when the conditions for such action set forth in the Articles of this Declaration entitled "Destruction of Improvements" and "Eminent Domain" have been met; provided, however, notwithstanding the foregoing, any Owner may bring an action for partition by sale of the Condominium project in which his Condominium is located as provided in Section 1359 of the California Civil Code upon the occurrence of any of the events therein provided. Provided, further, that if any Condominium shall be owned by two (2) or more co-tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants.

Section 11.2 Proceeds of Partition Sale.

(a) Whenever an action is brought for the partition by sale of a Condominium project, whether upon the occurrence of any of the events provided in Section 1359 of the California Civil Code or upon the revival of the right to partition pursuant to the Articles of this Declaration entitled "Destruction of Improvements" or "Eminent Domain," the Owners of Condominiums in such Condominium project shall share in the proceeds of such sale in the same proportion as their interest in such Condominium project. As used in the foregoing sentence, such interest of each Owner shall be determined by comparing (i) an independent appraisal of an Owner's Condominium conducted by a M.A.I. appraiser selected by the Board, to (ii) the total of such appraised valuation for all Condominiums in such Condominium project.

(b) The distribution of the proceeds of any such partition sale shall be adjusted as necessary to reflect any prior distribution of insurance proceeds or condemnation award as may have been made to Owners and their Mortgagees pursuant to the Articles of this Declaration entitled "Destruction of Improvements" and "Eminent Domain." In the event of any such partition and sale, the liens and provisions of all Mortgages or Assessment liens encumbering Condominiums within the Condominium project or projects so encumbered shall extend to each applicable Owner's interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment of any Mortgage or Assessment lien encumbering such proceeds as aforesaid.

## ARTICLE XII

NON-SEVERABILITY OF COMPONENT  
INTERESTS IN A CONDOMINIUM

Section 12.1 Prohibition Against Severance. An Owner shall not be entitled to sever his Unit from his membership in the Corporation, and shall not be entitled to sever his Unit and his membership from his undivided interest in the Common Area for any purpose. None of the component interests in a Condominium can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to his Unit over the Common Area from his Condominium, and any attempt to do so shall be void. The suspension of such right of severability shall not extend beyond the period in which the right to partition a Condominium project is suspended under California Civil Code, Section 1359. It is intended hereby to restrict severability pursuant to California Civil Code, Section 1358.

Section 12.2 Conveyances. After the initial sales of the Condominiums, any conveyance of a Condominium by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this section shall preclude the Owner of any Condominium from creating a cotenancy or joint tenancy in the Ownership of the Condominium with any other person or persons.

## ARTICLE XIII

TERM OF DECLARATION

This Declaration shall run with the land, and shall continue in full force and effect for a period of sixty (60) years from the date on which this Declaration is recorded. After that time, this Declaration and all covenants, conditions, restrictions and other provisions shall be automatically extended for successive ten (10) year periods unless one (1) year prior to the expiration of said sixty year term or one (1) year prior to the expiration of the ten (10) year period then in effect this Declaration is revoked by an instrument executed by not less than seventy-five percent (75%) of the then Owners and not less than sixty-seven percent (67%) of the Mortgagees based on one (1) vote for each Mortgage held, and such instrument is recorded in the Office of the Orange County Recorder.

## ARTICLE XIV

PROTECTION OF MORTGAGEES

Section 14.1 Mortgage Permitted. Any Owner may encumber his Condominium with a Mortgage.

Section 14.2 Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of the First Mortgage that encumbers all or a portion of the Property, or any Condominium, made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates his interest, in writing, to such lien.

Section 14.3 Amendment. The prior written consent of fifty-one percent (51%) of the voting power of holders of First Mortgages who have requested that the Corporation notify them in order to effect a "material amendment," as defined hereinbelow and sixty-seven (67%) of the voting power of the Corporation shall be required for any material amendment to this Declaration, to the Articles or to the Bylaws as shown under Subsection (a) and (b) of this Section.

(a) Material Amendment.

As used in this Section 14.3, the term "any material amendment" is defined to mean amendments to provisions of this Declaration, to the Articles or to the Bylaws governing the following subjects:

- (i) Voting rights;
- (ii) Assessments, collection of Assessments, creation and subordination of Assessment liens;
- (iii) Reserves for maintenance, repair and replacement of Common Area and Recreational Facilities Improvements;
- (iv) Responsibility for the maintenance and repair of the Property and improvements thereon;
- (v) Documents that pertain to the expansion or contraction of the Property or the addition, annexation, or withdrawal of property to or from the Property
- (vi) Boundaries of any Unit;



- (vii) Convertibility of Units into Common Areas or Recreational Facilities or vice versa;
  - (viii) Insurance or fidelity bonds;
  - (vix) Leasing of Units;
  - (x) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
  - (xi) Any provision, which by its terms, is for the express benefit of Mortgagees or insurers or guarantors;
  - (xii) Reallocation of interest in the Common Area, Recreational Facilities or Exclusive Use Common Area, or rights to their use.
- (b) Actions and Decisions.

Any of the following actions or decisions would be considered "material" as that term is used hereinabove in Section 14.3 and the voting requirements set forth in Section 14.3 above shall apply:

- (i) Effectuate any decision to assume self-management of the Property when professional management had been previously required by Mortgage holder;
- (ii) Restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Instruments;
- (iii) Termination of the legal status of the Property after substantial destruction or condemnation of the Property. (The prior written consent of sixty-seven percent (67%) of the voting power of holders of First Mortgages shall be required for the termination of the legal status of the Property for reasons other than substantial destruction or condemnation of the Property).

Approval shall be implied when an Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment or addition to the Governing Instruments within thirty (30) days after it has received proper notice of the proposal, provided that the notice was delivered by certified or registered mail with a "return receipt" requested.

(c) Further Limitations.

Unless at least sixty-seven percent (67%) of the holders of First Mortgages (based on one (1) vote for each Unit encumbered by a First Mortgage) and sixty-seven percent (67%) of the Owners other than the Declarant have given their prior written approval, the Corporation is not entitled to take any of the actions or make any of the decisions set forth hereinbelow in this Subsection (c).

- (i) By any act or omission, abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common Area and Recreational Facilities; provided, however, the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area and Recreational Facilities shall not require such approval;
- (ii) Change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner;
- (iii) Use hazard insurance proceeds for losses to the Common Area, Recreational Facilities or Units for other than the repair, replacement, or reconstruction of said property.
- (iv) Fail to maintain fire and extended coverage insurance on the Common Area and the improvements thereto in an amount less than one hundred percent (100%) of the insurable value based on current replacement cost;
- (v) By act or omission change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design, the exterior appearance of the Condominium Buildings, the maintenance of the Common Area, the exterior maintenance of the Units, the exterior appearance of the Units, or the maintenance of the Recreational Facilities, including the party walks or common fences and driveways or the upkeep of lawns and planting.
- (vi) Partition or subdivide a Unit.
- (vii) By act or omission, seek to abandon or terminate the Condominium project.

- (viii) Change the pro rata interest or obligations of any Unit in order to levy Assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards; or determine the pro rata share of ownership of each Unit in the Common Area.

Section 14.4 Right to Examine Books and Records.

Copies of the Declaration, Bylaws, rules, books, records, and financial statements shall be made available by the Corporation during reasonable business hours to Owners or to holders, insurers, and guarantors of First Mortgages and the Corporation is required to provide, at its expense, an audited statement for the preceding fiscal year to any holder, insurer, or guarantor of any First Mortgage who has submitted a request for it when the Property is composed of more than fifty (50) Units, but as long as there are fewer than fifty (50) Units and there is no audited statement available, any Mortgage holder has the right to have an audited statement prepared at its own expense.

Section 14.5 Distribution of Insurance and Condemnation Proceeds.

No Owner, or any other party, shall have priority over any rights of First Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Recreational Facilities or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Property is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected First Mortgagees naming the Mortgagees, as their interests may appear.

Section 14.6 Payments by Mortgagees.

Mortgagees of Condominiums may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area or Recreational Facilities and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area or Recreational Facilities improvements or other insured property of the Corporation, and upon making any such payments, such Mortgagees shall be owed immediate reimbursement therefor from the Corporation. This provision shall constitute an agreement by the Corporation for the express benefit of all Mortgagees and upon request of any Mortgagees the Corporation shall execute and deliver to such Mortgagee a separate written agreement embodying the provisions of this Section 14.6.

Section 14.7 Effect of Breach.

No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any Mortgage in good faith and for value, but all of these covenants, conditions and restrictions shall be

binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

Section 14.8 Foreclosure. If any Condominium is encumbered by a First Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for Assessments, or installments of Assessments, shall not operate to affect or impair the lien of the First Mortgage. On foreclosure of a First Mortgage, the lien for Assessments on installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the First Mortgage, with the foreclosure-purchaser taking the title to the Condominium free of the lien for Assessments on installments that have accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure-purchaser of a First Mortgage shall only be obligated to pay Assessments or other charges levied or assessed by the Corporation after the foreclosure-purchaser acquired title to the Condominium. The subsequently levied Assessments or other charges may include previously unpaid Assessments provided all Owners, including the foreclosure-purchaser, and his successors and assigns, are required to pay their proportionate share as provided in this Section.

Section 14.9 Non-Curable Breach. Any Mortgagee who acquires title to a Condominium by foreclosure or by deed-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

Section 14.10 Loan to Facilitate. Any Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protection of this Article XIV.

Section 14.11 Rights of Mortgage Holders, Insurers or Guarantors. Upon request, a Requesting Mortgagee, Insurer, or Guarantor on any Unit in the Property shall be given timely written notice of:

(a) Any destruction, taking, or threatened taking that affects either a material portion of the Property or the Unit securing its Mortgage. As used in this Declaration "damaged" or "taking" shall mean damage to or taking of the Common Area or Recreational Facilities exceeding Ten Thousand Dollars (\$10,000.00) or damage to or taking of a Unit exceeding One Thousand Dollars (\$1,000.00). If requested in writing by such Requesting Mortgagee, Insurer, or Guarantor, the Corporation shall evidence its obligations under this subsection in a written agreement in favor of such Requesting Mortgagee, Insurer, or Guarantor;

(b) Any default in the performance by an Owner of any obligation under the Governing Instruments not cured within sixty (60) days or any 60-day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds the Mortgage;

(c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Corporation; and

(d) Any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

Section 14.12 Mortgagees Furnishing Information.

Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage.

Section 14.13 Priority of Mortgagee.

Nothing in the Governing Instruments shall give an Owner, or any other party, priority over the rights of a First Mortgagee in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Condominium, Recreational Facilities or Common Area.

## ARTICLE XV

AMENDMENTSection 15.1 Amendment Before the Close of First Sale.

Prior to the close of the first sale of a Condominium in the Property to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and of an instrument amending or revoking this Declaration, after such instrument has been approved by the Department of Real Estate of the State of California. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Office of the Orange County Recorder.

Section 15.2 Amendment After Close of First Sale.

After the close of the first sale of a Condominium in the Property to a purchaser other than Declarant, and during such time that the two-class voting structure is still in effect, this Declaration may not be amended or revoked in any respect, except by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of Members. Upon the termination of the two-class voting structure, this Declaration may not be amended or revoked in any respect except by the vote or written consent of seventy-five percent (75%) of the total voting power of the Corporation; and at least seventy-five percent (75%) of the votes of Members other than Declarant if Declarant still retains voting rights. However, if any provision of this Declaration requires a greater percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Additionally, an Owner shall have all rights afforded him under Civil Code Section 1356 with respect to the amendment of the Declaration. Also, if the consent or approval of any governmental authority, any Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Corporation and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Office of the Orange County Recorder.

Section 15.3 Conflict with Article XIV or Other Provision of this Declaration. To the extent any provisions of this Article XV conflict with the provisions of Article XIV or any other provision of this Declaration, the provisions of

Article XIV or the other provisions shall control.

Section 15.4 Reliance on Amendments. Any amendment made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

Section 15.5 Amendments to Conform with Mortgagee Requirements. It is the intent of Declarant that this Declaration and the Articles and Bylaws of the Corporation, and the Property in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure or subsidize any Mortgage of a Condominium in the Property by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, the Federal Housing Administration and the Veterans' Administration. In furtherance of that intent, Declarant expressly reserves the right and shall be entitled by unilateral amendment of the Declaration so long as Declarant owns more than twenty-five percent (25%) of the Condominiums in the Property to amend this Declaration in order to incorporate any provisions or to enter into any agreement on behalf and in the name of the Corporation that are, in the opinion of any of the cited entities or governmental agencies, required to conform the Declaration, the Articles, the Bylaws or the Property to the requirements of any of the entities or governmental agencies, including without limitation the execution on behalf of and in the name of the Corporation of a regulatory agreement between the Corporation and the Federal Housing Commissioner and any other agreement sufficient to satisfy the requirements for Mortgage purchase, guarantee or insurance by any of said entities or agencies. Declarant is hereby granted an irrevocable power of attorney to execute any such amendment or agreement by and in the name of the Corporation. Any such provision shall first be approved by the California Department of Real Estate in connection with its issuance of a final subdivision public report or amendment to it with respect to the Property. Each Owner of a Condominium and each Mortgagee of a Condominium by acceptance of a deed or encumbrance of a Condominium consents to the incorporation in this Declaration of any such provision and to the execution of any amendment or regulatory agreement and agrees to be bound by any such provisions as if they were incorporated in this Declaration. The Board and each Owner shall take any action or shall adopt any resolutions required by Declarant or any Mortgagee to conform this Declaration or the Property to the requirements of any of said entities or agencies.

## ARTICLE XVI

REPAIR AND MAINTENANCE

Section 16.1 Repair and Maintenance of the Units by Owners. Except to the extent that the Corporation 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 such rules therefor as the Corporation may from time to time establish.

Section 16.2 Repair and Maintenance of Certain Common Areas and Exclusive Use Common Areas by or at the Expense of Owners.

(a) 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 such rules as the Board shall from time to time adopt. In the event such repair is not so accomplished by the Owner, the Corporation or its delegates shall have the right at a reasonable time 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 a Special Assessment.

(b) Window Glass and Skylights. Each Owner shall be responsible at his sole expense for the interior and exterior cleaning, repair and replacement of all window glass and skylights, if any, of his Condominium.

(c) Heater, Air Conditioning Units, and Air Conditioning Pads. Each Owner shall be responsible at his sole expense for the repair, maintenance and replacement of the heater, air conditioning unit, and air conditioning pad within the Exclusive Use Common Area servicing his Condominium.

(d) Garage Doors, Openers and Interiors. Each Owner shall be responsible at his sole expense for the repair, maintenance or replacement of the garage doors of his Condominium, including without limitation, hinges, springs and other parts of the door mechanism, including automatic door openers, and excepting only the exterior painting thereof. Each Owner shall also be responsible at his sole expense for the repair and maintenance of the interior surfaces of the garage area appurtenant to his Condominium.



(e) Yard; Patio. Each Owner shall be responsible at his sole expense for the maintenance and repair of the landscaping within the Yard and any patios in the Yard appurtenant to his Condominium.

(f) Rights of Corporation. In the event that an Owner fails to accomplish any maintenance or repair required by this Section, the Corporation or its delegates shall have the right at reasonable times to enter the Unit to effect such maintenance or repair, and the costs thereof shall be charged to the Owner of the Unit and, if not paid in a timely manner, shall be a Special Assessment.

(g) Access for Telephone Wiring. The Owner of a Unit is entitled to reasonable access to the Common Area for the purpose of maintaining the internal and external wiring made part of a Unit. Said access shall be subject to the consent of the Corporation, whose approval shall not be unreasonably withheld, and which may include the Corporation's approval of telephone wiring upon the exterior of the Common Area, and other conditions as the Corporation determines reasonable.

### Section 16.3 Repair and Maintenance by The Corporation

(a) Common Area and Recreational Facilities. The Corporation shall maintain and repair the exterior surfaces of all Condominium Buildings, including the painting thereof, and shall maintain and repair all landscaping and improvements on the Common Area and the Recreational Facilities (including the pool, spa and restrooms), the exterior portion, interior portion, and structural integrity of all walls within the Property including those located in the Entry Court, Master Court, as the case may be, and Rear Yards of a Unit, the private streets, sidewalks and walkways located within the Property, and the roofs of all Condominium Buildings and Recreational Facilities. The Corporation shall maintain, repair and replace all Common Area and Recreational Facilities, and improvements thereon which are not otherwise made the express responsibility of the Owner, as described in Section 16.2 above. The Corporation shall also be responsible for the repair and maintenance of the Common Area occasioned by the presence of wood-destroying pests or organisms. The costs of temporary relocation during the repair and maintenance of the Common Area shall be borne by the Owner of the Unit affected. The Corporation may cause the temporary, summary removal of any occupant within the Property for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms. The Corporation shall give notice of the need to temporarily vacate the Unit to the occupants and to the Owners, not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the

anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Notice by the Corporation shall be deemed complete upon either: (i) Personal delivery of a copy of the notice to the occupants and sending a copy of the notice to the Owners, if different than the occupants, by first-class mail, postage prepaid, at the most current address shown on the books of the Corporation; (ii) by sending a copy of the notice to the occupants at the Unit's address and a copy of the notice to the Owners, if different than the occupants, by first-class mail, postage prepaid at the most current address shown on the books of the Corporation. For purposes of this section, "occupant" means an Owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession of the Unit.

(b) Exclusive Use Common Area. The Corporation shall not be obligated to maintain, repair, restore, replace, and make any necessary improvements to the Exclusive Use Common Area of a Unit. It shall be the responsibility of an Owner, as set forth hereinabove in Section 16.2(c).

## ARTICLE XVII

GENERAL PROVISIONS

Section 17.1 Headings. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

Section 17.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision shall not invalidate any other provision.

Section 17.3 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver thereof.

Section 17.4 Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any Member of the Board, and the Manager, or the Corporation .

Section 17.5 No Racial Restriction. No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his Condominium on the basis of race, sex, color or creed.

Section 17.6 Access to Books. Any Owner may, at any reasonable time and upon reasonable notice to the Board or Manager at his own expense, cause an audit or inspection to be made of the books and financial records of the Corporation .

Section 17.7 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

Section 17.8 Notification of Sale of Condominium. Concurrently with the consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and his Mortgagee and transferor, the street address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or

permitted to be given by the Corporation, the Board or the Manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing it by certified mail, return receipt requested and addressed to the address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram, or upon personal delivery to any occupant of a Condominium over the age of twelve (12) years.

Section 17.9 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter, as the context requires.

Section 17.10 Easements Reserved and Granted. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any Condominium.

Section 17.11 Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

Section 17.12 Unsegregated Real Estate Taxes. Until such time as real property taxes have been segregated by the Orange County Assessor they shall be paid by the respective Owners of Condominiums. The proportionate share of the taxes for a particular Condominium shall be determined by dividing the initial sales price or offered initial sales price of the Condominium by the total initial sales prices and offered initial sales prices of all Condominiums within the Property (the term "offered initial sales price" means the price at which an unsold Condominium is then being offered for sale by the Declarant). If, and to the extent, that taxes are not paid by any Owner of a Condominium and are allowed to become delinquent, they shall be collected from the delinquent Owner by the Corporation as a Special Assessment.

Section 17.13 Delivery by Owner of Governing Instruments. Prior to the conveyance of a Unit by an Owner to a subsequent purchaser, Owner shall deliver a copy of the Governing Instruments to said purchaser along with a copy of the most recent Corporation financial statement. Prior to any conveyance of a Unit to a subsequent purchaser, Owner shall also deliver a true statement in writing from the Corporation as to the amount of any Assessments levied upon the Owner's Unit which are unpaid on the date of the statement. Said statement shall also include

true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the Owner's Unit pursuant to Civil Code Section 1367. Upon request of the above by an Owner, the Corporation shall, within ten (10) days of the mailing or delivery of the request, provide the Owner with a copy of said special items. The Corporation may charge a fee for said service, which fee shall not exceed the Corporation's reasonable cost to prepare and reproduce the requested items.

## ARTICLE XVIII

ANNEXATION

Section 18.1 Annexation Without Approval and Pursuant to General Plan. All or any part of the Property, described on Exhibit "C" "(Annexation Property)", may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Corporation without the approval, assent, or vote of the Corporation or its Members, provided that:

(a) The annexation shall have occurred within seven (7) years from date of the recordation of this Declaration;

(b) The recordation of the Supplementary Declaration of Annexation annexing a new Phase is effected prior to the third anniversary of the issuance of the original Final Subdivision Public Report for the immediately preceding Phase; and

(c) The California Department of Real Estate ("DRE") has agreed to issue a Final Subdivision Public Report, which shall be deemed to be evidence that Declarant has furnished proof satisfactory to the DRE that: (i) No proposed annexation will result in overburdening of the common interests of the then existing Owners and (ii) No proposed annexation will cause a substantial increase in Assessments against existing Owners which was not disclosed in Final Subdivision Public Reports under which pre-existing Owners purchased their interests. All improvements annexed pursuant to this section shall be substantially completed prior to annexation.

It is contemplated that the total number of condominiums which may be annexed as part of the Annexation Property shall not exceed ninety-two (92) condominiums.

Section 18.2 Annexation Pursuant to Approval. Except as is otherwise provided in Section 18.1 preceding, the annexation of additional residential Units, Recreational Facilities, and Common Area property, and the subjecting of it to the jurisdiction of the Corporation, can only be accomplished upon the affirmative vote, at a special meeting duly called for this purpose, of two-thirds (2/3) of the total votes residing in Corporation Members other than the Declarant.

Section 18.3 Supplementary Declaration of Annexation. Annexation shall be accomplished by a duly recorded Supplementary Declaration of Annexation executed by Declarant alone if annexation is pursuant to Section 18.1 hereof, or by the Owners of the annexed property and by two or more Members of the Board of Directors if annexation is pursuant to Section 18.2 hereof. The Supplementary Declaration of Annexation shall describe the property annexed, any additional Common Areas, Recreational

Facilities, and state that it is made pursuant to the terms of this Article XVIII for the purpose of annexing the property so described to the Property and extending the jurisdiction of the Corporation to cover the same. If the annexation occurs after a meeting of the Members pursuant to Section 18.2 hereof, it shall so state, including a statement of the time and place of the meeting, the date of notice, the number of Members present, the number of Members who voted in favor of the annexation, and the Supplementary Declaration of Annexation shall be executed, verified and acknowledged by two or more Members of the Board of Directors. Any Supplementary Declaration of Annexation recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereupon in good faith. From and after annexation, the property annexed shall be subject to the provisions of this Declaration and the jurisdiction of the Corporation pursuant to the terms hereof, and its Articles of Incorporation and Bylaws, except that Assessments shall commence as provided in Section 6.7 of Article VI hereof entitled "Assessments".

Section 18.4 Supplementary Declaration of Annexation - Optional Provisions. Such Supplementary Declaration of Annexation contemplated above may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplementary Declaration of Annexation revoke, modify or add to the covenants established by this Declaration within the existing Property.

Section 18.5 Expansion of Corporation Membership. Membership in the Corporation shall be expanded to include Owners within annexed Phases of the Property.

Section 18.6 No Obligation to Annex. Notwithstanding any provisions of this Declaration expressly or impliedly to the contrary, Declarant shall have no obligation whatsoever to annex any real property hereto including, without limitation, the real property described in Exhibit "C".

Section 18.7 Improvements on Future Phases. Declarant expressly makes no representations or warranties in connection with improvements constructed on Units within future Phases of the Property. Declarant makes no guarantee that it will build similar or comparable improvements or Units within future Phases of the Property. Declarant expressly reserves the right to change the style, quality, size and cost of said improvements from those constructed in the first Phase of the Property, or any other Phase.

Section 18.8 Mergers or Consolidations. Upon a merger or consolidation of the Corporation with another Corporation, which merger or consolidation must be approved by the vote or written assent of sixty-seven percent (67%) of the total voting power of Members other than the Declarant, the Corporation's properties, rights, and obligations may, by operation of law, be transferred to the surviving or consolidated Corporation, or, alternatively, the properties, rights and obligations of another Corporation may, by operation of law, be added to the properties, rights and obligations of the Corporation as a surviving Corporation pursuant to a merger. The surviving or consolidated Corporation may administer the covenants, conditions, and restrictions established by this Declaration within the Property, together with the covenants, conditions, and restrictions established upon any other property as one plan.



## ARTICLE XIX

ARCHITECTURAL CONTROL

Section 19.1 Control in SAMLARC Architectural Committee. No building, fence, landscaping, wall or other structure (including patio covers) shall be commenced, erected, painted, repainted, refurbished, remodelled or installed upon the Property until there has been compliance with the provisions of Article X of the SAMLARC Declaration. Prior to submission of said proposed changes to the SAMLARC Architectural Committee, plans of said proposed changes shall first be submitted and approved by the Architectural Committee for this Corporation, as set forth hereinbelow.

Section 19.2 Appointment of Architectural Committee. The Architectural Committee shall consist of not less than three (3) not more than five (5) persons as fixed from time to time by resolution of the Board. The Declarant shall initially appoint all of the Architectural Committee. The Declarant shall retain the right to appoint, augment or replace all members of the Architectural Committee until the first anniversary of the issuance of the original Final Subdivision Public Report from the California Department of Real Estate for the first Phase of the Development, and the Declarant may appoint a majority of the Members of the Architectural Committee until the fifth anniversary of the original issuance of a Final Subdivision Public Report for the first Phase of the Development from the California Department of Real Estate, or until ninety percent (90%) of the Residences within the Development have been conveyed by Declarant, whichever shall first occur, provided that Declarant may, at its sole option, transfer this right to the Board by written notice thereof prior to the end of such period. Notwithstanding the foregoing, commencing one (1) year following the first conveyance by Declarant of a Residence, the Board shall have the right but not the obligation to appoint one (1) person to the Architectural Committee. Five (5) years after the date of the issuance of said Subdivision Public Report or when ninety percent (90%) of the Residences within the Development have been conveyed by Declarant, whichever shall first occur, the right to appoint, augment or replace a majority of Members of the Architectural Committee shall automatically be transferred to the Board. Persons appointed by the Board to the Architectural Committee must be Members; however, persons appointed by Declarant to the Architectural Committee need not be Members, in Declarant's sole discretion.

Section 19.3 Approval and Conformity to Plans. The procedures used by the SAMLARC Architectural Committee shall be adopted by the Architectural Committee for submitting plans and specifications, approval of and conformity to such plans and specifications, time limitations for completion of improvements

in compliance with approved plans and specifications, and determining when such plans and specifications shall be deemed approved. Plans and specifications are not approved for engineering design, and by approving such plans and specifications, neither the Board, the members thereof, any Architectural Committee members, the Corporation, the Members nor Declarant assumes liability or responsibility therefor, or for any defect in the structure constructed from such plans and specifications.

Section 19.4 Additional Powers of the Architectural Committee. The Architectural Committee may promulgate procedures for establishing such additional standards, rules and regulations as it deems to be appropriate and as are not in conflict with the said Article of the SAMLARC Declaration.

Section 19.5 Approval and Conformity of Plans. In addition to the requirements set forth above in Section 19.1, no building, fence, landscaping, wall or other structure shall be commenced, erected, painted or planted within the Property, nor shall there be any addition to or change in the exterior of a Residence, structure or other improvement, or landscaping, unless plans and specifications therefor have been submitted to and approved by the Architectural Committee.

Section 19.6 Nonapplicability to Declarant. In no event shall the provisions of this Article apply to the construction by Declarant of any improvements intended to be conveyed to the Corporation, or to any Residence intended to be conveyed to an Owner.

Section 19.7 Landscaping by Owner within 180 Days: Security Deposit. Each Owner shall landscape that portion of his Unit within the exterior walls on said Owner's Unit (Entry Court, Master Court, as the case may be and Rear Yard), which property has not been landscaped by Declarant, within 180 calendar days from the close of escrow for his Residence. Upon the close of escrow of a Residence, if required by the Architectural Committee, each Owner shall deposit with the Architectural Committee a security deposit for any damage to the Common Area, Recreational Facilities, or Property as a result of the installation of said landscaping by Owner. The amount of said security deposit shall be determined by the Board or the Architectural Committee, in their sole discretion. Upon completion of said landscaping and notice thereof to the Architectural Committee, the Architectural Committee shall determine if any damage has occurred to the Common Area, Recreational Facilities, or Property during said landscaping installation. In the event it is determined that there is no damage, said security deposit shall be immediately returned to Owner. In the event it is determined that the Common Area, Recreational Facilities or Property have been damaged by said

89-551398

Owner's installation, Owner shall be obligated to pay for said damage. The amount required to repair said damage shall be retained from said deposit and the balance, if any, shall be immediately returned to Owner. If additional amounts are required beyond the security deposit amount, Owner shall pay said amount immediately to the Corporation upon request.

ARTICLE XX

VIEWS

As originally constructed, certain of the Units within the Property have a partial view. Owners acknowledge that any such view may be altered or obstructed as the result of the construction or installation of improvements on the Property that are made in accordance with plans and specifications that have been approved by the Architectural Committee as well as by the construction or installation of improvements on property adjacent to the Property. Neither the Declarant, the Board, nor the Architectural Committee makes any assurance that any such views will be preserved or that construction of future improvements and landscaping or the natural growth of existing landscaping will not have an impact upon or obstruct the view that any Owner may now have from his Unit.

ARTICLE XXIPROTECTION FROM LIENS

Section 21.1 Corporation to Defend. In the event that a lawsuit is brought against all or substantially all of the Owners within the Property which will or could result in any lien or encumbrance being levied against the entire Property, the Corporation shall defend such lawsuit and the costs of such defense shall be a Special Assessment against all of the Owners within the Property joined as defendants in such lawsuit; provided, however, in the event that an insurance carrier is obligated to provide such defense under a policy of insurance carried by the Corporation, the Corporation shall be relieved of the obligation to provide such defense. Nothing contained herein shall in any way limit the rights of any Owner or Owners to retain counsel of their choice to represent them in such lawsuit at their own expense. In such event, such Owner or Owners shall not be relieved of liability for the Special Assessment provided for in this section.

Section 21.2 Liens against Condominiums. The filing of liens against Condominiums shall comply with California Civil Code Section 1369 and until such section is supplemented or amended to provide otherwise, shall be as provided in this section. No labor performed or services or materials furnished within the Property with the consent of, or at the request of, an Owner or such Owner's agent or contractor shall be the basis for the filing of a lien against any other Condominium or any other Owner in the Property unless that other Owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Common Area or Recreational Facilities, if duly authorized by the Corporation, shall be deemed to be performed or furnished with the express consent of each Owner. An Owner may remove his Condominium from a lien against two or more Condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by the lien which is attributable to such Condominium.

Section 21.3 Other Liens. In the event that a lien or encumbrance not covered by California Civil Code Section 1369 is attached to all or substantially all of the Property by reason of a judgment or otherwise, the Corporation shall promptly take the appropriate steps to remove such lien, including but not limited to the payment of money and the posting of a bond. The Corporation shall have the power to borrow money and to take such other steps as are necessary to free the Property of such liens.

Simultaneously with any action taken pursuant to this section, the Corporation shall levy a Special Assessment against all of the Owners whose Condominiums were subject to the lien or encumbrance which caused the Corporation to act pursuant to said section equal to each such Owner's pro rata share of such lien or encumbrance. In the event that such Special Assessment is not paid prior to the delinquency date (as defined in the Section 6.9 of this Declaration), the Board may effect the remedies contained in Section 1367 of the California Civil Code and the Article entitled "Collection of Assessments: Liens."

Section 21.4 Reimbursement. In the event that it shall be proven in a court of law of competent jurisdiction over the claim or claims causing the Corporation to take action under this Article that a judgment resulting in a lien on all or a portion of the Property was primarily due to the acts or omissions of a particular Owner or Owners or the families or agents thereof, such Owner or Owners shall reimburse the Corporation for all expense incurred by it pursuant to the provisions of this Article. Upon such reimbursement the Corporation shall distribute the funds received to the Owners against whom Special Assessments were levied pursuant to the provisions of this Article.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the date first above written.

J.M. PETERS COMPANY, INC.  
A Nevada Corporation

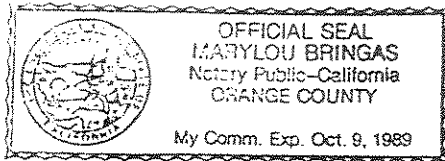
By:   
Its: Vice President

By:   
Its: V.P. Construction  
Vice President

STATE OF CALIFORNIA )  
 )  
 ) ss.  
 )  
COUNTY OF ORANGE )

On September 12, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert J. Trapp and Frank E. Fullerton, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as Vice President and Vice President, on behalf of J.M. PETERS COMPANY, INC., the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



Marylou Bringas  
Notary Public in and for said State

89-551398

EXHIBIT "A"

PROPERTY

Lots 1 and 5 of Tract 13237 as Recorded in  
Book 633, Pages 9 through 13, inclusive of Miscellaneous  
Maps in the Office of the Orange County  
Recorder.



## EXHIBIT "B"

RECREATIONAL FACILITIES

Lot 5 of Tract 13237 as Recorded in Book  
633, Pages 9 through 13, inclusive of\*Maps  
in the Office of the Orange County  
Recorder.

\*Miscellaneous

89-551398

EXHIBIT "C"

ANNEXATION PROPERTY

Lots 2, 3 and 4 of Tract 13237 as Recorded  
in Book 633, Pages 9 through 13, inclusive  
of\* Maps in the Office of the Orange County  
Recorder.

\*Miscellaneous

CONSENT OF ENCUMBRANCER

The undersigned beneficiary under that certain Deed of Trust recorded on September 28, 1989 as Instrument No. 89-522640, of Official Records of Orange County, California, hereby consents to the within Declaration of Covenants, Conditions and Restrictions, and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration as defined therein.

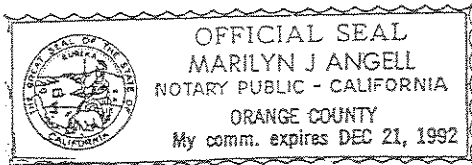
THE BANK OF CALIFORNIA  
National Association

By: Robert C. Levisse  
Robert C. Levisse  
Vice President

STATE OF CALIFORNIA )  
                                  ) ss.  
COUNTY OF ORANGE )

On October 3rd, 1989, before me, the undersigned a Notary Public in and for said State, personally appeared Robert C. Levisse personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the instrument as Vice President on behalf of The Bank of California, the association that executed the within instrument, and personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the association therein name, pursuant to its by-laws or a Resolution of its Board of Directors, and acknowledged to me that such association executed the same.

WITNESS my hand and official seal.

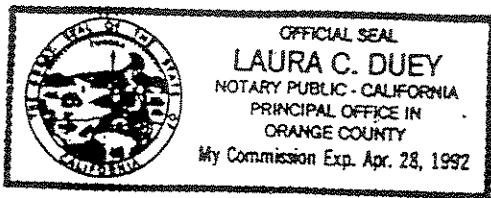


Marilyn J. Angell  
Notary Public in and for said State.

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On December 6, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard D. Bradshaw, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who executed the within instrument as Vice President on behalf of J.M. PETERS COMPANY, INC., the corporation that executed the within instrument and acknowledged to me that said corporation executed the within instrument pursuant to its Bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

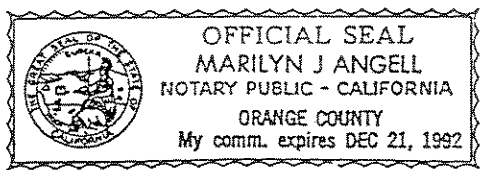


Laura C. Duey  
Notary Public in and for said State

STATE OF CALIFORNIA )  
                                      ) ss.  
COUNTY OF ORANGE )

On December 8, 1989, before me, the undersigned a Notary Public in and for said State, personally appeared Robert C. Levisse personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the instrument as Vice President on behalf of The Bank of California, the association that executed the within instrument, and personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the association therein name, pursuant to its by-laws or a Resolution of its Board of Directors, and acknowledged to me that such association executed the same.

WITNESS my hand and official seal.



Marilyn J. Angell  
Notary Public in and for said State

CONSENT OF ENCUMBRANCER

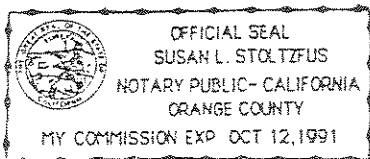
The undersigned beneficiary under that certain Deed of Trust recorded on June 30, 1989 as Instrument No. 89-348028 of Official Records of Orange County, California, hereby consents to the within First Amendment to Declaration of Covenants, Conditions, and Restrictions, and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration as defined therein.

SECURITY PACIFIC NATIONAL BANK  
a National Banking Association

By: *Kristen L. Jordan*  
Kristen L. Jordan  
Vice President

STATE OF CALIFORNIA    )  
                                  ) ss.  
COUNTY OF ORANGE    )

On November 20, 1989, before me, the undersigned a Notary Public in and for said State, personally appeared Kristen L. Jordan, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the instrument as Vice President on behalf of Security Pacific National Bank, a National Banking Association that executed the within instrument, pursuant to its by-laws or a Resolution of its Board of Directors, and acknowledged to me that such Association executed the same.



WITNESS my hand and official seal.

*Susan L. Stoltzfus*  
Notary Public in and for said State

13236CSP

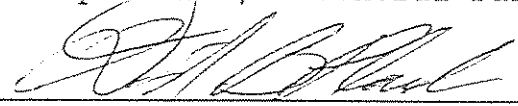
CONSENT OF ENCUMBRANCER

The undersigned beneficiary under that certain Deed of Trust recorded on January 5, 1989 as Instrument No. 89-007064 of Official Records of Orange County, California, hereby consents to the within First Amendment to Declaration of Covenants, Conditions, and Restrictions and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration defined therein.

RANCHO SANTA MARGARITA JOINT  
VENTURE, a California General  
Partnership

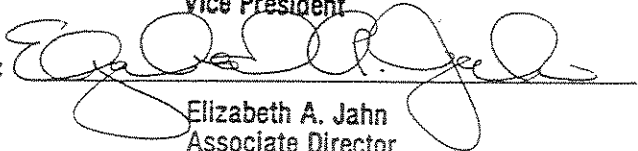
By: SANTA MARGARITA REALTY  
COMPANY, a California  
corporation, a General Partner

By:



David B. Placek  
Vice President

By:



Elizabeth A. Jahn  
Associate Director

REV13236-CFA

(ACKNOWLEDGMENT ATTACHED)

CCF

WE HEREBY CERTIFY THIS TO BE  
A TRUE AND CORRECT COPY.  
First American Title Insurance Company

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Recorded: Dec 11, 1989

Doc. No: 89-670619

By: E. J. Kirk

J.M. Peters Company, Inc.  
3501 Jamboree Road, Suite 200  
Newport Beach, CA 92658-7150  
Attn: Ms. Nancy Sparks

(Space Above for Recorder's Use Only)

FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS  
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP  
FOR ALICANTE MAINTENANCE CORPORATION

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS  
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP FOR ALICANTE  
MAINTENANCE CORPORATION ("First Amendment") is made this 1st  
day of December, 1989, by J.M. PETERS COMPANY, INC., a  
Nevada corporation ("JMP").

R E C I T A L S:

A. WHEREAS, a Declaration of Covenants, Conditions,  
Restrictions and Reservation of Easements Establishing a Plan of  
Condominium Ownership for Alicante Maintenance Corporation has  
heretofore been recorded on October 13, 1989 as Instrument No.  
89-551398, Official Records of Orange County, California (the  
"Declaration").

B. WHEREAS, no Lots have been sold, conveyed or  
otherwise transferred by JMP.



C. WHEREAS, JMP now wishes to amend the Declaration.

D. WHEREAS, any paragraphs in the Declaration which are not completely redrafted in this First Amendment shall continue in full force and effect.

W I T N E S S E T H:

NOW, THEREFORE, the Declaration is amended as follows:

1. Exhibits "A" and "B" attached hereto, shall be substituted in their entirety for the previous Exhibits "A" and "B" attached to the Declaration.

2. Section 2.8 shall be added to Article II as follows:

"Section 2.8 Golf Balls, Golf Cart and Pedestrian Easements.

Declarant hereby acknowledges that over the Development and over those portions of the Development which have been developed as streets, easements have been reserved by Rancho Santa Margarita Joint Venture, a California general partnership, for the benefit of the owner of the adjacent property that has been developed as that certain golf course known as "Tijeras Creek Golf Club", and any designees, employees, permittees or invitees of such owner, which easements, among others, are appurtenant to said adjacent golf course property:

(i) over the Development for the encroachment of golf balls resulting from golfing activities on said golf course; and

(ii) over that portion of the Development which was developed as a street, to provide access to the adjacent golf course property for the maintenance, repair and reconstruction of improvements on the golf course and for pedestrian and golf

cart access to all of the fairways within the adjacent golf course.

Notwithstanding the foregoing, the reference to said easements hereinabove shall not supercede, amend or modify the easements reserved to Rancho Santa Margarita Joint Venture, a California general partnership in that certain Grant Deed and Assignment of Rights recorded on January 5, 1989 as Instrument No. 89-007073 in the Official Records of Orange County, California."

3. A new article XXII entitled "Errant Golf Balls" shall be added to the Declaration as follows:

"ARTICLE XXII

ERRANT GOLF BALLS

The Project is located adjacent to a public golf course called "Tijeras Creek Golf Club." Each Owner acknowledges, by acceptance of the Deed to his Unit that Units located on or near a golf course are subject to damage to persons and property caused by flying golf balls. Each Owner willingly agrees to accept the risk of such hazards and possible damage and further agrees to obtain appropriate homeowners' insurance covering such damage and injury. Each Owner, by acceptance of the Deed to his Unit, hereby releases and agrees to hold harmless JMP from all liability and damage arising out of flying golf balls."

4. Section 1.25 entitled "Recreational Facilities" shall be deleted in its entirety and substituted with the following:

"Section 1.25 The "Recreational Facilities" shall mean and refer to the real property and the improvements thereon owned or leased

by the Corporation for the common use and enjoyment of the Members, including without limitation: pool, spa, restrooms and streets. The real property upon which the Recreational Facilities shall be constructed is described in Exhibit "B". On or before the date of the first conveyance of a Condominium in the Property by Declarant to an Owner, Declarant shall convey to the Corporation title to the real property described in Exhibit "B", free and clear of all encumbrances and liens other than those approved by the California Department of Real Estate."

5. All of the rest of the provisions in the Declaration shall continue in full force and effect.

This First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements Establishing a Plan of Condominium Ownership for Alicante Maintenance Corporation is executed as of the date written above.

J.M. PETERS COMPANY, INC.,  
a Nevada Corporation

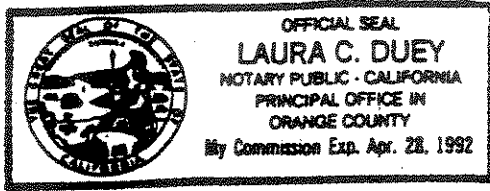
By:   
Its: Executive Vice President

(Notarial Jurat attached)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On December 1, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher C. Gibbs, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Executive Vice President on behalf of J.M. PETERS COMPANY, INC., the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



Laura C. Duey  
Notary Public in and for said State

EXHIBIT "A"  
PROPERTY

LOTS 1 AND 5 OF TRACT 13237 AS RECORDED IN BOOK 633, PAGES 9 THROUGH 13, INCLUSIVE, OF MISCELLANEOUS MAPS IN THE OFFICE OF THE ORANGE COUNTY RECORDER.

LOT 3 OF TRACT NO. 13202, AS SHOWN ON A MAP FILED IN BOOK 619, PAGES 20 TO 26 INCLUSIVE OF MISCELLANEOUS MAPS, AND AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 21, 1988 AS INSTRUMENT NO. 88-664934 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN TRACT NO. 13237.

13202EXHIBIT"A"

EXHIBIT "B"

RECREATIONAL FACILITIES

LOT 5 OF TRACT 13237 AS RECORDED IN BOOK 633, PAGES 9 THROUGH 13, INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE ORANGE COUNTY RECORDER.

LOT 3 OF TRACT NO. 13202, AS SHOWN ON A MAP FILED IN BOOK 619, PAGES 20 TO 26 INCLUSIVE OF MISCELLANEOUS MAPS, AND AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 21, 1988 AS INSTRUMENT NO. 88-664934 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN TRACT NO. 13237.

13202EXHIBIT"B"

CONSENT OF ENCUMBRANCER

The undersigned beneficiary under that certain Deed of Trust recorded on September 28, 1989 as Instrument No. 89-522640 of Official Records of Orange County, California, hereby consents to the within First Amendment to Declaration of Covenants, Conditions, and Restrictions, and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration defined therein.

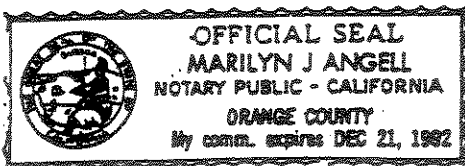
THE BANK OF CALIFORNIA  
National Association

By: Robert C. Levissee  
Robert C. Levissee  
Vice President

STATE OF CALIFORNIA     )  
                                  ) ss.  
COUNTY OF ORANGE     )

On November 10, 1989, before me, the undersigned a Notary Public in and for said State, personally appeared Robert C. Levissee, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the instrument as Vice President, on behalf of The Bank of California, the association that executed the within instrument, and personally known to me (or proved to be on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the Association therein named, pursuant to its by-laws or a Resolution of its Board of Directors, and acknowledged to me that such Association executed the same.

WITNESS my hand and official seal.



Marilyn J. Angell  
Notary Public in and for said State


13237CFA

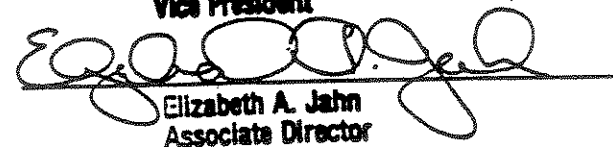
CONSENT OF ENCUMBRANCER

The undersigned beneficiary under that certain Deed of Trust recorded on January 5, 1989 as Instrument No. 89-007075 of Official Records of Orange County, California, hereby consents to the within First Amendment to Declaration of Covenants, Conditions, and Restrictions and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration defined therein.

RANCHO SANTA MARGARITA JOINT  
VENTURE, a California General  
Partnership

By: SANTA MARGARITA REALTY  
COMPANY, a California  
corporation, a General Partner

By:   
David B. Placsek  
Vice President

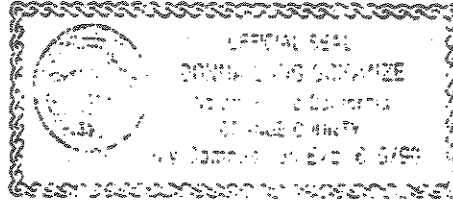
By:   
Elizabeth A. Jahn  
Associate Director

13236-CFA

(ACKNOWLEDGMENT ATTACHED)

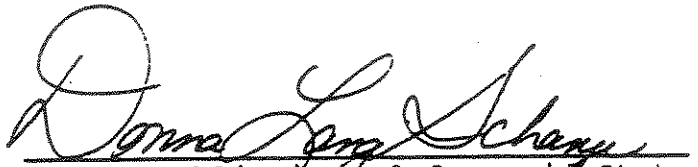


STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF ORANGE )



On December 5, 1989, before me, the undersigned, a Notary Public in and or said State, personally appeared David B. Placek and Elizabeth A. Jahn personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed the within instrument as Vice President and Associate Director on behalf of SANTA MARGARITA REALTY COMPANY, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors, said corporation being known to me to be one of the partners of RANCHO SANTA MARGARITA JOINT VENTURE, the 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.

WITNESS my hand and official seal.

  
Notary Public in and for said State

13236-CFA