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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
2217 ROCKEFELLER LANE TOWNHOMES**

This Declaration is made this 18th day of September, 1997, by WINDEMERE COMPANY, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("Declarant").

**RECITALS**

A. Declarant is the owner of that certain real property ("Property") located in the City of Redondo Beach, County of Los Angeles, State of California, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. Declarant intends to develop the Property into a condominium project under the provisions of California Civil Code Section 1350, et seq., subject to certain easements, covenants, conditions, restrictions, reservations, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and to sell and convey residential Condominiums to the Owners, subject to the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Property in furtherance of a plan of condominium ownership as described in Section 1351 of the California Civil Code.

NOW THEREFORE, Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, liens, charges and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and every part thereof, in accordance with the plan for the improvement of the Property and division thereof into Condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute equitable servitudes in accordance with California Civil Code Section 1354 and shall be binding upon Declarant and its successors and assignees, and all parties having or acquiring any right, title or interest in or to any part of the Property.

## Article I

### Definitions

Section 1. "Architectural Committee" means the committee, if any, created in accordance with Article V of this Declaration.

Section 2. "Articles" means the Articles of Association of 2217 Rockefeller Lane Townhomes, as such Articles may be amended from time to time.

Section 3. "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Condominium in accordance with the provisions of Article IV of this Declaration.

Section 4. "Association" means 2217 Rockefeller Townhomes, a California nonprofit mutual benefit entity formed (or to be formed), its successors and assigns, including its agents, the Board, or any committee as applicable.

Section 5. "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to Article III, Section 7 of this Declaration, as the same may be in effect from time to time.

Section 6. "Board of Directors" or "Board" means the Board of Directors of the Association.

Section 7. "Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 8. "City" means Redondo Beach and its various departments, divisions, employees and representatives.

Section 9. "Common Area" means the entire Project except all Units, as defined in Article I, Section 30 and shown on the Condominium Plan. Unless the context clearly indicates a contrary intent, any reference herein to the "Common Areas" shall also include any Common Facilities located thereon. As more particularly described in Article II, Section 2(d), portions of the Common Area are designated as Exclusive Use Common Areas whose use and enjoyment are restricted to the Owners and occupants of the Units adjacent to such Exclusive Use Common Areas. Each Unit Owner will receive the following undivided interest in the Common Area: one-third ( 1/3 ).

Section 10. "Common Expense" means any use of funds authorized by Article IV hereof and includes, without limitation: (a) All expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities or any portion of any Unit that the Association is obligated to maintain or repair, (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors, (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and Common Facilities or any portion of any Unit that the Association is obligated to maintain or replace, and for nonpayment of any Assessments, and (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as proved in the Governing Documents.

Section 11. "Common Facilities" means the trees, hedges, plantings, lawns, shrubs, landscaping, walkways, driveways, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures and/or other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

Section 12. "Condominium" means an estate in real property as described in the California Civil Code Sections 783 and 1351(f) consisting of an undivided interest as a tenant in common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as are described in this Declaration, in the Condominium Plan, or in the deed conveying the Condominium.

Section 13. "Condominium Plan" means a condominium plan recorded pursuant to California Civil Code Section 1351(e) respecting the Project, and any amendments to the plan.

Section 14. "County" means the County of Los Angeles, State of California, and its various departments, divisions, employees and representatives.

Section 15. "Declarant" means Windemere Company, LLC, a California Limited Liability Company.

Section 16. "Declaration" means this instrument, as it may be amended from time to time.

Section 17. "Governing Documents" is a collective term that means and refers to all documents governing the Property, including this Declaration, the Articles, the Bylaws, and the Association Rules.

Section 18. "Improvements" includes, without limitation, the construction, installation, alteration, or remodeling of any buildings, walls, decks, fences, landscaping, landscape structures, antennas, utility lines, or any structure of any kind.

Section 19. "Member" means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Article XIV, Section 6 hereof.

Section 20. "Mortgage" means any security device encumbering all or any portion of the Property, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

Section 21. "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Condominium. The term "Owner" shall include the Declarant for so long as the Declarant possesses any Condominium within the Property.

Section 22. "Owner of Record" and "Member of the Association" include an Owner and mean any person, firm, corporation or other entity in which title to a Condominium is vested as shown by the official records of the Office of the County Recorder.

Section 23. "Project" means the Property and the Improvements located thereon which are intended to create a condominium project as described in California Civil Code Section 1351(f).

Section 24. "Property" means all parcels of real property (Common Area and Condominium Units described in Recital "A" hereof), together with all buildings, structures, utilities, Common Facilities, and other improvements now located or hereafter constructed or installed thereon, and all appurtenances thereto.

Section 25. "Regular Assessment" means an Assessment levied on an Owner and his or her Condominium in accordance with Article IV, Section 2 hereof.

Section 26. "Single Family Residential Use" means occupation and use of a Unit for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

Section 27. "Special Assessment" means an assessment levied on an Owner and his or her Condominium in accordance with Article IV, Section 3 hereof.

Section 28. "Special Individual Assessment" means an Assessment made against an owner and his or her Condominium in accordance with Article IV, Section 4 hereof.

Section 29. "Subdivision Map" means the map for the Property referenced in Recital "A" of this Declaration.

Section 30. "Unit" means the elements of a Condominium that are not owned in common with the Owners of Condominiums in the Project; such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration. "Unit" does not include other interests in real property that are less than estates in real property, such as exclusive or nonexclusive easements. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the original plan, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Declaration, in the Condominium Plan, in any deed, or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements.

## Article II

### Property Rights and Obligations of Owners

Section 1. Elements of Condominium. Ownership of each Condominium within the Project includes a Unit, an undivided interest in the Common Area, a membership in the Association, and any exclusive or nonexclusive easement or easements appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan and the deed to the Condominium.

Section 2. Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common areas within the Property, including ingress and egress to and from his or her Condominium, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following rights and restrictions:

(a) The right of the Association to assign, rent, license, lease, charge reasonable admission and other fees for, and to otherwise designate and control the use of any unassigned parking and storage spaces within the Common Area.

(b) The right of the Association to adopt Association Rules as provided in Article III, Section 7 hereof, regulating the use and enjoyment of the Property for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or Tenant, to temporarily suspend the voting rights and/or right to use the common facilities, other than roads, by any Owner and/or Owner's Tenants and guests.

(c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the common area and common facilities and in aid thereof to mortgage said property; provided, however, that the rights of any such Mortgagee in said properties shall be subordinate to the rights of the Owners hereunder; and further provided that any such indebtedness shall be considered an expense of the Association for purposes of the Special Assessment provisions of Article IV, Section 3 hereof.

(d) Each Unit shall have Exclusive Use Common Areas, as defined in the California Civil Code Section 1351(i), consisting of one or more of the following: Yard Areas and Balcony Areas. The Exclusive Use Common Areas are set aside for the exclusive use and enjoyment of the Owners and occupants of the appurtenant Unit and the non-exclusive easements granted herein shall be subordinate to and shall not interfere with these exclusive easements.

Section 3. Persons Subject to Governing Documents. All present and future Owners, tenants and occupants of a Unit within the Property shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Condominium, the entering into a lease, sublease or contract or sale with respect to any Unit, or the occupancy of any Unit shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

Section 4. Delegation of Use. Any Owner may delegate the Owner's rights to use and enjoy the Common Area and Common Facilities to members of the Owner's family or to the Owner's tenants or lessees who reside in the Owner's Unit, provided that any rental or lease may only be to for Single Family Residential Use for a term of not less than thirty (30) days.

Section 5. Obligations of Owners. Owners of Condominiums within the Property shall be subject to the following:

(a) Owner's Duty to Notify Association of Tenants. Each Owner shall notify the secretary of the Association and the Association's property manager, if any, of the names of any tenant of the Owner's Condominium. Each Owner or tenant shall also notify the secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights to use and enjoy the Property and the relationship that each person bears to the Owner or tenant.

(b) Notification Regarding Governing Documents.

(i) As more particularly provided in California Civil Code Section 1368, as soon as practicable before transfer of title with respect to any Condominium, the Owner thereof must give the prospective purchaser (A) a current copy of the Governing Documents; (B) the Association's most current financial statement; and (C) a true statement in writing from the Association ("delinquency statement") as to the amount of any delinquent Assessments, together with information relating to late charges, attorney's fees, interest, and reasonable costs of collection which, as of the date the statement is issued, are or may become a lien on the Condominium being sold.

(ii) The Association shall, within 10 days of the mailing or delivery of a request for the information described in subparagraph (b)(i), above, provide the Owner with a copy of the current Governing Documents, together with the delinquency statement referred to in the immediately preceding paragraph. The Association shall be entitled to impose a fee for providing the Governing Documents and delinquency statement equal to (but not more than) the

reasonable cost of preparing and reproducing the requested materials.

(c) Payment of Assessments and Compliance With Rules. Each Owner shall pay when due each Regular, Special and Special Individual Assessment levied against the Owner and his or her Condominium and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to any Governing Document for the purpose of protecting the interests of all Owners or protecting the Common Area and Common Facilities.

(d) Discharge of Assessment Liens. Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Condominium.

(e) Joint Ownership of Condominiums. In the event of joint ownership of any Condominium, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (e) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

(f) Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Condominium or otherwise may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Condominium pursuant to this Declaration.

(g) Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of a Condominium to a new Owner, the transferor-Owner shall not be liable for any Assessments levied with respect to such Condominium which become due after the date of recording of the deed evidencing said transfer and, upon such recording, all Association membership rights possessed by the transferor by virtue of the ownership of said Condominium shall cease.

## Article III

### Homeowners Association

Section 1. Creation of Association. The Owners of the Units shall constitute the association.

Section 2. Association Membership. Every Owner of a Condominium shall be a Member of the Association. Each Owner shall hold one membership in the Association for each Condominium owned and the membership shall be appurtenant to such Condominium. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his or her ownership in all Condominiums in the Property ceases, at which time his or her membership in the Association shall automatically cease. Persons or entities who hold an interest in a Condominium merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Condominium through foreclosure or deed in lieu thereof.

Section 3. Voting Rights of Members. The Association shall have one (1) class of voting Membership. Members shall have one (1) vote for each Unit owned.

Approval of any action by the Association which must have the approval of a majority of the voting power of the Members of the Association, other than an action to enforce the obligations of the Declarant under any completion bond, shall require the vote or written assent of a bare majority of the total voting power of the Association as well as the vote and written assent of a majority of the voting power of the Members other than the Declarant.

Any action which may be taken by the vote of Members at a regular or special meeting, except the election of governing body Members where cumulative voting is a requirements, may be taken without a meeting if done in compliance with the provisions of Section 7513 of the Corporation Code.

Any Owner may attend and vote at such meeting in person, or by agent duly appointed by an instrument in writing signed by the Owner and filed with the Board. Any such appointment may be revoked at any time by written notice of the Owner of any Unit. Where there is more than one record Owner of a Unit, any or all of such persons may attend any meeting of the Association, but it shall be necessary for those Owners present to act unanimously in order to cast the vote to which they are entitled.

Voting rights attributable to subdivision interests shall not vest until assessments against those interests have been levied by the Association.

Section 4. Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Condominiums within the Property and to enforce

payment of such Assessments in accordance with Article IV of this Declaration. Any Assessments levied by the Association on its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.

Section 5. Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Condominium to which it is appurtenant and then only to the purchaser. In the case of a sale, membership passes automatically to the purchaser upon recording of a deed evidencing transfer of title to the Condominium. In the case of an encumbrance of such Condominium, a Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. Tenants who are delegated rights of use pursuant to Article II, Section 3 hereof do not thereby become Members, although the tenant and Members of the tenant's family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer is void. In the event the Owner of any Condominium should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Condominium, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

#### Section 6. Powers and Authority of the Association.

(a) Powers Generally. The Association shall have the responsibility of managing and maintaining the Common Areas and Common Facilities and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in the ownership and management of its properties and the discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in Section 8 of the Bylaws.

(b) Association's Limited Right of Entry. The Association, and/or its agents shall have the right, when necessary, to enter any Unit to perform the Association's obligations under this Declaration, including (i) exterior maintenance or repair obligations with respect to buildings containing Units; (ii) obligations to enforce the architectural rules of Article V hereof; (iii) any obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or (iv) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property or the Owners in common. The Association's rights of entry under this

subparagraph (b) shall be immediate in case of an emergency originating in or threatening the Unit where entry is required, or any adjoining Unit or Common Area, and the Association's work may be performed under such circumstances whether or not the Owner or his or her lessee is present. In all nonemergency situations, the Association or its agents shall furnish the Owner or his or her lessee with at least 24 hours' written notice of its intent to enter the Unit, specifying the purpose and scheduled time of such entry and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing within the Unit.

(c) Association as Attorney-in-Fact for Owners. Without limiting the generality of the foregoing, the Association is hereby irrevocably appointed as the attorney-in-fact for the Owners of each and every Unit to (i) manage, control and deal with the interest of such Owners in the Common Area so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder; (ii) deal with the Property upon its destruction or obsolescence as hereinafter provided; and (iii) deal with and handle insurance and insurance proceeds, as provided in Article IX hereof, and condemnation and condemnation awards, as provided in Article XI hereof. The acceptance by any person or entity of any interest in any Unit shall constitute an appointment of the Association as the Owner's attorney-in-fact as provided above.

#### Section 7. Association Rules.

(a) Rule-Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners of Condominiums within the Property. Such rules may concern, but need not be limited to (i) matters pertaining to the maintenance, repair, management and use of the Common Area and Common Facilities by Owners, their tenants, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area and Common Facilities; (ii) architectural control and the rules of the Board of Directors under Article V hereof; (iii) the conduct of disciplinary proceedings in accordance with Article XIV hereof; (iv) regulation of parking, pet ownership and other matters subject to regulation and restriction under Article VI hereof; (v) collection and disposal of refuse; (vi) minimum standards for the maintenance of landscaping or other improvements located within any Exclusive Use Common Areas and (vii) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between any Association Rule and any provision of the Governing Documents, the conflicting provisions contained in the Governing Documents shall be deemed to prevail.

(b) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. A copy of the Association Rules shall also be available and open for inspection during normal business hours at the principal office of the Association.

(c) Adoption and Amendment of Rules. Association Rules may be adopted or amended from time to time by majority vote of the Board, provided, however, that no Association Rules or amendments thereto shall be adopted by the Board until at least 30 days after the proposed rule or rule amendment has been (i) published in the Association newsletter, if any, or otherwise communicated to the Owners in writing and (ii) posted in the Association's principal office. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to be taken.

Any duly adopted rule or amendment to the Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Any duly adopted rule or rule amendment shall be distributed to the Owners by mail.

Section 8. Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article XIV hereof.

Section 9. Limitation on Liability of Association's Directors and Officers.

(a) Claims Regarding Breach of Duty. No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Association's Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

(b) Other Claims Involving Tortious Acts and Property Damage. No Released Party shall be responsible to any Owner or to any member of his or her family or any of his or her tenants, guests, servants, employees, licensees, invitees or any other person for any loss or damage suffered by reason of theft or otherwise of any Article, vehicle or other item of personal property which may be stored by such Owner or other person within any Unit or Exclusive Use Common Area or for any injury to or death of any person or loss or damage

to the property of any person caused by fire, explosion, the elements or any other Owner or person within the Property, or by any other cause, unless the same is attributable to his or her own willful or wanton act or gross negligence. It is the intent of this subparagraph to provide volunteer directors and officers with protection from liability to the full extent permitted by California Civil Code Section 1365.7, or comparable superseding statute, and to the extent this provision is inconsistent with said Section, the Civil Code shall prevail.

## Article IV

### Assessments

#### Section 1. Assessments Generally.

(a) **Covenant to Pay Assessments.** Each Owner of one or more Condominiums, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association (i) Regular Assessments, (ii) Special Assessments, and (iii) Special Individual Assessments. Each such Assessment shall be established and collected as hereinafter provided.

(b) **Extent of Owner's Personal Obligation for Assessments.** All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorney's fees) for the collection thereof, shall be a debt and a personal obligation for the Person who was the Owner of the Condominium at the time the Assessment was levied. Each Owner who acquires title to a Condominium (whether at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Condominium so purchased which become due and payable after the date of such sale, and shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. Any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner against whom assessed.

(c) **Creation of Assessment Lien.** All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorney's fees) for the collection thereof, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which such Assessment is made. Regular assessments commence on the first of the month following the conveyance of the first unit in this project to a purchaser. Any lien for unpaid Assessments created pursuant to the provisions of this Article may be subject to foreclosure as provided in Article IV, Section 9(b) hereof.

(d) **No Avoidance of Assessment Obligations.** No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Condominium or other property owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or any facilities thereon or by abandonment or non-use of his or her Condominium or any other portion of the Property.

#### Section 2. Regular Assessments.

(a) **Preparation of Annual Budget. Establishment of Regular Assessments.** Not less than 45 nor more than 60 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common

Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Facilities) by preparing and distributing to all Association Members a budget satisfying the requirements of Section 8.02 of the Bylaws. If the Board fails to distribute the budget for any fiscal year within the time period provided for in this Section, the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with the Bylaws.

(b) Establishment of Regular Assessment by Board of Membership Approval Requirements. The total annual expenses estimated in the Association's budget (less projected income from sources other than assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year, provided that, except as provided in subparagraph (a) above, and subparagraph (c) below, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association (see Article IV, Section 7, below).

(c) Assessments to Address Emergency Situations. The requirement of a membership vote to approve Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to assessment increases necessary to address emergency situations. For purposes of this subparagraph (c), an emergency situation is any of the following:

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

(ii) An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the separate interests which the Association is obligated to maintain where a threat to personal safety is discovered.

(iii) An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the separate interests which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (a) above, provided that, prior to the imposition or collection of an assessment under this paragraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of assessment.

(d) Reserve Funds.

(i) The governing body shall not expend funds designated as reserve funds for any purpose other than:

(A) The repair, restoration, replacement or maintenance of major components for which the Association is obligated and for which the reserve fund was established, or

(B) Litigation involving the purposes set for in (A) above.

(ii) Notwithstanding the provisions of (i)(A) and (i)(B) above, the governing body:

(A) May authorize the temporary transfer of money from the reserve account to the Association's operating account to meet short term cash flow requirements or other expenses.

(B) Shall cause the transferred funds to be restored to the reserve account within three years of the date of the initial transfer; however, the governing body may, upon making a documented finding that a delay of restoration of the funds to the reserve account would be in the best interests of the development, delay the restoration until such time it reasonably determines to be necessary.

(C) Shall exercise prudent fiscal management in delaying restoration of the transferred funds to the reserve account and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits specified in (B) above. Such special assessments shall be subject to the limitations specified in Civil Code Section 1366.

(iii) The governing body shall do all of the following:

(A) At least once every three years, cause a study to be conducted of the reserve account requirements, if the current replacement value of the major components which the Association is obligated to repair, replace, restore or maintain is equal to or greater than one-half of the gross budget for any fiscal year.

(B) Annually review the reserve account study and shall consider and implement necessary adjustments to its analysis of the reserve account requirements as a result of that review.

(C) Cause the reserve account study to include at a minimum:

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

(2) Identification of the probably remaining useful life of the components identified in (1) above as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration or maintenance of each major component identified in (1) above

during and at the end of its useful life.

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

For purposes of this subsection (iii), the term "reserve account requirements" means the estimated funds which the Association's governing body has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain.

(e) Allocation of Regular Assessment. The total estimated Common Expenses, determined in accordance with subparagraph (a), above, shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Condominiums within the Property owned by the assessed Owner to the total number of Condominiums subject to Assessments so that each Condominium bears an equal share of the total Regular Assessment.

(f) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment Roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member of the Association. The Assessment roll (which may be maintained in the form of a computer printout) shall show for each Condominium the name and address of the Owner of Record, all Regular, Special and Special Individual Assessments levied against each Owner and his or her Condominium, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by Article II, Section 5(b) hereof shall be conclusive upon the Association and the Owner of such Condominium as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of such statement, in favor of all persons who rely thereon in good faith.

(g) Mailing Notice of Assessment. The Board of Directors shall mail to each Owner at the street address of the Owner's Condominium, or at such other address as the Owner may from time to time designate in writing to the Association, a statement of the amount of the Regular Assessment for the next succeeding fiscal year no less than 30 nor more than 60 days prior to the beginning of the next fiscal year.

(h) Failure to Make Estimate. If, for any reasons, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Article IV, Section 3(a)(i) for that year, shall be assessed against each Owner and his or her Condominium on account of the then current fiscal year, and installment payments (as

hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Association.

(i) **Installment Payment of Assessments.** The Regular Assessment levied against each Owner and his or her Condominium shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other date or dates as may be established from time to time by the Association's Board of Directors. Installments of Regular Assessments shall be delinquent if not paid by the 15th day of the month in which the Assessment is due. The collection of Regular Assessments in installments as hereinabove provided is for the convenience of the Association only. The total Regular Assessment is levied as of the commencement of the Association's fiscal year and in the event of a default in the payment of any installment, the Association may declare the entire balance of the Regular Assessment to be in default and pursue the remedies set forth in Article IV, Section 9, below, as to said delinquency.

### Section 3. Special Assessments.

(a) **Purposes for Which Special Assessments May Be Levied.** Subject to the membership approval requirements set forth in subparagraph (b) below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Condominiums for the following purposes:

(i) **Regular Assessment Insufficient in Amount.** If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, except as prohibited by Article IV, Section 2(a), the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the propose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder. The Board's assessment authority pursuant to this Section 3 subparagraph (a)(i) shall be subject to membership approval requirements under the circumstances described in Article IV, Section 2(a).

(ii) **Capital Improvements.** The Board may also levy Special Assessments for additional capital improvements within the Common Area (i.e., improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities). The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, and replacement repair of the Common Area or existing Common Facilities through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate insurance on the Common Area and existing Common Facilities in accordance with Article IX hereof.

(b) Special Assessments Requiring Membership Approval. No Special Assessments described in (i) Section 3(a) hereof, which in the aggregate exceed 5 percent of the budgeted gross expenses of the Association for the fiscal year in which the Special Assessment(s) is levied; or (ii) in the last sentence of Article IV, Section 2(a), shall be made without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association, provided that this membership approval requirement shall not apply to any Special Assessment levied to address "emergency situations" as defined in this Article IV, Section 2(c).

(c) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charge to each Owner and his or her Condominium in the same manner prescribe for the allocation of Regular Assessments pursuant to Article IV, Section 2(e), above. The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed by first class mail to each Owner.

Special Assessments for purposes described in this Section 3(a)(i) shall be due as a separate debt of the Owner and a lien against his or her Condominium, and shall be payable to the Association in equal monthly installments during the remainder of the then current fiscal year. Special Assessments for purposes described in this Section 3(a)(ii) shall be due as a separate debt of the Owner and a lien against his or her Condominium, and shall be payable in full to the Association not less than 30 days nor more than 60 days after the mailing of such notice.

#### Section 4. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with for in Section 3, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (i) through (ii) below, provided that no Special Individual Assessments may be imposed against an Owner pursuant to this Section 4 until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Article XIV, Section 6 hereof, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities. including any portion of the Unit which the Association is obligated to repair and maintain is caused by the willful misconduct or negligent and act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection

therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual Assessments.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses, to accomplish (A) the payment of delinquent Assessments, (B) any repair, maintenance or replacement to any portion of the Property that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion, or (C) to otherwise bring the Owner and/or his or her Condominium into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(b) Levy of Special Individual Assessments and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed, in this Section 4(a), such Special Individual Assessment shall be recorded on the Association's Assessment roll, notice thereof shall be mailed to the affected Owner and the Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within 30 days after the mailing of notice of the Assessment. A monetary penalty imposed by the Association as a disciplinary measure for failure of a member to comply with the governing instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to common areas and facilities for which the Owner was allegedly responsible or in bringing the Owner and his unit into compliance with the governing instruments is not an assessments which may become a lien against the Owner's Unit enforceable by the sale of the Unit.

Section 5. Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively (a) to promote the recreation, health, safety and welfare of individuals residing within the Property; (b) to promote the enjoyment and use of the Property by the Owners and their families, tenants, invitees, licensees, guests and employees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Area and Common Facilities. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation (with respect to which a separate line may be created hereby) of the Owner of the Condominium against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns, provided that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 6. Exemption of Certain of the Property From Assessments. The following real property subject to this Declaration shall, unless devoted to use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of the Property dedicated and accepted by a local public authority;
- (b) The Common Area and Common Facilities; and
- (c) Any Condominium owned by the Association.

Section 7. Notice and Procedure for Member Approval Pursuant to Section 2 and 3. In the event that Member approval is required in connection with any increase or imposition of Assessments pursuant to Section 2 and 3 of this Article IV, approval of the requisite percentage of the Members shall be solicited either by written ballot conducted in accordance with Corporations Code Section 7613 and Section 5 of the Bylaws or at a meeting of the Members called for that purpose, duly noticed in accordance with Section 5 of the Bylaws. The quorum required for such membership action shall be fifty-one percent (51%) of the Members.

#### Section 8. Maintenance of Assessment Funds.

(a) Bank Accounts. All sums received or collected by the Association for Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings, or moneymarket accounts in a bank or savings and loan association selected by the Board of Directors which has offices located within the State of California, County of Los Angeles. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board, and such officers or agents of the Association as the Board shall designate, shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code Section 1365.5.

To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. Any interest received on such deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b), below.

(b) Separate Accounts: Commingling of Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the amount required to accomplish the purpose for which such Assessment was levied, such surplus may, in the Board's discretion, be returned proportionately to the contributors thereof, reallocated among the Association's reserve accounts if any such account is, in the

Board's opinion, underfunded or credited proportionately on account of the Owners' future Regular Assessment obligations.

For purposes of accounting, but without requiring any physical segregation of assets, the Association shall maintain a separate accounting of all funds received by it in payment of each Assessment and of all disbursements made therefrom, provided that receipts and disbursements of Special Assessments made pursuant to this Article IV, Section 3(a)(i) shall be accounted for together with the receipts and disbursements of Regular Assessments; and separate liability accounts shall be maintained for each capital improvement for which reserve funds for replacement are allocated. Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

#### Section 9. Collection of Assessments; Enforcement of Liens.

(a) Delinquent Assessments. If any installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment or Special Individual Assessment assessed to any Owner is not paid within 15 days after the same becomes due, such payment shall be delinquent and the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law from and after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code Sections 1366(c) and 1366.1 or comparable superseding statutes.

#### (b) Effect of Nonpayment of Assessments.

(i) Creation and Imposition of a Lien for Delinquent Assessments. As more particularly provided in California Civil Code Section 1367 or comparable superseding statute, the amount of any delinquent Regular or Special, or Special Individual Assessment, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Condominium of the Owner so assessed only when the Association causes to be recorded in the Office of the County Recorder of the County, a Notice of Delinquent Assessment executed by an authorized representative of the Association, setting forth (A) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this Article IV and California Civil Code Section 1366, (B) the legal description of the Owner's Condominium against which the Assessments and other sums are levied, (C) the name of the Owner of Record of such Condominium, (D) the name and address of the Association, and (E) the name and address of the trustee authorized by the Association to enforce the lien by sale. Upon

payment in full of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.

(ii) Remedies Available to the Association to Collect Assessments. The Association may initiate legal action against the Owner personally obligated to pay the delinquent Assessment, foreclose its lien against the Owner's Condominium or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be by judicial foreclosure or by nonjudicial foreclosure by the trustee designated in the Notice of Delinquent Assessment or by a trustee substituted pursuant to California Civil Code Section 2934a. Any sale of a Condominium by a trustee acting pursuant to this Section 9 shall be conducted in accordance with California Civil Code Sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages or deeds of trust.

(iii) Nonjudicial Foreclosure. Nonjudicial foreclosure shall be commenced by the Association by recording in the Office of the County Recorder a Notice of Default, which notice shall state all amounts which have become delinquent with respect to the Owner's Condominium and the costs (including attorneys' fees), penalties and interest that have accrued thereon, the amount of any Assessment which is due and payable although not delinquent, a legal description of the property with respect to which the delinquent Assessment is owed, and the name of the Owner of Record or reputed Owner thereof. The Notice of default shall state the election of the Association to sell the Condominium or other property to which the amounts relate and shall otherwise conform with the requirements for a notice of default under California Civil Code Section 2924c, or comparable superseding statute. The Association shall have the rights conferred by California Civil Code Section 2934a to assign its rights and obligations as trustee in any nonjudicial foreclosure proceedings to the same extent as a trustee designated under a deed of trust and for purposes of said Section 2934a, the Association shall be deemed to be the sole beneficiary of the delinquent Assessment obligation. Furthermore, in lieu of an assignment of trusteeship, the Association shall be entitled to employ the services of a title insurance company or other responsible company authorized to serve as a trustee in nonjudicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any nonjudicial foreclosure hereunder.

The Association or its assignee shall mail a copy of the Notice of Default to the Owner or reputed Owner of the subject Condominium at the Owner's last address appearing on the books or records of the Association, and to any person to whom the giving of a notice of default is required by applicable provisions of California Civil Code Section 2924b. Following receipt of the Association's notice, the Owner and junior encumbrances shall have reinstatement rights identical to those provided by law for trustors or mortgagors, which rights must be exercised during the period specified by law for reinstatement of obligations secured by deeds of trust. After the lapse of

such time as may then be required by law following the recording of a Notice of Default under a deed of trust, the Association or its assignee may give Notice of Sale in the manner and for the period required in the case of deeds of trust. After the giving of the Notice of Sale, the Association, or its assignee, without demand on the Owner, may sell the Condominium at the time and place fixed in the Notice of Sale, at public auction to the highest bidder. At the Trustee's sale, the Trustee shall have the right to require every bidder to show evidence of his or her final bid in cash or a bank savings and loan certified check and to require the last and highest bidder to deposit the full amount of his or her final bid in cash or a bank savings and loan association certified check. The Association or its assignee may postpone the noticed sale by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. The Association shall deliver to the purchaser at such foreclosure sale the Association's deed conveying the Condominium so sold, but without covenant or warranty, express or implied. The recitals in such deeds shall be conclusive proof of the truthfulness thereof. Any person, including the Association, may bid on the subject property and purchase the same at such sale. After deducting from the sale proceeds all costs, fees, and expenses incurred by the Association, the net proceeds shall be applied to the payment of all sums secured by the Association's lien at the time of sale, including interest, costs and attorney's fees, and the remainder, if any, shall be disbursed to the person or persons legally entitled thereto.

(iv) Actions for Money Judgment. In the event of a default in payment of any Assessment, the Association, in its name but acting for and on behalf of all other Owners, may initiate legal action, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid Assessments, costs and attorneys' fees without foreclosure or waiver of the lien securing same.

Section 10. Transfer of Condominium by Sale or Foreclosure. Except as otherwise provided herein, the sale or transfer of any Condominium shall not affect any Assessment lien duly recorded with respect to such Condominium prior to the sale or transfer. However, the sale or transfer of any Condominium pursuant to the foreclosure of any first Mortgage or other mortgage or lien recorded prior to the Association's Assessment lien (collectively "prior encumbrance") shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer of a Condominium as the result of foreclosure, exercise of a power of sale or otherwise shall relieve the new Owner of such Condominium, whether it be the former beneficiary of the first Mortgage or other prior encumbrance of a third party from liability for any Assessments thereafter becoming due or from the lien thereof.

Where the first Mortgagee or other purchaser of a Condominium obtains title to the same as a result of foreclosure of any such first Mortgage or other prior encumbrance or exercise of a power of sale contained therein, the person acquiring title, his or her successors and assigns, shall not be solely liable for the Assessments chargeable to such Condominium

which became due prior to the acquisition of title. Instead, such unpaid Assessments shall be deemed to be Common Expenses collectible from the Owners of all of the Condominiums, including such acquirer, his or her successors and assigns. Furthermore, foreclosure shall not affect the Association's right to maintain an action for the collection of delinquent Assessments against the foreclosed party personally.

Section 11. Priorities. When a Notice of Delinquent Assessment has been recorded, such notice shall constitute a lien on the Condominium prior and superior to all other liens or encumbrances recorded subsequent thereto, except (a) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgages or deeds of trust) made in good faith and for value, provided that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or deed of trust, or other prior encumbrance.

Section 12. Unallocated Taxes. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being assessed to the Condominiums, such taxes shall be included in the Regular Assessments imposed pursuant to this Article IV, Section 2 and, if necessary, a Special Assessment may be levied against the Condominiums in an amount equal to such taxes to be paid in two installments, thirty days prior to the due date of each tax installment.

Section 13. Assignment of Rents. Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or agreement or otherwise for the use or occupation of any or all parts of any Condominium owned by the Owner, now existing or hereafter made for the purpose of collecting all Assessments due the association pursuant to this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or agreement as they become due and payable, provided that the Association at its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may, pursuant to court order or by court-appointed receiver, collect and retain such monies, whether past due and unpaid or current. The Association's rights under this Section 13 shall be subordinate to the rights of any First Mortgage.

Section 14. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article IV, the benefit of any homestead or exemption law of California in effect at the time of any Assessment or installment thereof becomes delinquent or any lien is imposed against the Owner's Condominium.

## Article V

### Architectural Improvements/Alterations

Section 1. Improvements in General. No "improvement" (as defined in Article I, Section 18) of any kind shall be commenced, erected or maintained within the properties, nor shall any exterior addition to or change or alteration be made in or to any unit or Common Facility structure containing Units or to any Exclusive Use Common Area until the plans and specifications showing the nature, color, kind, shape, height (including front, side and rear elevations), materials, and location of the same shall have been submitted to and approved in writing by the Association's Board of Directors as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation.

Section 2. Submission of Plans; Action by Board of Directors. Plans and specifications for the proposed Improvement shall be submitted to the Board of Directors by personal delivery or certified mail to the secretary of the Association or the President (or agent) of the Board of Directors. In the event the Board of Directors fails to approve or disapprove such design and location with 45 days after said plans and specifications have been submitted to it, the request shall be deemed to have been approved. Approval of the Board of Directors can contain conditions or requests for modification of particular aspects of the Owner's plan and specifications.

Section 3. Architectural Rules. The Board of Directors may, from time to time, adopt, amend and repeal rules and regulations to be known as "Architectural Rules". Said rules shall interpret and implement the provisions of this Declaration by setting forth the standards and procedures for the review and approval of proposed Improvements and guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended for use within the Property, provided that said rules shall not be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Rules and this Declaration, the Declaration shall prevail.

Section 4. Variances. The Board of Directors shall be entitled to allow reasonable variances with respect to this Article V or any restrictions specified in Article VI in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided that the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise apply under this Declaration, the Board of Directors must conduct a hearing on the proposed variance after giving at least 10 days' prior written notice to the Board and to all Owners. Owners shall have 30 days in which to submit to the Board of Directors written comments or objections with respect to the variance.

No decision shall be made with respect to the proposed variance until the 30 day comment period has expired.

(b) The Board of Directors must make a good faith determination that (i) the requested variance does not constitute a material deviation from the overall plan and scheme of development within the Property or from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) the variance relates to a requirement hereunder that it is unnecessary or burdensome under the circumstances; or (iii) the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Unit, Common Area or Owner within the Property.

Section 5. Estoppel Certificate. Within 30 days after written demand is delivered to the Board of Directors by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Board of Directors shall execute an estoppel certificate, executed by any two of its members, certifying (with respect to any Unit owned by the application Owner) that as of the date thereof, either (i) all Improvements made and other work completed by said Owner with respect to the Unit comply with this Declaration; or (ii) that such Improvements to work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the bases of such noncompliance. Any purchaser from the Owner, or anyone deriving any interest in said Unit through the Owner, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

## Article VI

### Use of Property and Restrictions

In addition to the restrictions established by law or Association Rules promulgated by the Board of Directors (consistent with this Declaration), the following restrictions are hereby imposed upon the use of Condominium Units, Common Areas and other parcels within the Property.

**Section 1. Single Family Residential Use.** The use of the Units within the Property is hereby restricted to Single Family Residential Use, as defined in Article I, Section 26 hereof. In no event shall a Residence be occupied by more individuals than permitted by applicable zoning laws or governmental regulations. An Owner is permitted to lease or rent his or her Unit, subject to the provisions of Article II, Section 4 ("Delegation or Use") of this Declaration.

**Section 2. Conveyance of Condominiums.** Each Condominium shall be conveyed as a separately designated and legally described fee simple estate subject to this Declaration.

**Section 3. Interior Improvements.** No owner shall at his or her expense or otherwise make any alterations or modifications to the exterior of the buildings, fences or railings containing the Owner's Unit without the prior written consent of the Association. Furthermore, 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 prior written consent of the Association. Under no circumstances shall any Owner undertake any activity or work with respect to the Owner's Unit that will impair the structural soundness or integrity of another Unit or impair any easement or hereditament, or do any act or allow any condition to exist in or around the Owner's Unit which will adversely affect any other Units or their occupants.

**Section 4. Common Areas.** The Common Areas, other than Exclusive Use Common Areas, shall be preserved as open space and used for recreational purposes and other purposes incidental and ancillary to the use of lots. Such use shall be limited to the private use for aesthetic and recreational purposes by the Association's Members, their tenants, families and guests, subject to the provisions of the Governing Documents. No Improvement, excavation or work which in any way alters any Common Area or Common Facility from its natural or existing state on the date such Common Area or Common Facility shall be made or done except by the Association and then only in strict compliance with the provisions of this Declaration. Each Owner shall be liable to the remaining Owners for any damage to the Common Area and Common Facilities that may be sustained by reason of the negligence of that Owner, that Owner's family members, tenants, tenants' guests, guests, or invitees, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association.

Each Owner, by acceptance of his or her deed, agrees personally and for family members, tenants, guests, and invitees, to indemnify each and every other Owner, and to hold such Owner(s) harmless from, and to defend him against, any claim of any person for personal injury or property damages occurring with the Unit of that particular Owner, including the Exclusive Use Common Area, if any, except to the extent (i) that such injury or damage is covered by liability insurance in favor of the Association or other Owner or (ii) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other person temporarily visit his or her Unit.

**Section 5. Prohibition of Noxious Activities.** No illegal, noxious or offensive activities shall be carried out or conducted within any Unit or Common Area nor shall anything be done within the Property which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including but not limited to barking dogs, the operating of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from an Owner's Unit or from activities within the Common Area, which would unreasonably disturb any other Owner or tenant's enjoyment of his or her Unit or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Unit or the Common Area.

**Section 6. Household Pets.** The following restrictions regarding the care and maintenance of pets within the Property shall be observed by each Owner and resident:

(a) No more than two common household pets may be kept within an Owner's Unit provided they do not unreasonably disturb any other Owner's or tenant's enjoyment of his or her unit, and so long as the same are not kept, bred or maintained for commercial purposes. No other animals, livestock, or poultry of any kind shall be kept, bred or raised within any Unit.

(b) Dogs shall be allowed on the Common Area only when they are leashed and are otherwise under the supervision and restraint of their owners. Animal excrement must be removed immediately by pet owner.

(c) No household pet shall be left chained or otherwise tethered in front of a Condominium Unit or in the Common Area. Pet owners shall be responsible for the prompt disposal of pet wastes deposited by their pets in the Common area or balconies in fenced yard areas adjacent to the Owner's Unit.

(d) Each person bringing, keeping, or allowing a pet on the Property shall be solely responsible for the conduct of the Owner's pets. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants, or guests/invitees of tenants for any damage or injury to persons or property caused by any pet.

(e) The Board of Directors shall have the right to establish and enforce additional rules and regulations imposing standards for the reasonable control and keeping of household pets in, upon and around the Property to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Property by the other Owners and residents.

Section 7. Signs. No advertising signs or billboards shall be displayed on any building containing Units or posted within or upon any portion of the Common Area except that Owners may post in the windows of their Units any signs required by legal proceedings and a single "For Rent", "For Lease" or "For Sale" sign of reasonable dimensions. A-frame or other directional signs of real estate brokers advertising Units for sale or lease shall only be allowed within the Common Area or roadways with the Property in strict compliance with applicable Association Rules.

Section 8. Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Unit or garage without the prior written approval of the Board, provided that the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents. Furthermore, no restrictions contained in this Section 8 shall be construed in such a manner so as to prohibit any Owner from (a) maintaining his or her personal library in his or her Unit, (b) keeping his or her personal business records or accounts therein, (c) handling his or her personal or professional telephone calls or correspondence therefrom, (d) leasing or renting his or her Unit, or (e) conducting any other activities within the Owner's Unit otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization. The uses described in (a) through (e), above, are expressly declared to be customarily incidental to the principal residential use of the Unit and not in violation of this Section 8.

Section 9. Garbage. No rubbish, trash, or garbage shall be allowed to accumulate outside of any Unit. Any trash that is accumulated by an Owner outside the interior walls of a Unit shall be stored entirely within appropriate covered disposal containers and facilities located within designated garbage areas within the Common Areas. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and improvements) shall be removed from the Property to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in a manner inconsistent with this Section.

Section 10. Storage. Storage of personal property within any Unit shall be entirely within enclosed storage areas. There shall be no woodpiles nor storage piles accumulated on top, or outside, of any enclosed storage area.

Section 11. Clotheslines. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on the balcony of any Unit in a manner which is visible from any neighboring Unit or the Common Area.

Section 12. Antennas and Similar Devices. No television antenna, satellite dish, radio, or other electronic antenna device of any type, or other electronic broadcasting and receiving device shall hereafter be erected, constructed, placed or permitted to remain on the exterior of any building within the Property unless there is compliance with each of the following:

(a) The antenna, satellite dish, or other electronic broadcasting or receiving device, has a diameter of thirty-six (36) inches or less; and

(b) The Owner, resident or lessee has made written application for and has obtained the approval of the Board of Directors for the installation of such device.

The application for approval shall be processed by the Board of Directors in the same manner as an application for approval of an architectural modification to the property (see Article V). As a condition for approval, Owner must agree to be responsible for the maintenance, repair or replacement of roofs or other building components impacted by the installation, and the installers of the antenna, satellite dish, or other device must agree to indemnify or reimburse the Association or its Members for loss or damage caused by the installation, maintenance, or use of such device.

No activity shall be conducted within any Unit which causes an unreasonable broadcast interference with television or radio reception on any neighboring Unit. The location of common antennas or connection facilities for any cable television system serving more than one Unit shall be as designated by the Association and each Unit and its Owner shall be subject to the right of other Owners or the Association to install, use, and maintain such common antennas or cable television facilities.

Section 13. Burning. There shall be no exterior fires whatsoever except barbecue fires located only on the exclusive use common area of the Owner's Unit and contained within receptacle designed for such purpose.

Section 14. Basketball Standards. No basketball standards (fixed or portable) or fixed sports apparatus shall be permitted within the Property without the express approval of the Association.

Section 15. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Unit except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private Unit or appurtenant structures within the Property.

Section 16. Disease and Pests. No Owner shall permit any thing or condition to exist in his or her Unit, which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

Section 17. Parking and Vehicle Restrictions. The following parking and vehicle restrictions shall apply within the Property:

(a) Unless otherwise permitted by the Association, no vehicle or trailer shall be parked or left within the Property other than within a garage or in designated guest parking areas.

(b) Except as otherwise provided in subparagraph (f), below, only the following vehicles ("authorized vehicles") shall be permitted to be parked by an Owner or resident within the Property: standard passenger vehicles, including bronco or blazer type trucks, and trucks which do not exceed three-quarter tons in gross weight. Boats, trailers, campers, recreational vehicles, commercial vehicles and trucks in excess of three-quarter tons in gross weight are not "authorized vehicles" and shall only be permitted within the Property as provided in subparagraph (f), below.

(c) All driveways and garages shall be maintained in a neat and orderly condition and garage doors shall be maintained in closed condition except as necessary to permit ingress and egress of authorized vehicles or to clean or work in the garage. The garages are to be used for the parking of standard authorized vehicles, boats or similar items for storage purposes and shall not be converted to living quarters or work shops or used for the storage of boats, trailers, campers or recreation vehicles in a way which will preclude the parking of the Owner's or occupant's authorized vehicles within the garage.

(d) Designated guest parking areas within the Common Areas are to remain open for use by guests only and are not to be used by Owners or other residents, either permanently or temporarily, for the parking of their authorized vehicles or the storage of boats, trailers or similar items of personal property, unless authorized by the Association.

(e) No motor vehicle shall be constructed, reconstructed or repaired within the Property and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored on the Property; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs.

(f) Campers, boats, trailers, motorcycles, commercial vehicles and trucks in excess of three-quarter tons are not to be parked within the Property, other than within enclosed garages except for periods not to exceed two hours for the purpose of loading and unloading.

Personal property other than authorized vehicles shall not be stored in garages if such storage will necessitate or result in the parking of vehicles on streets within the Property. Parking by commercial vehicles for the purpose of making deliveries or service calls shall be permitted in accordance with the Association Rules.

(g) The Board shall have the authority to tow or restrain by use of devices such as the "Denver Boot", at the Owner's expense, any vehicle parked or stored in violation of this

Section. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.

(h) The Board shall have the authority to promulgate further reasonable rules and restrictions of uniform application regarding parking and vehicles within the properties as may be deemed prudent and appropriate.

Section 18. Use of Private Streets and/or Drives in Common Area. Private streets and/or drives within the properties shall not be used for recreational purposes, including "joyriding" or racing. Motorcycles, mopeds, and cars shall be allowed on such private streets only for ingress and egress.

Section 19. Children. Each Owner and resident shall be accountable to the remaining Owners and residents, their families, visitors, guests and invitees, for the conduct and behavior of their children and any children temporarily residing in or visiting the Owner and for any property damage caused by such children.

Section 20. Activities Affecting Insurance. Nothing shall be done or kept within any Unit or within the Common Area which will increase the rate of insurance relating thereto on any policy maintained by the Association (see Article IX, below) without the prior written consent of the Association and no Owner shall permit anything to be done or kept within his or her Unit or within the Common Area which would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Unit or any part of the Common Area.

Section 21. Variances. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article VI, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Committee shall follow the procedures set forth in Article V, Section 5 for the granting of architectural variances.

Section 22. Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action under Article V, Section 6, hereof, the Owner or Tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or tenant of his or her appeal rights.

## Article VII

### Maintenance Responsibilities

Section 1. Common Area. The Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Area. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area without express approval of the Association.

Section 2. Association Maintenance Responsibility With Respect to Unit Improvements. The Association shall provide exterior maintenance upon each Unit which is subject to Assessment hereunder, as follows:

(a) Paint, stain, repair, replace and care for the exterior building surfaces of all Units including roofs, gutters, fences, downspouts and exterior walls, provided that the Association shall not be responsible for the repair and replacement of exterior doors, screen doors, and garage doors;

(b) Replace and care for trees, shrubs, grass, walks, and other landscaping Improvements up to the exterior walls of the Owner's Unit, except for plantings and Improvements located on the balconies.

(c) Maintain the underground sewer, water and electrical lines, whether located within the boundaries of the Owner's Unit or under the Common Area, but the Association shall not be responsible for the risers and connecting lines between such service lines and the individual Units.

The standards of landscaping, the selection and replacement of plant materials and the standards for exterior structural maintenance by the Association hereunder shall be determined by the Board of Directors.

### Section 3. Owner Maintenance Responsibilities.

(a) Each Owner of a Condominium shall be responsible for maintaining his or her Unit, including the equipment and fixtures in the Unit and the interior walls, ceilings, windows and doors of the owned Unit in a clean, sanitary, workable, and attractive condition. However, each Owner has complete discretion as to the choice of furniture, furnishings, and interior decorating, except that windows can be covered only by drapes, shutters, or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each Owner also shall be responsible for repair, replacement, and cleaning of the windows and glass of his or her Unit, both exterior and interior.

(b) Except as otherwise provided herein, each owner shall be responsible for cleaning, maintaining and repairing the Exclusive Use Common Areas appurtenant to his or her Unit.

#### Section 4. Recovery of Costs of Certain Repairs and Maintenance.

(a) In the event that the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants, or invitees, and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Article IV, Section 4 hereof.

(b) In the event that an Owner fails to perform maintenance functions for which he or she is responsible, the Association may give written notice to the offending Owner with a request to correct the failure within 15 days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association may exercise its rights under Article III, Section 6(b) to enter the Owner's Unit and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance with Article XIV, Section 6, hereof.

Section 5. Cooperative Maintenance Obligation. To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the prosecution of its work.

## Article VIII

### Easements

Section 1. Encroachment Easements. If any portion of the Common Area encroaches on any Unit or if any portion of a Unit encroaches on the Common Area 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 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 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 are made subject to such easements.

Section 2. Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on the Property except as initially designed and approved by the Declarant or thereafter approved by the Association's Board of Directors. The easements provided for in this Section 2 shall in no way effect any other recorded easement on the Property.

Section 3. Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and any Unit, Common Area, or Common Facilities, provided that any entry by the Association or its agents into any Unit shall only be undertaken in strict compliance with Article III, Section 6(b).

Section 4. Other Easements. Each Unit, its Owner, and the Association as to the Common Area, are hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Property and each Unit and Common Area as shown on the Subdivision Map.

Section 5. Priority of Easements. Wherever easements granted to the County are, in whole or in part, coterminous with any other easements, the easements of the County shall have and are hereby granted priority over said other easements in all respects.

## Article IX

### Insurance

Section 1. Types of Insurance Coverage. The Association shall purchase, obtain and maintain, with the premiums therefor being paid out of Common Funds, the following types of insurance, if and to the extent such insurance, with the coverages described below, is available at a reasonable premium cost.

(a) Fire and Casualty Insurance. The Association shall obtain and maintain a master or blanket policy of fire and casualty insurance, for the full insurable value of all the buildings containing Units within the Property and on any Common Facilities. The insurance shall be kept in full force and effect at all times and the full replacement value of the insured property shall be redetermined on an annual basis. Depending on the nature of the insured property and the requirements, if any, imposed by institutional Mortgagees having an interest in such property, the policies maintained by the Association pursuant to this Section shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or the equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage, a special form endorsement and a clause to permit cash settlements for full insurable value in case of partial destruction. The policies required hereunder shall provide amounts or coverage as shall be determined by the Board and shall name as insured the Association, all Owners and all Mortgagees as their respective interests may appear. The policies may contain a loss payable endorsement in favor of the trustee described in Section 5 below.

(b) Public Liability and Property Damage Insurance. To the extent such insurance is reasonably obtainable, the Association shall obtain and maintain a policy of comprehensive public liability and property damage insurance naming as parties insured the Association, each member of the Association Board of Directors, the Owners and occupants of Units, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Area and any other Association-owned or maintained real or personal property and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. Pursuant to Civil Code Section 1365.9, the limits of such insurance shall not be less than \$2 million covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location and use.

(c) Directors and Officers Liability Insurance. Pursuant to Civil Code Section 1365.7, the Association must carry an insurance policy of not less than \$500,000 for individual liability of officers and directors of the Association for negligent acts or omissions in that capacity.

(d) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this Section, earthquake insurance, demolition insurance, flood insurance, and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than 100 percent of each year's estimated annual operating expenses and reserves and shall contain an endorsement of any person who may serve without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance that it deems necessary or desirable or that is required by any institutional First Mortgagee.

(e) Fidelity Bond. A fidelity bond that insures the Association for the estimated maximum amount (or at least three months aggregate assessments on all Units and reserve funds) that could be affected by the dishonest act of any Member of the Association or Board, managing agent, employee, or Occupant, who handles funds for the Owners' benefit is mandatory, regardless of the number of Units, for a Property with loans by the Department of Veterans Affairs and/or FHA.

(f) The Association shall, upon issuance or renewal of insurance, but no less than annually, notify the Owners as to the amount and type of insurance carried by the Association, and it shall accompany this notification with statements to the effect that the Association is or is not insured to the levels specified by this Section, and that if not so insured, Owners may be individually liable for the entire amount of a judgment, and if the Association is insured to the levels specified in this Section, then Owners may be individually liable only for their proportional share of assessments levied to pay the amount of any judgment which exceeds the limits of the Association's insurance.

Section 2. Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 1 is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.

Section 3. Notification. Upon issuance or renewal of insurance, but in any event not less than annually, Associations are required to notify all members of:

- (a) The amount and types of insurance carried by the Association, and
- (b) Whether or not the Association is insured to the minimum levels required for liability insurance by Civil Code Section 1365.9, and
  - (1) that if not so insured, members may be individually liable for the entire amount of a judgment resulting from injury or property damage in the Common Area, or
  - (2) that if so insured then members may be individually liable only for their

proportionate share of assessments levied to pay the amount of any judgment which exceeds the limits of the Association's insurance coverage.

Each owner is strongly advised to seek the advice of a qualified insurance consultant regarding (1) the amount of personal liability insurance coverage that owner should maintain because of the owner's ownership interest in the Common Area and Unit, and (2) the availability of loss assessment insurance coverage.

Section 4. Individual Fire and Casualty Insurance Limited. Except as provided in this Section, no Owner can separately insure his or her Unit or any part of it against loss by fire or other casualty covered by the Association's blanket insurance carried under this Article IX, Section 1(a). If any Owner violates this provisions, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 1(a) that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner will be liable to the Association to the extent of any diminution. An Owner can insure his or her personal property against loss. In addition, any Improvements made by an Owner within his or her Condominium may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, and any institutional first Mortgagee of such Condominium.

Section 5. Trustee. All insurance proceeds payable under this Article IX, Section 1 may, in the discretion of the Board of Directors, 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. Said trustee shall be a commercial bank or other institution with trust powers within the County that agrees in writing to accept such trust. If repair or reconstruction is authorized pursuant to Article XI, below, the Association and any duly appointed trustee shall have the duty to contract for such work as provided in said Article.

Section 6. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to this Article. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 7. Distribution to Mortgagees. Subject to the provisions of this Article, any Mortgagee has the option to apply insurance proceeds payable on account of a Condominium in reduction of the obligation secured by the Mortgage of such Mortgagee.

Section 8. Owner's Liability Insurance. An Owner may carry whatever personal liability and property damage liability insurance with respect to his or her Condominium that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable by the Board and to any institutional First Mortgagee.

## Article X

### Damage or Destruction

Section 1. Destruction; Proceeds Exceed 85 Percent of the Reconstruction Costs. If there is a total or partial destruction of any Unit or Common Facility Improvements within the Property, and if the available proceeds of the insurance maintained pursuant to Article IX are sufficient to cover not less than 85 percent of the costs of repair and reconstruction, a vote shall be taken within 90 days from the date of destruction, and improvements shall be rebuilt only if there is a vote or written assent of members, constituting a quorum, consisting of a majority of votes at a meeting or an election in favor of a special assessment. If repair and reconstruction is to take place, the Board shall be required to execute, acknowledge and record in the office of the County Recorder, not later than 120 days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

Section 2. Destruction; Proceeds Less than 85 Percent of the Reconstruction Costs. If the proceeds of insurance are less than 85 percent of the cost of repair and reconstruction, repair and reconstruction may nevertheless take place, if, within 90 days from the date of destruction, eligible members then holding at least 51 percent of the total voting power determine that such repair and reconstruction shall take place. If a meeting or written ballot is called to vote on the matter, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the Improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If the repair and reconstruction are to take place, the Association shall execute, acknowledge and record in the office of the County Recorder not later than 120 days from the date of destruction a certificate declaring the intention of the Owners to rebuild.

Section 3. Rebuilding Procedures. If the eligible members determine to rebuild, pursuant to Sections 1 or 2, above, the Owners of each Unit located within a structure that has been totally or partially destroyed shall be obligated to contribute his or her proportionate share of the cost of reconstruction or restoration of the structure containing his or her Unit over and above the available insurance proceeds. The Owner's proportionate share of the cost of reconstruction or restoration shall be based upon the ratio that the square footage of the living area of his or her Unit bears to the total square footage of the living area of all Units. If any Owner fails or refuses to pay his or her proportionate share, the Board may levy a Special Assessment against the Unit of such Owner which may be enforced under the lien provisions contained in Article IV or in any other manner provided in this Declaration.

If any Owner disputes the amount of his or her proportionate liability under this Section 3, such Owner may contest the amount of his or her liability by submitting to the Board, within 10 days after notice to the Owner of his or her share of the liability, written objections supported by cost estimates or other information that the Owner deems to be material and may request a hearing before the Board at which the Owner may be represented by counsel. Following such hearing, the Board shall give written notice of its decision to all

Owners, including any recommendation that adjustments be made with respect to the liability of any Owners. If such adjustments are recommended, the notice shall set forth a date and time for a special meeting of Members for the purpose of acting on the Board's recommendation, including the making further adjustments, if deemed by the Members to be necessary or appropriate. All adjustments shall be affirmed or modified by 51 percent of the total voting power of the eligible Members. If no adjustments are recommended by the Board, the decision of the Board shall be final and binding on all Owners, including any Owner filing objections.

Section 4. Definition of "Eligible Members" Entitled to Vote. For purposes of any vote pursuant to this Article X, the Members eligible to vote shall be (a) fifty-one percent (51%) of the total voting power of the Association's membership in the case of any damage to or destruction of Common Facilities other than buildings containing Units, and (b) in the case of any damage to or destruction of buildings containing Units, fifty-one percent (51%) of the voting power of those members whose Units are located in the damaged or destroyed structure(s). Any membership vote required hereunder shall be conducted either at a duly convened meeting at which a quorum is present or by written ballot conducted in accordance with Article 5 of the Bylaws.

Section 5. Rebuilding Contract. If the Eligible Members determine to rebuild, the Board shall reconstruct the damaged or destroyed portions of the Property substantially in accordance with the original plan. The Board or its authorized representative shall obtain bids from at least three reputable contractors and shall award the repair and reconstruction work to the lowest bidder that otherwise meets the requirements set forth by the Board or its representative in soliciting bids. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction on terms deemed reasonable by the Board. The insurance proceeds held by the trustee shall be disbursed to the contractor according to the terms and conditions of the agreement. It shall be the obligation of the Board to take all steps which are necessary or appropriate to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

Section 6. Rebuilding Not Authorized. If the Eligible Members determine not to rebuild, then any insurance proceeds then available for rebuilding shall be used or distributed as follows:

(a) If, prior to the expiration of 120 days from the date of destruction, 75 percent of all Owners and institutional first Mortgagees with Mortgages encumbering the affected Units within the Property consent by vote or in writing, the Board acting on behalf of the Association shall have the right to purchase the Units which were rendered uninhabitable by such damage or destruction, at the fair market value thereof immediately prior to the damage or destruction (as determined by an appraiser in accordance with Section 8, below), using the available proceeds of insurance for such purpose. Any shortage of insurance proceeds shall be made up by a Special Assessment levied against all remaining Owners. Any payment of the purchase price shall be made jointly to the selling Owner and all Mortgagees of his or

her Unit and each Owner by accepting a deed to a Condominium agrees to be bound by these provisions and to sell his or her Condominium by grant deed to the Association as provided herein.

(b) Notwithstanding the determination of Eligible Members not to rebuild pursuant to Section 1 or 2 of this Article, any Units which are not rendered uninhabitable shall be repaired and restored to a condition as near as possible to their condition immediately before such damage or destruction. Such repair and restoration shall be paid first from the insurance proceeds remaining after purchase of Condominiums pursuant to subparagraph (a), of this Section 6, if any, and second from a Special Assessment levied against all remaining Owners in the manner described in Section 4 of this Article.

(c) If the required 75 percent of all Owners and institutional first Mortgagees do not consent to purchase the Condominiums which were rendered uninhabitable, an appraiser shall determine the relative fair market values of all Condominiums in the Property, as of the date prior to any damage or destruction and the proceeds of insurance shall be apportioned among all Owners, and their respective Mortgagees, in proportion to such relative values or in the case of damage to, or destruction of, the Common Area or any Common Facility, to the Owners equally. The Board shall have the duty, within 120 days from the date of destruction, to execute, acknowledge and record in the office of the County Recorder, a certificate declaring the intention of the Members not to rebuild. On recordation of the certificate, the right of any Owner to partition through legal action as described in Article XII shall revive immediately.

Section 7. Minor Repair and Reconstruction. In any case, the Board shall have the duty to repair and reconstruct improvements owned by the Association or improvements it is obligated to repair and maintain, without the consent of Members and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed five percent (5%) of the budgeted gross expenses of the association for that fiscal year. Any amounts paid by the Board up to and including the above-referenced amount which are not covered by insurance shall be assessed to the Owners of Condominiums which are damaged upon the basis of the ratio of the square footage of the floor area of the Condominium to be assessed to the total square footage of the floor area of all Condominiums to be assessed. In the case of damage to Common Facilities which does not exceed the above-referenced amount, the Owners of all Condominiums shall be assessed for an equal portion of any uninsured expense.

Section 8. Appraiser. Wherever in this Article, or Article XI (Condemnation) reference is made to a determination of the value or fair market value of one or more Condominiums by an appraiser, this shall mean an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers (SREA) or other nationally recognized appraiser organization and who shall apply its or such other organization's standards in determining the value or fair market value of each Condominium. The costs of such appraisals shall be paid from the sale or insurance proceeds, as the case may be.

## Article XI

### Condemnation

Section 1. Sale by Unanimous Consent or Taking. If an action for condemnation of all or a portion of the Property is proposed or threatened by any governmental agency having a right of eminent domain, then, on unanimous written consent of all Owners and all institutional Mortgagees, the Property or a portion thereof may be sold and conveyed to the condemning authority by the Board or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Condominium hereby grants and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Property, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.

#### Section 2. Distribution and Sales Proceeds of Condemnation Award.

(a) Total Sale or Taking. A total sale or taking of the Property means a sale or taking that (i) renders more than 50 percent of the Condominiums uninhabitable or (ii) renders the Property as a whole uneconomical as determined by the vote or written consent of 66-2/3 percent of those Owners and their respective institutional Mortgagees whose Condominiums will remain habitable after the taking. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Property, after payment of all expenses relating to the sale or taking, shall be paid to all Owners and to their respective Mortgagees in the proportion that the fair market value of each Condominium bears to the fair market value of all Condominiums on the Property.

(b) Partial Sale or Taking. In the event of a partial sale or taking of the Property, meaning a sale or taking that is not a total taking, as determined in Section 2(a), above, the proceeds from the sale or taking shall be paid or applied in the following order of priority and any judgments of condemnation shall include the following provisions as part of its terms:

(i) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the court to be paid from the amount awarded; then

(ii) To Owners and to their respective Mortgagees, as their interests may appear, of Condominiums of the Property whose Condominiums have been sold or taken, an amount up to the fair market value of such Condominiums as determined by the court in the condemnation proceeding or by an appraiser, less such Owner's share of expenses paid pursuant to Section 2(b)(i) (which share shall be in proportion to the

ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Condominiums. After such payment, the recipient shall no longer be deemed an Owner.

(iii) To any remaining Owner(s) and to his or her Mortgagees, as their interests may appear, whose Condominium has been diminished in value as a result of the sale or taking disproportionate to any diminution in value of all Condominiums, as determined by the court in the condemnation proceedings or by an appraiser, an amount up to the total diminution in value; then

(iv) To all remaining Owners and to their respective Mortgagees, as their interests may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Condominium bears to the fair market value of all remaining Owners' Condominiums as of the date immediately prior to commencement of condemnation proceedings, as determined by the court in the condemnation proceeding or by an appraiser.

## Article XII

### Partition of Common Area

Section 1. Suspension or Right of Partition. Except as expressly provided in this Article, an Owner shall have no right to partition or divide his or her ownership of the Common Area. Partition of the Common Area can be had on a showing that the conditions to such partition as stated Article X (relating to damage or destruction) or in Article XI (relating to condemnation) or in California Civil Code Section 1359 have been met. Nothing in this Declaration shall prevent partition of a cotenancy in a Condominium.

Section 2. Distribution of Proceeds Upon Partition. Proceeds of property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owner's Condominiums determined by appraisal as provided in Article XI, but as of a date immediately prior to the event giving rise to the right of Owners to partition the Common Area.

Section 3. Power of Attorney. Pursuant to California Civil Code Section 1355(b)(9) each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Project, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Project may be had under Civil Code Section 1359 and under the circumstances authorizing partition under this Declaration. The power of attorney shall (a) be binding on all Owners, whether they assume the obligations under this Declaration or not; (b) be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of 75 percent of the Owners and 75 percent of all institutional first Mortgagees; and (c) be exercisable only after recordation with the County Recorder of a certificate executed by those who have power to exercise the power of attorney that the power of attorney is properly exercisable under Civil Code Section 1359. This certificate shall be conclusive evidence of proper exercise in favor of any person relying on it in good faith.

## Article XIII

### Nonseverability of Component Interests

Section 1. Severance Prohibited. An Owner shall not be entitled to sever his or her Unit in any Condominium from his or her membership in the Association, and shall not be entitled to sever his or her Unit or his or her membership from the Owner's 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 or her Unit over the Common Area from the Owner's condominium, and any attempt to do so shall be void. The suspension of such right of severability will not extend beyond the period set forth in Article XII respecting the suspension of partition.

Section 2. Limitation on Interests Conveyed. After the initial sales of the Condominiums, unless otherwise expressly stated, any conveyance of a Unit or any portion of it by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this Section 2 shall preclude the Owner of any Condominium from creating an estate for life or an estate for years or from creating a cotenancy or joint tenancy in the ownership of the Condominium with any other person or persons.

## Article XIV

### Breach and Default

Section 1. Remedy at Law Inadequate. Except for the non-payment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in the Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Condominium, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

Section 2. Nuisance. Without limiting the generality of the foregoing Section 1, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 3. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner or other party hereto under this Declaration, the court may award to any party in any such action attorneys' fees and other costs as the court deems just and reasonable.

Section 4. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 5. Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 6. Rights and Remedies of the Association.

(a) Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey such

Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreational Common Facilities or suspension of the Owner's voting rights as a Member of the Association; provided that the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this Section 6. The initiation of legal action shall be subject to Section 7, below. The decision of whether it is appropriate or necessary for the Association to initiate enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the association declines to take action in any instance, any Owner shall have such rights of enforcement as may exist by virtue of the California Civil Codes Section 1354 or otherwise by law.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Once imposed, a fine or penalty may be collected as a Special Assessment.

(c) Definition of "Violation." A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Area at the cost of the responsible Owner.

(d) Limitations of Disciplinary Rights.

(i) Loss of Rights; Forfeitures. The Association shall have no power to cause a forfeiture or abridgment of an Owner's rights to the full use and enjoyment of his or her Condominium due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Association's actions satisfy the due process requirements of subparagraph below.

(ii) Monetary Penalties. Monetary penalties imposed by the Association (A) for failure of a Member to comply with the Governing Documents, (B) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area or Common Facilities allegedly caused by a Member, or (C) in bringing the Member and his or her Condominium into compliance with the Governing Documents, may not be characterized nor treated as an Assessment which may become a lien against the Member's Condominium in nonjudicial foreclosure, provided that this limitation shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in the Association's efforts to collect delinquent Assessments.

(e) Hearings. No penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least 15 days prior notice of the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes (i) an immediate and unreasonable infringement or, or threat to, the safety or quiet enjoyment of neighboring Owners; (ii) a traffic or fire hazard; (iii) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (iv) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identify of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors or its duly authorized agents may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within five days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing, a written request therefor shall be delivered to the Association no later than five days following the date when the fine is levied. The hearing shall be held no more than 15 days following the date of the disciplinary action or 15 days following receipt of the accused Owner's request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing.

(f) Notices. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice, provided that if notice is given by mail it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.

(g) Rules Regarding Disciplinary Proceedings. The Board shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

#### Section 7. Court Actions; Arbitration; Mediation.

(a) Court actions to enforce the Governing Documents may only be initiated on behalf of the Association upon approval of the Board.

(b) Before instituting any judicial action, arbitration, or other proceeding arising out of any Owner's failure or alleged failure to comply with any provision of Article II, Section 4 (Delegation of Use), Article V (Architectural Improvements), or Article VI (Use of Property and Restrictions), the Association or Owner who desires to initiate such action ("Complaining Party") must make a good faith attempt to mediate the dispute pursuant to this paragraph. The Complaining Party shall send the other party (the "Responding Party") written notice of the nature of the dispute, the facts giving rise to its claim and its desire to mediate (the "Mediation Notice"). Should either party commence a judicial action, arbitration, or other proceeding without sending a Mediation Notice, the Responding Party shall be entitled to stay the action and request a Mediation Notice from the Complaining Party. The Mediation Notice shall name a mediator. The Complaining Party shall be obligated to pay any fee to initiate mediation, but the cost of mediation, including any attorney's fees shall ultimately be borne as determined by the parties if the mediation results in a settlement of the dispute. If the Responding Party does not agree with the Complaining Party's choice of a mediator, the parties shall ask that the American Arbitration Association pick a mediator from its panel within ten (10) days from the Responding Party's receipt of the Mediation Notice. Within thirty (30) days after the mediator is chosen, the parties shall schedule and attend a mediation and attempt in good faith to resolve their dispute. If the mediation does not resolve the dispute or if the Responding Party refuses to attend, the dispute shall be submitted to, and conclusively determined by, binding arbitration in accordance with the rules of the American Arbitration Association, provided, however, that nothing contained herein shall prevent any party from seeking injunctive or other provisional relief in order to preserve the status quo of the parties pending resolution of the dispute, and the filing of an action seeking injunctive or other provisional relief shall not be construed as a waiver of that party's arbitration rights.

## Article XV

### Protection of Mortgagees

Section 1. Mortgage Permitted. Any Owner may encumber his Condominium with a Mortgage.

Section 2. Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first Mortgage that encumbers all or a portion of the Project, 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 its interest, in writing, to such lien. 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 the Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the Mortgage. On foreclosure of the Mortgage, the lien for assessments or the installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Condominium free of the lien for assessments or installments that have accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure-purchaser shall be obligated to pay only assessments or other charges levied or assessed by the Association that became due or payable on or 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 clause. If the Mortgagee obtains title with a deed in lieu of foreclosure, any Assessment lien will not be extinguished.

Section 3. Control of Amendment or Revocation of Project Documents. In addition to the requirements of Article XVIII, and unless a greater percentage is expressly required by this Declaration, the Articles, or the Bylaws, the prior written consent (or deemed consent as provided below in this clause) of first Mortgagees of Condominiums that have at least fifty-one percent (51%) of the votes of all Condominiums encumbered by first Mortgages shall be required to add or amend any material provisions of the Declaration, the Articles, the Bylaws, the Condominium Plan or the Subdivision Map, which establish, provide for, govern, or regulate any of the following:

- (i) Voting;
- (ii) Assessment, collection of assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of Common Area or improvements located on it;

- (iv) Casualty and liability insurance or fidelity bonds;
- (v) Rights to use the Common Area;
- (vi) Responsibility for maintenance and repair of Condominiums and Common Area and their improvements;
- (vii) Expansion or contraction of the Project or the addition, annexation, or withdrawal of real property to or from the Project;
- (viii) Boundaries of any Condominium;
- (ix) The interests or rights of the Association or Owners in and to the Common Area;
- (x) The convertibility of Condominiums into Common Area or of Common Area into Condominiums;
- (xi) The leasing of Condominiums;
- (xii) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Condominium; or
- (xiii) Any provisions that are for the express benefit of first Mortgagees or insurers or governmental guarantors of first mortgages.

For purposes of this provision, an addition or amendment shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any first Mortgagee who receives a written request to consent to additions or amendments requiring consent under this provision who does not deliver or post to the requesting party a negative response within thirty (30) days after such receipt shall be deemed to have consented to such request.

Section 4. Restriction on Certain Changes. In addition to the requirements of Article XVIII, unless sixty-seven percent (67%) of first Mortgagees of Condominiums have given their prior written approval, neither the Association nor the Owners shall be entitled:

- (i) By act or omission to seek to abandon or terminate the condominium project, except for abandonment provided by statute in case of substantial loss to the units and Common Area;
- (ii) To change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner, or to change the prorata interest or obligations of any condominium for purposes of levying assessments or charges or

allocating distributions of hazard insurance proceeds or condemnation awards or for determining the prorata share of ownership of each Owner in the Common Area;

(iii) To partition or subdivide any Unit;

(iv) By act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association or the Owners shall not be deemed to be a transfer within the meaning of this clause;

(v) To use hazard insurance proceeds for losses to units or Common Area improvements in the development or to any other Association property, for other than the repair, replacement, or reconstruction of such improvements or property except as provided by statute in case of substantial loss to the Units or Common Area of the Project.

Section 5. Mortgagee's Right to Examine Books and Records. Institutional first Mortgagees shall have the right to examine the books and records of the Association and the right to require the submission of financial data concerning the Association, including annual audit reports, budgets, and operating statements as furnished to the Owners.

Section 6. Priority in Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of institutional 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 or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the development 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 institutional first Mortgagees, naming the Mortgagees as their interests may appear.

Section 7. Status of Amenities. All amenities (such as parking, recreation, and service areas) and Common Area shall be available for use of Owners and all such amenities with respect to which regular or special assessments for maintenance or other uses may be levied including Common Area, shall be owned (i) in fee by the Owners in undivided interests or (ii) by the Association free of encumbrances except for any easements granted for public utilities or for other public purposes consistent with the intended use of such property by the Owners of by the Association.

Section 8. Default Notice Requirement. If any Owner is in default under any provision of this Declaration or under any provision of the Articles, the Bylaws or the Association Rules, and the default is not cured within sixty (60) days after written notice to that Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that the sixty (60) day period has expired.

Section 9. Payments by Mortgagees. Mortgagees of Condominiums may, jointly or severally, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area improvements of other insured property of the Association and, upon making any such payments, such Mortgagees shall be owed immediate reimbursement from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon request of any Mortgagee the Association shall execute and deliver to such Mortgagee a separate written agreement embodying this provision.

Section 10. Effect of Breach of Declaration on Mortgagee.

(i) Lien Not Invalidated. No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith and for value; but all the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

(ii) Mortgagee Need Not Cure Breach. Any Mortgagee who acquires title to a Condominium by foreclosure or by deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is noncurable or of a type that is not practical or feasible to cure.

Section 11. Status of Loan to Facilitate Resale. Any first 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 or by an assignment 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 protections of Mortgages under this Declaration.

Section 12. Right to Appear at Meetings. Because of its financial interest in the Project, any Mortgagee may appear (but cannot vote) at meetings of Owners and the Board to draw attention to violations of this Declaration that have not been corrected or that have been made the subject of remedial proceedings or assessments.

Section 13. Right to Furnish Information. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

Section 14. Right of First Refusal Inapplicable to Mortgagee. No right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey the Owner's Condominium shall be granted to the Association without the written consent of any Mortgagee of the Condominium. Any right of first refusal or option to purchase a Condominium that may be granted to the Association (or other person, firm, or entity) shall not impair the rights of a first Mortgagee (i) to foreclose or take title to a Condominium pursuant to the remedies provided in the mortgage; or (ii) to accept a deed (or assignment) in

lieu of foreclosure in the event of default under the mortgage; or (iii) to sell or lease a Condominium acquired by the Mortgagee.

Section 15. Limitation on Term of Management Contract. Any agreement between the Association and Declarant pursuant to which the Declarant agrees to provide services, and any agreement for professional management by a manager shall provide for termination by either party without cause or payment of a termination fee on thirty (30) days' written notice and shall have a maximum contract term of one (1) year, provided that the Association can renew any such contract on a year-to-year basis. If the Project is professionally managed, the Association shall not terminate professional management and assume self-management without the consent of sixty-seven percent (67%) of the voting rights of each class of Owners, or of all Owners if only one class exists, and of fifty-one percent (51%) of first Mortgagees.

Section 16. Control if Mortgagee Protections Conflict With Other Provisions. In the event of any conflict between any of the provisions of this Article and any other provisions of this Declaration, the provisions of this Article shall control.

## Article XVI

### Notices

Section 1. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner: to the street address of his or her Condominium or to such other address as he or she may from time to time designate in writing to the Association.

If to the Association: at the principal office of the Association (or at such other address as the Association may from time to time designate in writing to the Owners).

Section 2. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-Owners of any Condominium, to any general partner of a partnership which is the Owner of Record of the Condominium, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Condominium, shall be deemed delivered to all such co-owners, to such partnership, or to such corporation, as the case may be.

Section 3. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four days after deposit of in the United States mail in Los Angeles County, California.

## Article XVII

### No Public Rights in the Property

Section 1. Nothing contained in this Declaration shall be deemed to be a gift or a dedication of all or any portion of the Property to the general public or for any public use or purpose whatsoever.

## Article XVIII

### Amendment of Declaration

Section 1. Amendment in General. This Declaration may be amended or revoked in any respect by the vote or assent by written ballot of the holders of not less than 75 percent of the Owners entitled to vote and not less than 75 percent of the votes of Owners other than the Declarant. Notwithstanding the foregoing, the percentage of Owners necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

Section 2. Effective Date of Amendment. The amendment will be effective upon the recording in the Office of the Recorder of Los Angeles County, a Certificate of Amendment, duly executed and certified by the president and secretary of the Association setting forth in full the amendment so approved and that the approval requirements of Section 1, above, have been duly met. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder or any first deed of trust or Mortgage recorded prior to the recording of such amendment. If the consent or approval of any governmental authority, Mortgagee or other entity is required under this Declaration to amend or revoke any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

Section 3. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

## Article XIX

### General Provisions

Section 1. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Condominiums and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of 60 years from the date of the recording of this Declaration, after which time the same shall be automatically extended for successive periods of 10 years each unless, within 6 months prior to the expiration of the initial 60-year term or any such 10-year extension period, a recordable written instrument, approved by 75 percent of all Owners terminating the effectiveness of this Declaration shall be filed for recording in the Office of the County Recorder of Los Angeles County, California.

#### Section 2. Construction of Declaration.

(a) Restrictions Construed Together. All of the covenants, conditions, and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions, and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial validity or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.

(e) Exhibits. All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

## Article XX

### City of Redondo Beach Provisions

Section 1. Assignment or Conveyance of Private Open Space. Each unit shall have adjacent to it private open space such as a yard area. Said private open space shall be designated on the condominium plan as exclusive use common area for the exclusive use of the unit bearing the identical number designation.

Section 2. Assignment or Conveyance and Use of Required Off-Street Parking Spaces. Each unit shall have a private garage area as required by the City of Redondo Beach. Said garage shall be designated on the condominium plan as exclusive use common area for the exclusive use of the unit bearing the identical number designation. All garage and open parking spaces, if any, shall be used solely by unit owners, members of their families, their guests, or lessees of the owner's unit. All parking spaces shall be used solely for the purpose of parking motor vehicles as defined by the Vehicle Code of the State of California.

Section 3. Maintenance of Impact Insulation Class. The Impact Insulation Class (IIC) rating of all separating floor/ceiling assemblies within the condominium project are of a type of construction that has a minimum rating of 65IIC (Impact Insulation Class). the insulation materials shall not be removed for any purpose except cleaning or replacement; and, in the event of replacement, the new insulation materials shall provide the same or a great degree of impact insulation as that originally installed.

Section 4. Right of Public Entry to Common Areas. The City, County, State and Government of the United States, and any department, bureau, or agency thereof, shall have the right of immediate access to all common areas of the project at all times for the purpose of preserving the public health, safety, and welfare except in those instances where a common area is accessible only through a private unit. It shall be required that notice of this right of governmental agency access be prominently displayed in the common areas of the project.

Section 5. Television and Radio Antennas. Individual television and radio antennas shall be prohibited outside of any owner's unit. Each unit shall be served by a cable antenna service provided by a company licensed to provide such service with the City of Redondo Beach.

Section 6. Voting. Provisions regarding voting can be found in Article III herein.

Section 7. Partition and Sale of Project. Provisions regarding partition can be found in Article XII herein.

Section 8. Maintenance of Common Areas and Facilities. Provisions regarding Maintenance Fund and Assessments can be found in Article IV herein.

Section 9. Utility Easements. Provisions regarding utility easements can be found in Article VIII, Section 3, herein.

Section 10. The provisions of this Article XX, Sections 1 through 9, shall not be amended, modified, or changed without first obtaining the written consent of the City of Redondo Beach.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has executed this Declaration for Parcel Map No. 24441 on the day and year first written above.

WINDEMERE COMPANY, LLC, a California Limited Liability Company

Dated: 9/18/97

By: *Thomas P. Cacciatore*  
THOMAS P. CACCIATORE

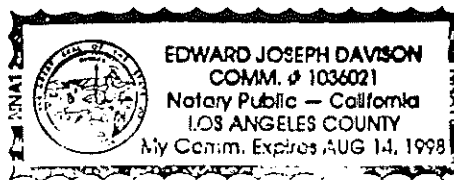
State of California  
County of Los Angeles

On 9/18/97, before me, EDWARD DAVISON,  
the undersigned, personally appeared THOMAS P. CACCIATORE

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

WITNESS my hand and official seal.

*Edward Joseph Davison*





**EXHIBIT "A"**

PARCEL 1 OF PARCEL MAP 24441, IN THE  
CITY OF REDONDO BEACH, COUNTY OF LOS  
ANGELES, STATE OF CALIFORNIA, AS PER MAP  
FILED IN BOOK 278, PAGES 54 AND 55, OF  
PARCEL MAPS IN THE OFFICE OF THE COUNTY  
RECORDER OF SAID COUNTY.

NORTH AMERICAN TITLE COMPANY

32-86828-23

When recorded, mail to:

DENN ENGINEERS  
3914 Del Amo Blvd, #921  
Torrance, CA 90503

This is to certify that this is a True and Correct copy  
of the Original recorded 10-17-97  
Instrument No. 97-1629067  
NORTH AMERICAN TITLE COMPANY  
By *[Signature]*

(SPACE RESERVED FOR RECORDERS OFFICE)

SHEET 1 OF 7 SHEETS

CONDOMINIUM PLAN

for  
PARCEL 1, PARCEL MAP NO. 24441  
IN THE CITY OF REDONDO BEACH  
COUNTY OF LOS ANGELES  
STATE OF CALIFORNIA

AS PER MAP FILED IN BOOK 278 PAGES 54, AND 55, OF  
PARCEL MAPS IN THE OFFICE OF COUNTY RECORDER OF SAID  
COUNTY, DIAGRAMMATIC FLOOR PLANS OF THE BUILDINGS AS  
BUILT ON SAID LAND AND CERTIFICATE AS REQUIRED BY  
CALIFORNIA CIVIL CODE SECTION 1351.

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF, RECORD  
HOLDERS OF SECURITY INTERESTS THEREIN, OR ARE  
INTERESTED IN THE LAND INCLUDED WITHIN THE PROJECT SHOWN  
ON THIS MAP AND THAT WE CONSENT TO THE RECORDATION  
OF THIS PLAN PURSUANT TO CHAPTER 1, TITLE 6, PART 4  
DIVISION SECOND OF THE CIVIL CODE.

WINDEMERE COMPANY, LLC  
A CALIFORNIA LIMITED LIABILITY COMPANY  
(OWNER)

*[Signature]*

Thomas P. Cacciatore

NATIONAL BANK OF SOUTHERN CALIFORNIA  
(BENEFICIARY)

RECORD HOLDER OF BENEFICIAL INTEREST UNDER DEED OF TRUST RECORDED  
APRIL 25, 1997 AS INSTRUMENT NO. 97-621874, OFFICIAL RECORDS.

*[Signature]*

Walter J. Con, Vice President

*[Signature]*

Cheri S. George, First Vice President

CONDOMINIUM PLAN

for  
PARCEL 1, PARCEL MAP NO. 24441  
ACKNOWLEDGMENTS

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES )

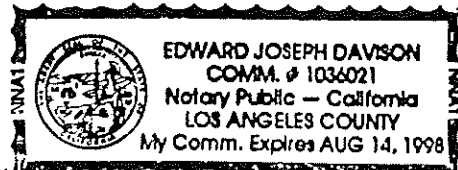
SS.

ON 9-18-97 BEFORE ME, EDWARD JOSEPH DAVISON A NOTARY  
PUBLIC, PERSONALLY APPEARED THOMAS P. CACCIATORE

PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES) AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE Edward Joseph Davison



\*\*\*\*\*

STATE OF CALIFORNIA )  
COUNTY OF Orange )

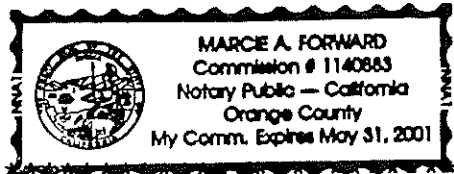
SS.

ON September 24, 1997 BEFORE ME, Marcie A. Forward, A NOTARY  
PUBLIC, PERSONALLY APPEARED Walter J. Con, Vice President and  
Cheri S. George, First Vice President

PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES) AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE Marcie A. Forward



\*\*\*\*\*

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

SS.

ON \_\_\_\_\_ BEFORE ME, \_\_\_\_\_, A NOTARY  
PUBLIC, PERSONALLY APPEARED \_\_\_\_\_

PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES) AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE \_\_\_\_\_

CONDOMINIUM PLANfor  
PARCEL 1  
PARCEL MAP NO. 24441  
GENERAL NOTES and DEFINITIONS

1. This condominium project is composed of a common area and 3 units.
2. The common area of this project is the land and real property, including all improvements constructed thereon within the boundary lines of Parcel 1 of Parcel Map No. 24441 in the city of Redondo Beach, County of Los Angeles, State of California, as per parcel map recorded in Book 278, Pages 54 and 55, inclusive, of Parcel Maps, in the office of the County Recorder of said county, except therefrom those portions shown and defined herein as units 1 through 3, inclusive.
3. The following are not part of a unit: bearing walls, columns, vertical supports, floors, roofs, foundations, beams, balcony railings, pipes, ducts, flues, chutes, conduits, wires, and other utility installations, wherever located except the outlets thereof when located within the unit.
4. The units of this project are numbered 1 through 3, inclusive. A unit consists of all of those elements bearing an identical number designation. The prefix number designation of an element coincides with the number of that unit of which it is a part. The suffix number designation of an element coincides with the level upon which such element is located. Whenever reference is made to any of Units 1 through 3, inclusive, it shall be construed that reference is made to the unit as a whole and to each and all of its component elements.
5. This plan and the dimensions shown hereon are intended to conform to Civil Code Section 1351 which require diagrammatic floor plans of the building built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions. The dimensions shown hereon are not intended to be sufficiently accurate to use for computation of floor area or airspace volume in any or all of the units.
6. These diagrammatic plans intentionally omit detailed information of internal partitioning within individual units. Likewise, such details as protrusions of vents, beams, columns, window casings, and other such features are not intended to be reflected on this plan.
7. Each of those areas shown on this plan bearing the letter designation "A" is an element of a unit consisting of a dwelling area. The lateral boundaries of each such element are the interior surfaces of the perimeter walls, windows and doors thereof at the limits indicated on the respective portions thereof. The lower vertical boundary of each such element is the interior surface of the floor thereof and the upper vertical boundary of each such element is the interior surface of the ceiling thereof, both at the limits shown hereon. Each such element includes the respective portions of the building and improvements lying within said boundaries (except as stated in Note 3 above) and the airspace so encompassed.

CONDOMINIUM PLANfor  
PARCEL 1  
PARCEL MAP NO. 24441  
GENERAL NOTES and DEFINITIONS

8. Each of those areas shown on this plan bearing the letter designation "Y" is a portion of the exclusive use common area consisting of a yard area. The lateral and vertical boundaries of each such area are the exterior surfaces of the perimeter walls, windows, and doors of the adjacent building structure, where such surfaces adjoin such area and the interior surfaces of the perimeter walls, floors, and ceilings of each such area where such surfaces exist. Otherwise, the lateral and vertical boundaries of each such area are vertical and horizontal planes at the dimensions and elevations shown hereon for each such area where such surfaces exist. Each such area includes only the airspace encompassed by said boundaries.

9. Each of those areas shown on this plan bearing the letter designation "G" is an element of a unit consisting of a garage area. The lateral boundaries of each such element are the interior surfaces of the perimeter walls, windows, and doors thereof at the limits indicated on the respective portions thereof. The lower vertical boundary of each such element is the interior surface of the floor thereof and the upper vertical boundary of each such element is the interior surface of the ceiling thereof, both at the limits shown hereon. Each such element includes the respective portions of the building and improvements lying within the said boundaries (except as stated in Note 3 above) and the airspace so encompassed.

10. The upper vertical limit of each element and exclusive use common area is a horizontal plane described as "U.E." The lower vertical limit of each element and exclusive use common area is a horizontal plane described as "L.E."

11. Included as part of an element are those areas, if any, which lie between the upper limits, shown as U.E. hereon, and the finished ceilings above the upper limits and within the horizontal dimensions of said elements.

12. All ties to elements are at right angles to the lines they join, unless otherwise indicated. Element and exclusive use common area boundary lines intersect at right angles, unless otherwise indicated.

13. Common walls between units are 0.8' thick unless otherwise specified. All other walls are 0.4' thick unless otherwise specified.


14. Each of those areas shown on this plan bearing the letter designation "B" is a portion of the exclusive use common area consisting of a balcony area. The lateral and vertical boundaries of each such area are the exterior surfaces of the perimeter walls, windows, and doors of the adjacent building structure, where such surfaces adjoin such area and the interior surfaces of the perimeter walls, floors, and ceilings of each such area where such surfaces exist. Otherwise, the lateral and vertical boundaries of each such area are vertical and horizontal planes at the dimensions and elevations shown hereon for each such area where such surfaces exist. Each such area includes only the airspace encompassed by said boundaries.

CONDOMINIUM PLAN

for  
PARCEL 1  
PARCEL MAP NO. 24441  
CERTIFICATIONS

I hereby certify that I am a Registered Civil Engineer of the State of California, that this plan consisting of 7 sheets correctly represents a true and complete survey of this Condominium project made under my supervision.



  
Edward G. Shweiri R.C.E. 11284

## BENCH MARK:

L & T at the Southwest corner of Parcel Map No. 24441 as filed in Parcel Map Book 278, Pages 54 and 55. Assumed elevation is 100.00'.

## BASIS OF BEARING:

The bearings shown hereon are based on the bearing N 89°53'00" E of the centerline of Rockefeller Lane as shown on Parcel Map No. 24441 as filed in Parcel Map Book 278, Pages 54 and 55.

SCALE: 1" = 20'

SHEET 6 OF 7 SHEETS

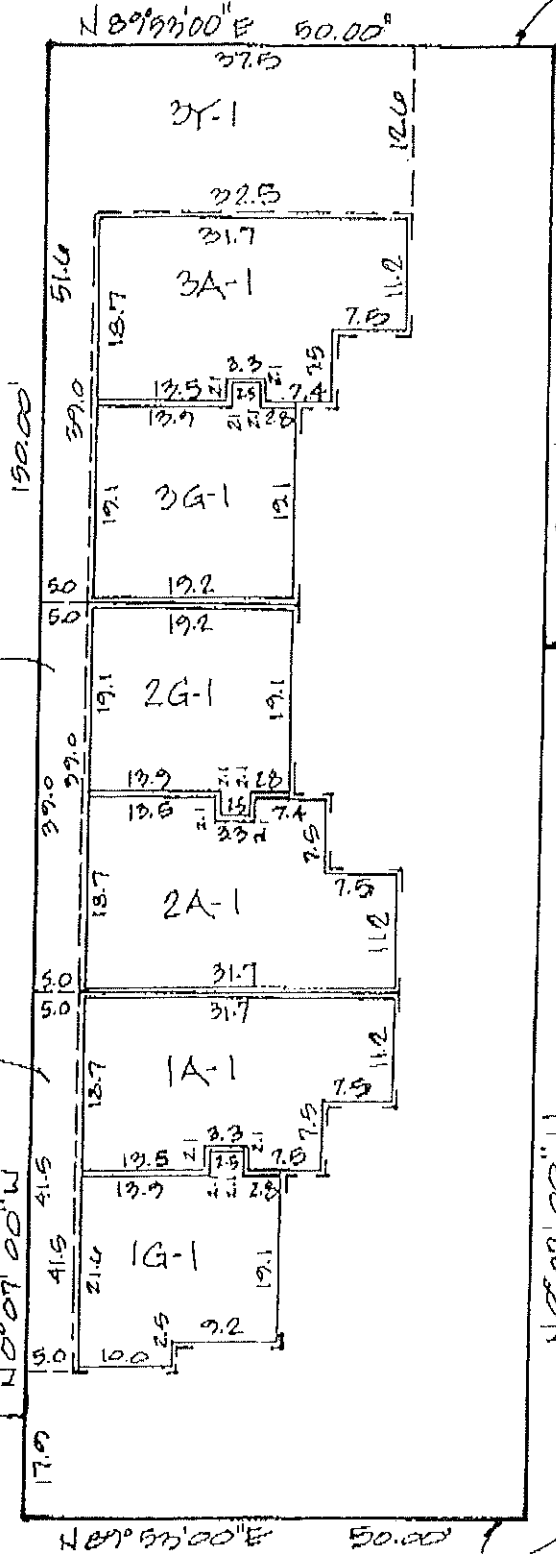
# CONDOMINIUM PLAN

FOR

PARCEL 1, PARCEL MAP NO. 24441



N'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441



E'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

### ELEVATIONS

- 1A-1 THRU 3A-1:  
LE = 100.5  
UE = 108.5
- 1Y-1 THRU 3Y-1:  
LE = 98.6  
UE = 108.5
- 1G-1 THRU 3G-1:  
LE = 98.7  
UE = 108.5

W'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

S'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

ROCKEFELLER LANE

SCALE: 1" = 20'

SHEET 7 OF 7 SHEETS

# CONDOMINIUM PLAN

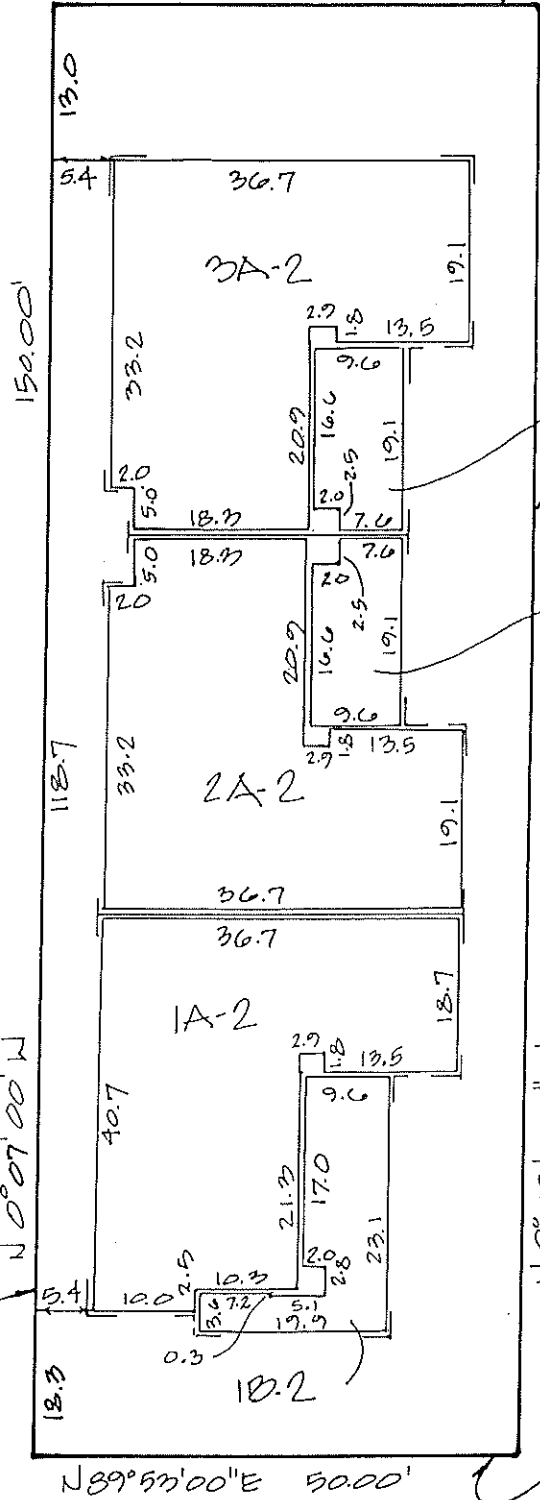
FOR

PARCEL 1, PARCEL MAP NO. 24441



N'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

N 89° 53' 00" E 50.00'



W'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

N 0° 07' 00" W

N 0° 07' 00" W

E'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

### ELEVATIONS

1A-2 THRU 3A-2:

LE = 109.5  
UE = 117.5

1B-2 THRU 3B-2

LE = 109.4  
UE = 117.5

S'LY LINE OF PARCEL 1,  
PARCEL MAP NO. 24441

N 89° 53' 00" E 50.00'

ROCKEFELLER LANE

**ARTICLES OF ASSOCIATION**  
**OF**  
**2217 ROCKEFELLER LANE TOWNHOMES**

**I.**

The name of this Association shall be:

2217 ROCKEFELLER LANE TOWNHOMES

**II.**

The Association is an unincorporated nonprofit mutual benefit entity organized under Laws of the State of California.

The purpose of the Association is to engage in any lawful act or activity for which an Association may be organized under California Law.

The Association does not contemplate pecuniary gain or profit to any of its members. The primary purposes for which the Association is organized and operated are as follows:

(a) To provide for the management, administration, maintenance and care for the common area of a condominium project (the "Project"), located within that certain tract of real property situated in the City of Redondo Beach, Los Angeles County, California, described as Parcel 1 of Parcel Map 24441 filed in Book 278, Pages 54 and 55 of Parcel Maps, in the Office of the Los Angeles County Recorder; and

(b) To promote the health, safety, and welfare of all the residents of the Project, all according to that certain Declaration of Covenants, Conditions and Restrictions for 2217 Rockefeller Lane Townhomes, (the "Declaration") recorded on October 17, 1997, as Instrument No. 97-1629068 in Official Records of the Office of the Recorder of Los Angeles County, State of California.

### III.

The Association shall be managed in accordance with the provisions of the Declaration and its duly adopted Bylaws. The manner in which Directors shall be chosen and are removed from office, their qualifications, powers, duties, compensation and tenure in office, the manner of filling vacancies on the Board, and the manner of calling and holding meetings of Directors are set forth in the Declaration and the Bylaws. The authorized number and qualifications of members, the different classes of members, if any, the property, voting and other rights and privileges of members and their liability for dues and assessments and the method of collection thereof, are set forth in the Bylaws and the Declaration.

### IV.

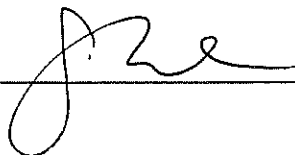
The Association is intended to qualify as a homeowners' association under the applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code of California. No part of the net earnings of this organization shall inure to the benefit of any private individual, except as expressly provided in those sections with respect to the acquisition, construction, or provision for management, maintenance; and care of the Association property and property commonly owned by the members of the Association, and other than by a rebate of excess membership dues, fees, or assessments. In the event of the dissolution, liquidation, or winding up of the Association, upon or after termination of the project in accordance with the provisions of the Declaration, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Association shall be divided among and distributed to the members in accordance with their respective rights therein.

### V.

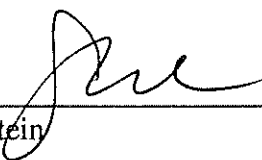
These Articles may be amended only by the affirmative vote of a majority of the Board of Directors of the Association, and by the affirmative vote (in person or by proxy) of members representing a majority of the voting power of the Association and a majority of the votes of members other than Declarant.

IN WITNESS WHEREOF, for the purposes of forming this Association under the laws of the State of California, the undersigned has executed these Articles of Association on the date written below.

Dated: 9/25/97

  
Craig Weinstein

I declare that I am the person who executed the above Articles of Association, and that this instrument is my act and deed.

  
Craig Weinstein

---

**BYLAWS**  
**FOR**  
**2217 ROCKEFELLER LANE TOWNHOMES**

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### 1. Name of the Association.

The name of this association is 2217 Rockefeller Lane Townhomes, and shall be referred to herein as the "Association".

### 2. Principal Office

The principal office of the Association will be located at such place within the County as the Board may from time to time designate by resolution.

### 3. Definitions.

The definitions contained in Article I of the Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), recorded on October 17, 1997 as Instrument No. 97-1629068 in the Office of the County Recorder of Los Angeles County, California, are incorporated by reference and shall apply to those same terms as they may appear in these Bylaws.

### 4. Membership and Voting Rights

The membership and voting rights provisions contained in Article III of the Declaration are incorporated by reference.

### 5. Meetings of Members

5.01. Place of Meetings. All meetings of the members, annual and special, shall be held at a place within the Project as designated by the Board, provided that if there is not an available or appropriate place within the Project, the Board shall designate a meeting place as close as possible to the project but in no event outside the County unless unusual conditions exist. In the absence of any designation, the meetings of members shall be held at the principal office of the Association.

5.02. Annual Meetings. The first annual meeting of members of the Association shall be held within six months after the closing and recording of the sale of the first Condominium. Thereafter, the annual meeting of the members of the Association shall be held each year on the Monday immediately preceding the anniversary date of the first annual meeting at 8:00 p.m., or at such other date or time as may be fixed by the Board but in no event shall an annual meeting be held less than once each calendar year. If the scheduled date of the annual meeting falls on a legal holiday, the meeting shall be held at the same time on the next business day.

5.03. Special Meetings. Special meetings of the members may be called for any lawful purpose by the Board or by written request signed by members representing at least five percent of the total voting power of the Association. A special meeting called by any person (other than the Board) entitled to call a meeting shall be made by submitting a written request specifying

the general nature of the business to be transacted to the president, any vice president, or secretary of the Association. The officer receiving the notice shall promptly cause notice to be given the members in the manner required by Section 5.04 that a meeting will be held at a date, time, and place fixed by the Board, which meeting shall be held not less than 10 days nor more than 90 days after receipt of the request. If the notice is not given within 20 days after the receipt of the request, the person or persons requesting the meeting may give the notice.

5.04. Notice of Meetings. Notice of all members' meetings, annual or special shall be given not less than 10 nor more than 90 days before the date of the meeting to each member and to any Mortgagee who has requested in writing to receive such notice. Any Mortgagee, or its designated representative, shall be entitled to attend any such meeting, but shall not be entitled to vote at the meeting. The notice shall be given personally, or by first-class, registered, or certified mail addressed to the member or Mortgagee at the address of such member or Mortgagee appearing on the books of the Association or given by the member or Mortgagee to the Association for purpose of notice. If no address appears or is given for any member, notice may be given at the Association's principal office or by publication at least once in a newspaper of general circulation.

The notice shall state the place, date, and time of the meeting. If directors are to be elected at the meeting, the notice shall include the names of all those who are nominees at the time notice is given. In the case of a special meeting, the notice shall state the general nature of the business to be transacted and no other business may be transacted. In the case of the annual meeting, the notice shall state those matters that the Board intends, at the time the notice is given, to present to the members for action, but any proper matter may be presented at the meeting for action subject to the special notice requirements described in Section 5.05 of these Bylaws.

5.05. Special Notice Requirements. Approval by the members of any of the following proposals, other than by unanimous approval of those members entitled to vote, shall not be valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice:

- (i) removing a director without cause;
- (ii) filling vacancies on the Board;
- (iii) amending the Articles;
- (iv) approving a contract or transaction between the Association and one or more directors, or between the Association and any entity in which a director has a material financial interest;
- (v) electing to wind up and dissolve the Association; or

5.06 Waiver of Notice or Consent. The transactions of any meeting of members, however called or noticed, and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (1) a quorum is present either in person or by proxy, and (2) either before or after the meeting, each member entitled to vote, not present in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice, consent or approval need not

specify either the business to be transacted or the purpose of any meeting of members, except that if action is taken or propose to be taken for approval of any of those matters specified in Section 5.05 of these Bylaws, the waiver of notice, consent, or approval shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Attendance of a member at a meeting shall also constitute a waiver of notice of and presence at that meeting. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice of the meeting but not so included, if that objection is expressly made at the meeting.

5.07. Proof of Membership and Record Date. A person shall not be entitled to exercise the rights of a Member until such person has advised the Secretary in writing that he or she is qualified to be a Member under Article III of the Declaration and, if requested by the Secretary, has provided the Secretary with evidence of such qualification in the form of a copy of a recorded grant deed (certified by the Office of the Recorder) or a currently effective policy of title insurance. Exercise of membership rights shall be further subject to the rules regarding record dates for notice, voting, and actions by written ballot and eligibility for voting set forth in Article III of the Declaration.

For the purpose of determining the members entitled to notice of any meeting, to vote, or to exercise any other rights in respect of any lawful action, the Board may fix, in advance, a record date as follows: (a) the record date for notices shall be not more than 90 nor less than 10 days before the date of the meeting, (b) the record date for voting shall not be more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited, and (c) the record date for any other action shall not be more than 60 days before the date of such action. If no record date is fixed by the Board, the record date shall be determined in accordance with California Corporations Code Section 7611. A person holding a membership as of the close of business on the record date shall be a member of record.

5.08 Quorum. The presence at any meeting in person or by proxy of members entitle to cast at least fifty-one percent (51%) of the total votes of all members shall constitute a quorum. Any members' meeting, whether or not a quorum is present, may be adjourned from time to time for any reason by a vote of the member representing a majority of the voting power of the members present at the meeting, either in person or by proxy, to another time not less than five days nor more than 30 days from the date of the original meeting. If the time and place of the adjourned meeting is announced prior to the adjournment of the original meeting, no notice of the adjourned meeting is required, provided that if a new date is fixed for the adjourned meeting after the adjournment of the original meeting, notice of the date, time and place of the adjourned meeting shall be given to members in the manner prescribed in Section 5.04 of these Bylaws. Any business that may have been transacted at the original meeting may be transacted at the adjourned meeting. In the absence of a quorum no business may be transacted at the meeting other than to adjourn the meeting to another time. If a meeting is adjourned because a quorum is not present, the quorum requirement at the adjourned meeting shall be fifty-one percent (51%) of the total voting power of the members.

#### 5.09. Proxies.

(a) Proxies Generally. Any Member entitled to vote may do so either in person or by one or more agents authorized by a written proxy signed by the Member and filed with the Secretary of the Association. Any proxy shall be for a term not to exceed eleven (11) months from the date of issuance, unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution. Proxy forms shall be dated to assist in verifying their validity.

(b) Effectiveness of Proxies. Every proxy continues in full force and effect until revoked by the issuing member prior to the vote pursuant thereto subject to the maximum term of a proxy set for in subparagraph (a), above. Any proxy issued hereunder shall be revocable by the person executing such proxy at any time prior to the vote pursuant thereto, by (i) delivery to the secretary of a written notice of revocation, (ii) a subsequent proxy executed by the Member executing the prior proxy and presented to the meeting, or (iii) as to any meeting, by attendance at such meeting and voting in person by the Member executing the proxy. The dates shown on the forms of proxy presumptively determine the order of execution, regardless of the postmarks shown on the envelopes in which they are mailed. A proxy shall be deemed revoked when the secretary shall receive actual notice of the death or judicially declared incompetence of the Member issuing the proxy, or upon termination of such Member's status as an Owner of a Unit as provided in Article III of the Declaration.

(c) Validity of Proxies With Respect to Certain Material Transactions. Any proxy given with respect to any of the matters described in this subparagraph (c) shall be valid only if the proxy form sets forth a general description of the nature of the matter to be voted on. The matters subject to this requirement are:

- (i) Removal of directors without cause;
- (ii) Filling of vacancies on the Board;
- (iii) Approval of contracts or transactions between the Association and one or more of its directors, or between the Association and a corporation, firm or association in which one or more of its directors has a material financial interest;
- (iv) Amendment of the Articles of Association, these Bylaws, or the Declaration;
- (v) Action to change any Association assessments in a manner requiring membership approval under the Declaration;
- (vi) Sale, lease, exchange, transfer or the disposition of all or substantially all of the Association's assets otherwise than in the regular course of the Association's activities;
- (vii) Merger of the Association or an amendment to an agreement of merger; and
- (viii) Voluntary dissolution of the Association.

#### (d) Limited Proxies.

(i) If the form of proxy lists one or more matters to be acted upon and the issuer of the proxy has specified a choice with respect to any such matter (including a preference in voting for candidates for election to the Board), the proxy holder shall be obligated to cast the vote represented by the proxy in accordance with the issuer's designated preference.

(ii) If a proxy form issued in connection with the election of directors lists the candidates' names and the proxy is marked by a Member "withhold" or otherwise marked in a manner indicated that the authority to vote for the election of directors is withheld, the proxy holder shall not vote the proxy either for or against the election of a director. If any proxy issued in connection with the election of directors is marked so as to direct the proxy holder to vote the proxy for a specified candidate or candidates, the proxy holder shall vote in accordance with the direction of the proxy issuer.

(e) Restriction or Elimination of Proxy Rights: Limitation on Authority. No amendment of the Articles or Bylaws repealing, restricting, or expanding proxy rights may be adopted without approval by the affirmative vote of a majority of the voting power of each class of Member represented and voting at a duly held meeting at which a quorum is present, or the affirmative vote of a majority of the voting power of Members by written ballot as provided in Article III of the Declaration.

(f) Proxy Rules for Memberships Held by More Than One Person. Where two or more persons constitute a Member, any proxy with respect to the vote of such Member shall be signed by all such persons. All such persons may attend meetings, but no vote of such Member shall be cast without the unanimous consent of all persons present at such meeting constituting each Member.

(g) No Proxy Voting in Connection With Written Ballots. Proxy voting shall not be allowed when Members' votes are solicited by written ballot in accordance with Article V, Section 5.13.

(h) Revocation of Proxies. Any proxy issued hereunder shall be revocable by the Member executing such proxy at any time prior to the vote pursuant thereto, by (i) delivery to the Secretary of a written notice of revocation; or (ii) as to any meeting, by attendance at such meeting and voting in person by the Member executing the proxy. A proxy shall be deemed revoked when the Secretary receives actual notice of the death or judicially declared incompetence of the issuing Member, or upon termination of such Member's status as an Owner of a Unit as provided in Article III of the Declaration.

#### 5.10. Order of Business

The order of business of all meetings of the members shall be as follows:

- (i) roll call;
- (ii) proof or notice of meeting or waiver of notice;
- (iii) reading of minutes of preceding meeting;
- (iv) reports of board and officer;
- (v) election of directors, if any are to be elected;
- (vi) unfinished business; and
- (vii) new business.

5.11. Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

5.12. Action by Unanimous Consent. Any action required or permitted to be taken by the members may be taken without a meeting if all the Members consent in writing to the action. The written consent shall have the same force and effect as the unanimous vote of the Members. The written consents shall be filed with the minutes of the proceedings of the Members.

5.13. Action by Written Ballot Without a Meeting.

(a) Definition of Written Ballot. A "written ballot" is a ballot that is mailed or otherwise distributed to every member entitled to vote on the matter and that complies with the requirements of this Section 5.13. The term "written ballot" does not include a ballot distributed to Members at a meeting for purposes of conducting a vote of the Members at such meeting.

(b) Written Ballots Generally. Any matter or issue requiring the vote of the Members, other than the election of directors, may be submitted for vote by written ballot without the necessity of calling a meeting of the Members, so long as the requirements for action by written ballot set forth in this Section 5.13 are met. The determination to seek Member approval for Association actions in this fashion shall be made by a majority vote of the Board. Once the determination is made to seek Member approval by written ballot, the Board shall establish a record date and distribute a written ballot to every member entitled to vote on the matter. This distribution shall be made consistent with the time requirements specified in subparagraph (d) below.

(c) Content of Written Ballots. Any written ballot distributed to the Members to vote on any issue other than the election of directors shall set forth the proposed action and provide an opportunity to specify approval or disapproval of the proposal.

(d) Balloting Time Requirements. Written ballots shall be distributed to all eligible Members at least 30 days prior to the final date the written ballots must be received by the Association in order to be counted.

All written ballots shall provide a reasonable time within which to return the written ballot to the Association and shall state on the face of the ballot or in an accompanying notice the date by which the written ballot must be returned in order to be counted.

The time fixed for the return of written ballots may be extended only if the Board so notifies the Members in the balloting solicitation materials originally sent to members and then for no more than two successive periods of ten days each.

(e) Requirements for Valid Member Action by Written Ballot. Membership approval by written ballot shall be valid only if (i) the number of votes cast by ballot within the time established for return of the ballots equals or exceeds the quorum (as specified in Article V, Section 5.08) that would have been required to be present at a membership meeting if such a meeting had been convened to vote on the proposal; and (ii) the number of affirmative votes equals or exceeds the number of affirmative votes that would have been required to approve the action at such a meeting.

(f) Solicitation Rules. Written ballots shall be solicited in a manner consistent with the requirements of Article V, Section 5.04, pertaining to issuance of notices of Members' meetings. All solicitations of written ballots shall indicate (i) the number of responses needed to meeting the quorum requirements for valid action, (ii) the time by which the written ballot must be received by the Association in order to be counted, and (iii) the percentage of affirmative votes necessary to approve the measure. If the period for the return of written ballots is extended

under subparagraph (d), the Board shall be entitled to announce to the Members the aggregate votes for or against the proposal received as of the extension date.

(g) Additional Balloting Procedures. If deemed necessary by the Board, the written ballot shall be conducted in accordance with such additional procedures, not inconsistent with the provisions of this section, as may be prescribed by a firm of public accountants of good repute who may also be retained to supervise the secrecy and conduct of the balloting process.

(h) Notification of Results of Balloting Process. Upon tabulation of the written ballots, the Board shall notify the Members of the outcome of the vote within 30 days following the close of the balloting process and tabulation of the ballots. If the number of written ballots cast with respect to any matter is insufficient to satisfy the minimum quorum requirements, the Board shall so notify the Members.

(i) Prohibition of Revocation. Once exercised, a written ballot may not be revoked.

## 6. Election and Term of Office of Members of the Board of Directors

6.01. Number. The Board shall consist of three ( 3 ) directors who shall, with the exception of the Initial Directors elected pursuant to Section 6.03 of these Bylaws, be members of the Association.

6.02. Nomination. Any member present in person or by proxy at a meeting in which a director or directors are to be elected may place a name in nomination at the meeting prior to the vote.

The Board shall adopt procedures that provide for a reasonable opportunity for nominees to communicate their qualifications and reasons for candidacy to the members and to solicit votes, and for a reasonable opportunity for all members to choose among the nominees. Without authorization of the Board, no Association funds may be expended to support a nominee for director after there are more nominees than can be elected.

6.03. Election of Directors. The initial directors shall be elected either by the Declarant or by the members as soon as practical after the formation of the Association, and shall hold office until the first meeting of the members as specified in Section 5.02 of these Bylaws. At the first annual meeting, the members shall elect directors to fill all the positions on the Board. Unless the office is vacated sooner as provided in Section 6.04 of these Bylaws, each director shall hold office until his or her term expires and a successor has been elected and qualified. The term shall be for one year. Successor directors shall be elected at each annual meeting thereafter.

Any director may resign effective on giving written notice to the president, the secretary, or the Board, unless the notice specifies a later time of the effectiveness of such resignation.

6.04. Vacancies. A vacancy or vacancies on the Board shall exist on the occurrence of any of the following: (i) the death of any director, (ii) the effective date of any director's resignation, (iii) the removal of a director by vote of the members, or by vote of a majority of all the votes entitled to be cast by all the members, (iv) the declaration by resolution of the

Board of a vacancy in the office of a director who has been declared of unsound mind by an order of court or convicted of a felony, (v) the increase in the authorized number of directors, or (vi) the failure of the members, at any meeting of the members at which any director or directors are to be elected, to elect the number of directors required to be elected at that meeting.

Any vacancy on the Board may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director, except for a vacancy created by removal of a director by vote of the members or a vacancy of a specially elected director position, which vacancies shall be filled by the members. In addition, the members may fill any vacancy not filled by the directors. Any director elected to fill a vacancy shall hold office until the expiration of the term of his or her predecessor and until a successor has been elected and qualified.

6.05. Compensation. A Director shall not receive any compensation for any services rendered to the Association as a director; provided that directors may be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties.

6.06. Removal from Office. Unless the entire Board is removed from office by the vote of members of the Association, no individual Board member shall be removed prior to the expiration of his term of office if the votes cast against removal would be sufficient to elect the Board member if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Board members authorized at the time of the most recent election of the Board member were then being elected.

## 7. Meetings of Directors

7.01. Place of Meetings. Meetings of the Board shall be held at any place within the Project designated by the Board or described in the notice of the meeting. In the absence of any designation or notice, meetings shall be held at the principal office of the Association.

7.02. Regular Meetings. Regular meetings of the Board shall be held monthly at such time and place within the development as may be fixed from time to time by resolution of the Board, provided that if the business to be transacted by the Board does not require monthly meetings, regular meetings may be held less frequently but no less than one regular meeting every six months. If a regular meeting falls on a legal holiday, the meeting shall be held at the same time on the next business day. Notice of the time and place of any regular meeting shall be given to each director not less than four days prior to the meeting; provided, however, that notice need not be given to any director who signs a waiver of notice or written consent to the holding of the meeting.

7.03. Special Meetings. Special Meetings of the Board may be called by written notice signed by the president of the Association, or by any two directors other than the president. The notice shall specify the time and place of the meeting and the nature of any special business to be considered, shall be posted in a manner prescribed for notice of regular meetings, and shall

be sent to all directors not less than 72 hours prior to the scheduled time of the meeting, provided that notice need not be given to any director who signed a waiver of notice or a written consent to the holding of the meeting.

7.04. Emergency Meetings. An emergency meeting of the Board may be called by the president of the association, or by any two members of the governing body other than the president, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the board, and which of necessity make it impracticable to provide notice as required by Section 1363.05 of the Civil Code.

7.05. Open Meetings. Regular and special meetings shall be open to all members, provided that members who are not directors may not participate in any deliberation or discussion unless expressly authorized to do so by the vote of a majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of the Board, adjourn a meeting and reconvene in executive session to discuss and vote on personnel matters, matters relating to the formation of contracts with third parties, member discipline, and litigation in which the Association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.

7.06. Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, subject to the requirements of California Corporations Code Section 7211(a)(8), including, without limitation, the requirements relating to (i) approval of contract or transactions between the Association and one or more directors or between the Association and any entity in which a director has a material financial interest, (ii) creation of an appointments to committees of the Board, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

7.07. Adjourned Meetings. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the directors who were not present at the time of the adjournment.

7.08. Action Taken Without a Meeting. Any action that the Board is required or permitted to take may be taken without a meeting, if all members of the Board consent in writing to that action. Such action by written consent shall have the same force and effect as any other validly approved action of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of any action so approved

shall be posted at a prominent place of places within the Common Area within three days after the written consents of all the directors have been obtained.

7.09. Waiver of Notice. Notice of a meeting need not be given any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents and approvals shall be filed with the association's records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any director who attends the meeting and does not protect, before or at the commencement of the meeting, the lack of notice of him or her.

7.10. Executive Session. The Board shall meet in executive session if requested by a member who may be subject to a fine, penalty, or other form of discipline, and the member shall be entitled to attend the executive session.

## 8. Governing Board Powers and Limitations

### 8.01. Powers and Limitations.

(a) The Board's powers and duties shall include, but shall not be limited to, the following:

(1) Enforcement of applicable provisions of the CC&R's, Articles, Bylaws and other instruments for the ownership, management and control of the subdivision.

(2) Payment of taxes and assessments which are, or could become a lien on the common area or a portion thereof.

(3) Contracting for casualty, liability and other insurance on behalf of the Association of not to exceed three years duration provided that the policy permits short rate cancellation by the insured.

(4) Contracting for goods and/or services for the common areas, facilities, and interests of the Association subject to the limitations set for below.

(5) Delegation of its powers to committees, officers or employees of the Association as expressly authorized by the governing instruments.

(6) Preparation of budgets and financial statements for the Association as prescribed in the governing instruments.

(7) Formulation of rules of operation of the common areas and facilities owned or controlled by the Association.

(8) Initiation and execution of disciplinary proceedings against members of the Association for violations of provisions of the governing instruments in accordance with procedures set forth in the governing instruments.

(9) Entering upon any privately-owned subdivision interest as necessary in connection with construction, maintenance, or emergency repair for the benefit of the common area or the owners in common.

(10) Election of officers of the Board.

(11) Filling of vacancies on the Board except for a vacancy created by the removal of a Board member.

(b) The Board of the Association shall ordinarily be prohibited from taking any of the following actions except with the assent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code Section 7513, of a simple majority of the members other than the subdivider, constituting a quorum consisting of more than 50% (fifty percent) of the voting power of the Association residing in members other than the subdivider:

(1) Entering into a contract with a third person wherein the third person will furnish goods or services for the common area or the owners' Association for a term longer than one year with the following exceptions:

(A) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.

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

(C) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits short rate cancellation by the insured.

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

(E) Agreements for cable television services and equipment or satellite television services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the subdivider has a direct or indirect ownership interest of 10 percent or more.

(F) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities in which the

subdivider has a direct or indirect ownership interest of 10 percent or more.

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

(2) Incurring aggregate expenditures for capital improvements to the common area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year.

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

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

(c) The Board is authorized, but not required, to perform any act reasonably necessary to resolve any civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or non-binding arbitration proceedings. The Board is also authorized, but not required, to perform the following acts:

(1) Providing, or in good faith attempting to provide, one hundred twenty (120) days advance notice of the Board's intent to initiate the prosecution of any civil action and of the nature and basis of the claim to every member of the Association and every entity or person who is a prospective party to the civil action, provided that notice can be given (A) more than one hundred twenty (120) days prior to the expiration of any pertinent statute of limitations, and (B) without prejudice to the Association's right to enforce the governing documents, and further provided that no such notice need be given prior to the filing of an action in small claims court or an action solely to enforce assessment obligations.

(2) Prior to initiating the prosecution of a civil action solely for declaratory relief or injunctive relief to enforce the governing documents, or for declaratory relief or injunctive relief to enforce the governing documents in conjunction with a claim for monetary damages not in excess of five thousand dollars (\$5,000), to endeavor to submit the matter to alternative dispute resolution in compliance with the provisions of Section 1354(b) of the Civil Code.

(3) Immediately after initiating the prosecution or defense of any civil action, making a reasonable effort, in good faith, to meet and confer with every person who is a party concerning appropriate processes for resolving the civil action, including available alternative

dispute resolution proceedings; concerning appropriate processes for avoiding or reducing costs or losses by the parties associated with the action; providing an opportunity to cure any alleged defect in common areas or facilities which is the basis for the action; and providing for the scope of discovery, if any, to be conducted prior to the inception of any alternative dispute resolution procedure.

(4) Considering diversion of the prosecution or defense of any civil action to alternative dispute resolution proceedings such as mediation, non-binding arbitration, or binding arbitration.

(5) Agreeing to participate and participating fully and in good faith in the resolution of any civil action through any alternative dispute resolution proceedings, including but not limited to mediation, non-binding arbitration, and binding arbitration, and paying costs reasonably incurred by the Association on account of those alternative dispute resolution proceedings.

(d) The Board is not required to do any of the following:

(1) As a prerequisite to initiating any civil action, to conduct inspections, maintain inspection records, exhaust applicable casualty insurance coverage maintained by the Association, provide an opportunity to cure, meet with members, (with the exception of meeting requirements pursuant to Civil Code Section 1375 regarding defect litigation) or obtain the consent of the members.

(2) Except in compliance with the provisions of Section 1354(b) of the Civil Code, to submit civil claims of any kind to binding or non-binding alternative dispute resolution procedures.

#### 8.02. Budgets and Financial Statements.

(a) The following financial and related information shall be regularly prepared and distributed by the Board to all members of the Association, and must be prepared and distributed prior to any increase in assessments:

(1) A pro forma operating budget for the immediately ensuing fiscal year consisting of at least the following information shall be distributed not less than 45 days nor more than 60 days prior to the beginning of the fiscal year.

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

(B) A summary of the Association's reserve based upon the most recent review or study conducted pursuant to Section 1365.5 of the Civil Code which shall be printed in bold type and include all of the following:

- (i) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component.
- (ii) As of the end of the fiscal year for which the study is prepared:

- 1. The current estimate of the amount of cash reserves necessary to repair, replace, restore or maintain major components.

- 2. The current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain major components.

- (iii) The percentage that accumulated cash reserves actually set aside is of the current estimate of cash reserves necessary.

(C) A statement as to whether the Board of the Association has determined or anticipates that the levy of one or more special assessments will be required to repair, replace or restore any major component or to provide adequate reserves therefor.

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

(E) A general statement regarding the Member's right to have copies of the minutes of meetings of the Board of Directors and how and when these minutes may be obtained.

(2) 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 an interest in the subdivision - and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and name of the entity assessed.

(3) A report consisting of the following shall be distributed within 120 days after the close of the fiscal year.

- (A) A balance sheet as of the end of the fiscal year.

- (B) An operating (income) statement for the fiscal year.

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

- (D) For any fiscal year in which the gross income to the Association 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.

(b) If the report referred to in (a)(3) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association

that the statement was prepared from the books and records of the Association without independent audit or review.

(c) In lieu of the distribution of the proforma operating budget required by subdivision (a), the Board may elect to distribute a summary of the items described in Section (a)(1)(A),(B), (C) and (D) to all members of the Association with a written notice that the budget is available at the business office of the Association or at another suitable location within the boundaries of the development and that copies will be provided upon request and at the expense of the Association. If any member requests copies of the pro forma operating budget including the items described in Section (a)(1)(A),(B),(C) and (D) to be mailed to the member, the Association shall provide such copies to the member by first-class United States mail at the expense of the Association and mailed within five days. The written notice that is distributed to each of the Association members shall be in at least 10-point bold type on the front page of the summary of the statements.

(d) In addition to financial statements, the Board shall annually distribute within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against members' subdivision interest.

(e) The Board shall do the following not less frequently than quarterly:

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

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

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

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

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

(f) Withdrawal of funds from the Association's reserve account shall require the signatures of either:

(1) Two members of the Board or;

(2) One member of the Board and an officer of the Association who is not also a member of the Board.

8.03. Standard of Care. Each director shall perform his or her duties as a director, including the duties as a member of any committee of the Board on which the director serves, in good faith, in a manner such director believes to be in the best interests of the Association,

and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

8.04. Committees of the Board. The Board, by resolution adopted by a majority of the directors then in office, provided a quorum is present, may create one or more committees, each consisting of two or more directors and no persons who are not directors, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the directors then in office. The Board may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee, to the extent provided in the resolution of the Board, shall have all of the authority of the Board, except that no committee, regardless of Board resolution, may:

- (i) take any final action on any matter which, under the Declaration or the California Nonprofit Mutual Benefit Corporation Law, also requires approval of the members or approval of a majority of all members;
- (ii) fill vacancies on the Board or on any committee which has the authority of the Board;
- (iii) amend or repeal these Bylaws or adopt new bylaws;
- (iv) amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
- (v) expend corporate funds to support a nominee for director after there are nominees then can be elected.

Meetings and actions of committees of the Board shall be governed by, held, and taken in accordance with, the provisions of these Bylaws concerning meetings and other actions of the Board, except that the time for regular meetings of such committees and calling of special meetings of such committees may be determined either by resolution of the Board or, in the absence of a Board resolution, be resolution of the committee. Minutes of each meeting of any committee of the Board shall be kept and shall be filed with the corporate records. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws, or in the absence of rules adopted by the Board, the committee may adopt such rules.

8.05. Due Process Requirements. Before the Board imposes any monetary penalties, or suspensions of membership rights or Common Area use privileges against any Member for failure to comply with the Declaration, these Bylaws, or Association Rules, the Board must act in good faith and must satisfy each of the following requirements;

- (i) The member is given 15 days prior notice of the discipline to be imposed and the reasons for the imposition of the discipline. The notice may be given by

any method reasonably calculated to give actual notice. If the notice is given by mail, it must be sent by first class or registered mail to the last address of the member as shown on the Association's records.

(ii) The member is given an opportunity to be heard, orally or in writing, by the Board, not less than five days before the effective date of the imposition of the discipline.

## 9. Officers and Their Duties

9.01. Officers and the Association. The officers and the Association shall be a president, a secretary, and a chief financial officer. The Association may also have, at the discretion of the Board, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 9.03 of these Bylaws. Any number of offices may be held by the same person.

9.02. Election of Officers. The officers, except those appointed under Section 9.03 of these Bylaws, shall be chosen annually by the Board and shall serve at the pleasure of the Board. The Board shall appoint one of its directors as president and one as the chief financial officer; the other officers need not be directors.

9.03. Other Officers. The Board may appoint and may authorize the president, or another officer, to appoint any other officers that the Association may require. Each officer so appointed shall have the title, hold office for the period, have the authority and perform the duties specified in these Bylaws or determined from time to time by the Board.

9.04. Removal or Resignation of Officers. Any officer may be removed with or without cause by the Board, and also, if the officer was not chosen by the Board, by any officer on whom the Board may confer that power of removal. Any officer may resign at any time by giving written notice to the Association. Any such resignation shall take effect as of the date the notice is received or at any later time specified in the notice and, unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

9.05. Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office; provided, however, that vacancies need not be filled on an annual basis.

9.06. Duties. The duties of the officers shall be as follows:

(i) President

The president shall be the general manager and chief executive officer of the Association and generally supervise, direct, and control the Association's

activities, affairs, and officers. The president shall preside at all meetings of members and at all meetings of the Board. The president shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

(ii) Vice Presidents

In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the Board or, if not ranked, a vice president designated by the Board, shall perform all of the duties of the president. When so acting, a vice president shall have all of the powers of and be subject to all of the restrictions on the president. The vice presidents shall have such other powers and perform such other duties as prescribed by the Board or these Bylaws.

(iii) Secretary

The secretary shall keep or cause to be kept, at the Association's principal office, the following:

(a) A book of minutes of all meetings, proceedings, and actions of the Board, of committees of the Board, and of members. The minutes of meetings shall include the time and place of holding, whether annual, regular, or special, and, if special, how authorized, the notice given, the names of those present at Board and committee meetings, and the number of members present or represented at members' meetings.

(b) A copy of the Articles and Bylaws, as amended to date.

(c) A record of the members, showing the names of all members, their addresses and the class of membership held by each.

Except as otherwise provided in these Bylaws, the secretary shall give, or cause to be given, the notices required by these Bylaws for meetings of members, of the Board and of committees of the Board. The secretary shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

(iv) Chief Financial Officer

The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the properties and transactions of the Association, and shall send or cause to be sent to the members and directors such financial statements and reports as are required by law, the Declaration, these Bylaws, or the Board. The books of account shall be open to inspection by any director at all reasonable times.

The chief financial officer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Association with such

depositories as may be designated by the Board, shall disburse the funds of the Association as may be ordered by the Board, shall render to the president and the Board, when requested, an account of all transactions made on behalf of the Association and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws.

9.07. Joint Signatures. Unless the Board authorizes otherwise, any check or other negotiable instrument issued by the Association shall require the joint signatures of any two of the following officers: the president, the chief financial officer, and/or the secretary.

9.08. Compensation. Officers shall not receive any compensation for any service rendered to the Association as an officer, provided that any officer may be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties.

## 10. Indemnification and Insurance

10.01. Indemnification Right and Power. The Association shall indemnify any agent of the Association who was a party to any proceeding by reason of the fact that the person is or was an agent of the Association against expenses actually and reasonably incurred in any proceeding to the extent that the agent was successful on the merits in defense of the proceeding or in defense of any claim, issue, or matter therein. Expenses shall include any attorneys' fees and any other expenses of establishing a right to indemnification.

The Association may indemnify any agent of the Association who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was an agent of the Association, against expenses actually and reasonably incurred in connection with such proceeding provided the approval requirements described in Section 10.02 of these Bylaws have been satisfied.

For purposes of Sections 10.01-10.05 of these Bylaws, the term "agent" means any present or former director, officer, employee, or other agent of the association, the term "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative, and the term "expenses" includes judgments, fines, or settlements occurring in any proceeding other than a proceeding brought by or on behalf of the Association.

10.02. Indemnification Approval. Unless indemnification is required as provided in Section 10.01 of these Bylaws, indemnification shall be made only if authorized in the specific case on a determination that indemnification is proper in the circumstances because the agent satisfied the appropriate standard of care described in Section 10.03 of these Bylaws. The determination must be made by one of the following methods:

- (i) A majority vote of a quorum of the Board consisting of directors who are not parties to the proceeding.
- (ii) The affirmative vote of a majority of the voting power of the members entitled to vote at a duly held members' meeting in which a quorum was present, or the approval by written ballot under the procedures described in Paragraph 5.13 of these Bylaws, provided that if the agent to be indemnified is a member, the agent shall not be entitled to vote.
- (iii) The court in which such proceeding is or was pending on application made by the Association or the agent of the attorney or other person rendering services in connection with the defense, whether or not the application is opposed by the Association.

Notwithstanding the foregoing, any indemnification in any proceeding brought by or on behalf of the Association shall be subject to the restrictions contained in California Corporation Code Section 7237(c).

10.03. Standard of Care. In any proceeding brought by or on behalf of the Association, the applicable standard of care shall require that the agent acted in good faith, in a manner the agent believed to be in the best interests of the Association and with the care, including reasonable inquiry, that an ordinarily prudent person in like position would use under similar circumstances. In all other proceedings, the agent must have acted in good faith, in a manner the agent believed to be in the best interest of the Association and, in the cause of a criminal proceeding, had not reasonable cause to believe that his or her conduct was unlawful.

10.04. Advancement of Expenses. On approval of the Board, expenses incurred in defending any proceeding may be advanced by the Association prior to the final disposition of the proceeding, provided the Association receives an undertaking by or on behalf of the agent that the advances will be repaid unless it is ultimately determined that the agent was entitled to indemnification as required or authorized by these Bylaws.

10.05. Insurance. The Association shall have the power to purchase and maintain insurance on behalf of its agents, against any liability asserted against or incurred by any agent in such capacity of arising out of the agent's status as such whether or not the Association would have the power to indemnify the agent against such liability under Sections 10.01-10.04 of these Bylaws.

## 11. Amendments

11.01. Amending the Bylaws. If a two-class voting system is in effect, these Bylaws may be amended by vote or written assent of a majority of the voting power of all of the members of each class.

If a one-class voting system is in effect, these Bylaws may be amended by the vote or written assent of a majority of the voting power of all the members, and a majority of voting power of all of the Members of the Association other than Declarant.

11.02. Amending the Articles. If a two-class voting system is in effect, the Articles may be amended by vote or written assent of a majority of the voting power of all of the members of each class.

If a one-class voting system is in effect, the Articles may be amended by a majority vote of the Board, a majority of the voting power of all the members, and a majority of the voting power of all the members other than Declarant.

11.03. Amendment Restrictions. Notwithstanding the amendment requirements contained in Section 11.01 and 11.02 of these Bylaws, the percentage of the voting power of the Association or of members other than the Declarant necessary to amend a specific clause or provision in these Bylaws or the Articles shall not be less than the prescribed percentage of affirmative votes required for action to be taken under the clause or provision; and, if applicable, any amendments to the Articles or Bylaws shall satisfy the requirements of California Business and Professions Code Section 11018.7, the requirements of Article XV of the Declaration regarding the consent of first Mortgagees.

## 12. General Provisions

12.01. Conflict with Declaration. If any provision of these Bylaws conflicts with any provision of the Declaration, the Declaration shall control to the extent of any such conflict.

12.02. Fiscal Year. Unless the Board determines otherwise, the fiscal year of the Association shall be a calendar year.

12.03. Records. The Association shall maintain the following records:

- (i) Adequate and correct books and records of account;
- (ii) written minutes of the proceedings of its members, Board and committees of the Board; and
- (iii) a record of its members, giving their names and addresses and the class of membership held by each.

The Association shall keep at its principal office the original or a copy of the Declaration, the Articles and these Bylaws, as amended to date, which shall be open to inspection by the members at all reasonable times during office hours.

12.04. Inspection of Association's Books and Records.

(a) Commencing not later than ninety (90) days after the close of escrow of the first interest in the subdivision, copies of the documents listed below, as soon as readily obtainable, shall be delivered by the subdivider to the Board of the Association at the office of the Association, or at such other place as the Board of the Association shall prescribe.

- (1) The recorded subdivision map or maps for the project.
- (2) The recorded condominium plan, if any, and all amendments thereto.
- (3) The deeds and easements executed by the subdivider conveying the common area or other interest to the Association, if applicable.
- (4) The recorded covenants, conditions and restrictions for the subdivision, including all amendments and annexations thereto.
- (5) The Association's filed articles of incorporation, if any, and all amendments thereto.
- (6) The Association's bylaws and all amendments thereto.
- (7) All architectural guidelines and all other rules regulating the use of an owner's interest in the subdivision or use of the common area which have been promulgated by the Association.
- (8) The plans approved by the local agency or county where the subdivision is located for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy.
- (9) All notice of completion certificates issued for common area improvements (other than residential structures).
- (10) Any bond or other security device in which the Association is the beneficiary.
- (11) Any written warranty being transferred to the Association for common area equipment, fixtures or improvements.
- (12) Any insurance policy procured for the benefit of the Association, its Board or the common area.
- (13) Any lease or contract to which the Association is a party.

(14) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the members, of the Board and of committees of the Board of the Association.

(15) Any instrument referred to in Section 11018.6(d) but not described above which establishes or defines the common, mutual or reciprocal rights or responsibilities of members of the Association.

(b) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the members, of the governing body and of committees of the Board of the Association shall be made available for inspection and copying by any member of the Association, or by his duly-appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the subdivision as the Board shall prescribe.

(c) (1) In the case of the minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board, other than an executive session, shall be available to members within 30 days of the meeting and shall be distributed to only members upon request and payment of the fee prescribed in (c)(3) below.

(2) At the time the pro forma operating budget is distributed as required by Section 8.02 of these Bylaws or at the time of any general mailing, members of the Association shall be notified in writing of their right to have copies of the minutes of meetings of the Board and as to how and where those minutes may be obtained and the cost of obtaining such copies.

(d) The Board shall establish reasonable rules with respect to:

- (1) Notice to be given to the custodian of the records by the member desiring to make the inspection.
- (2) Hours and days of the week when such an inspection may be made.
- (3) Payment of the cost of reproducing copies of documents requested by a member.

(e) Every member of the Board shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a member of the Board includes the right to make extracts and copies of documents.

CERTIFICATE OF SECRETARY

I, the undersigned secretary, certify that the foregoing Bylaws have been approved by a majority of the members of the Association.

  
\_\_\_\_\_  
SECRETARY