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FAIRWAY HEIGHTS PLANNED DEVELOPMENT
DECLARATION OF NEIGHBORHOOD RESTRICTIONS

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DECLARATION OF NEIGHBORHOOD RESTRICTIONS
FOR FAIRWAY HEIGHTS PLANNED DEVELOPMENT

THIS DECLARATION OF NEIGHBORHOOD RESTRICTIONS is made and executed by W. WOLF PROPERTIES, INC., a California corporation, herein referred to as "Declarant" (more specifically defined in Article 1 hereof).

W I T N E S S E T H T H A T :

WHEREAS, Declarant is the owner of the property in San Diego County, California, described as:

Lots 20 through 51, inclusive, Lots 62 through 65, inclusive, and Lots 66 and 68, of BERNARDO HEIGHTS NORTH, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11111, filed in the Office of the County Recorder of San Diego County, California, December 18, 1984.

WHEREAS, Declarant will create, on the property described above, a Planned Development pursuant to California Business and Professions Code Section 11003.

WHEREAS, it is presently intended that there will be three phases of development in said Planned Development. Phase I will be developed on the aforesaid Lots 20 through 51, Lots 62 through 65, and Lots 66 and 68 of said Bernardo Heights North, and will consist of 36 single-family residential dwelling units. Phase II, if completed as presently intended, will be constructed on the land described as Parcel 1 in Exhibit A attached hereto and will consist of 29 single-family residential dwelling units. Phase III, if completed as presently intended, will be constructed on the land described as Parcel 2 in said Exhibit A and will consist of 43 single-family residential dwelling units. Open space, consisting primarily of private roads will exist on Lot 68 in Phase I, and, if annexed, on Lot 44 in Phase III. Recreation areas, consisting primarily of landscaped areas and non-structural recreation facilities, will exist on Lot 66 in Phase I, and, if annexed, on Lot 67 in Phase II and Lots A, B, C and D in Phase III.

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WHEREAS, the property described above, including the property described in Exhibit A hereto, is a portion of the Community of Bernardo Heights subject to that certain Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, dated September 29, 1980, and recorded in the Office of the County Recorder of San Diego County, California, on September 30, 1980 as File/Page No. 80-319018, as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions dated June 16, 1981, and recorded in the Office of the County Recorder of San Diego County, California, on July 31, 1981 as File/Page No. 81-243645, and as further amended by that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions dated January 25, 1983, and recorded in the Office of the Recorder of San Diego County, California, on December 14, 1983, as File/Page No. 83-456035.

WHEREAS, Declarant is about to sell and convey portions of the property first described above and Declarant desires and intends to hereby subject said property first described above to mutual, beneficial restrictions under a general plan or scheme of improvement not only for the benefit of said property and the future owners thereof but also for the purpose of complying with the aforesaid Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, as so amended.

NOW, THEREFORE, Declarant hereby declares that all of the property first described above is a separate Neighborhood as contemplated by the aforesaid Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, as so amended, and all or any part of the property described in Exhibit A hereto which is annexed into the Project as contemplated by the Article of these Neighborhood Restrictions entitled "Annexation," shall, upon such annexation, be and become a part of such separate Neighborhood. All of said property first above described, and any such property described in Exhibit A if and when annexed, shall be held by Declarant and shall be hereafter, or thereafter, owned, held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and/or improved subject to the limitations, restrictions, conditions and covenants herein set forth, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of said property and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of said property and every part thereof. All of the limitations, restrictions, conditions and covenants herein set forth shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in said property or any part thereof.

ARTICLE 1 - DEFINITIONS

1.1 Each of the following words and phrases shall, in this instrument, have the respective meaning shown below, unless a contrary meaning shall, by the context, be evident:

1.1.1 "Board of Directors" shall mean the governing body of the Neighborhood Association (hereinafter defined).

1.1.2 "Community" shall mean all of the real property subject to the Community Declaration (hereinafter defined).

1.1.3 "Community Architectural Committee" shall mean the Community Architectural Committee established pursuant to Article VIII of the Community Declaration.

1.1.4 "Community Articles" shall mean the Articles of Incorporation of the Community Association as said Articles of Incorporation may from time to time be amended.

1.1.5 "Community Assessments" shall mean any assessments from time to time levied or imposed upon a Lot pursuant to the Community Declaration.

1.1.6 "Community Association" shall mean The Community Association of Bernardo Heights, a California nonprofit mutual benefit corporation, or any successor entity charged with the duties, obligations and powers of said Community Association of Bernardo Heights.

1.1.7 "Community Board" shall mean the Board of Directors of the Community Association.

1.1.8 "Community Bylaws" shall mean the Bylaws for the Community Association duly adopted by the Community Board.

1.1.9 "Community Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, dated September 29, 1980, and recorded in the Office of the County Recorder of San Diego County, California, on September 30, 1980 as File/Page No. 80-319018, as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions, dated June 16, 1981, and recorded in the Office of the County Recorder of San Diego County, California, on July 31, 1981 as File/Page No. 81-243645, and as further amended by that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions dated January 25, 1983, and recorded in the Office of the Recorder of San Diego County, California, on December 14, 1983, as File/Page No. 83-456035, and as said Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights may hereafter from time to time be further amended.

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1.1.10 "Declarant" shall mean (i) W. Wolf Properties, Inc., a California corporation, and (ii) any successor in interest of W. Wolf Properties, Inc., a California corporation, to whom all or any of the rights of Declarant under the Neighborhood Bylaws and these Neighborhood Restrictions have been transferred and who is (a) a grantee under a deed, executed and delivered prior to the conveyance of the first Lot (defined below), which conveys the entire Project (defined below) or (b) a grantee under a deed conveying two or more Lots. Notwithstanding the provisions of the Article hereof entitled "Amendment" to the contrary, this Paragraph may not be amended without the prior written consent of Declarant, which consent, to be effective, must be filed for record in the Office of the County Recorder of San Diego County, California.

1.1.11 "First Mortgage" shall mean any deed of trust or mortgage which is the only deed of trust or mortgage encumbering a Lot or which is first in priority, under the recording laws of the State of California, of a series of two or more mortgages or deeds of trust encumbering the same Lot.

1.1.12 "First Mortgagee" shall mean a Mortgagee whose mortgage or deed of trust, as the case may be, is a First Mortgage.

1.1.13 "Interested Person" shall mean any First Mortgagee or any insurer or guarantor of a First Mortgage.

1.1.14 "Lots" shall mean (i) all of Lots 20 through 51 and Lots 62 through 65 of Bernardo Heights North described above, (ii) any of the Lots described in Exhibit A which hereafter may be from time to time annexed to and made a part of the Project in accordance with the Article hereof entitled "Annexation," or (iii) any improved or unimproved subdivision lot or parcel into which any of the lots described in items (i) and (ii) of this subparagraph is subdivided as shown on a recorded subdivision map or parcel map affecting any such lot; "Lot" shall mean any one of the Lots. "Lot" shall include any Open Space Lot or Recreation Area Lot unless the context otherwise requires.

1.1.15 "Member" shall mean an Owner, as defined hereinbelow, entitled to membership in the Neighborhood Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

1.1.16 "Mortgagee" shall mean the mortgagee under any real property mortgage or beneficiary under any deed of trust which mortgage or deed of trust encumbers any Lot.

1.1.17 "Neighborhood Architectural Control Committee" shall mean the Neighborhood Architectural Control Committee

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established and formed as set forth in Article 6 of these Neighborhood Restrictions.

1.1.18 "Neighborhood Articles" shall mean the Articles of Incorporation of the Neighborhood Association, as said Articles of Incorporation may from time to time be amended.

1.1.19 "Neighborhood Association" shall mean the Fairway Heights Owners' Association, Inc., a California nonprofit mutual benefit corporation composed of the Owners as defined hereinbelow.

1.1.20 "Neighborhood Bylaws" shall mean the Neighborhood Bylaws of the Neighborhood Association as said Neighborhood Bylaws may from time to time be amended.

1.1.21 "Neighborhood Restrictions" shall mean this instrument, as the same may from time to time be (i) amended pursuant to the Article hereof entitled "Amendment," or (ii) affected by any "Declaration of Annexation and Restrictions" described in the Article hereof entitled "Annexation."

1.1.22 "Open Space" shall mean the open space and other common area which is to be conveyed by Declarant in fee to the Neighborhood Association for use for roadway, parking, open space and/or landscaping purposes and shall consist of (i) Lot 68 of the above described Bernardo Heights North, and (ii) Lot 44 of Bernardo Heights South described in Exhibit A attached hereto, if said Lot is annexed into the Project and made a part of the Open Space in accordance with the Article hereof entitled "Annexation."

1.1.23 "Owner" shall mean Declarant prior to the first conveyance of a Lot, and thereafter shall mean the person(s) who hold(s) record title to any Lot, including Declarant for as long as Declarant holds title to a Lot.

1.1.24 "Project" shall mean the Fairway Heights Planned Development, encompassing the Lots.

1.1.25 "Recreation Area" shall mean that Lot (or those Lots) which is (are) to be conveyed in fee to the Neighborhood Association for use for recreation purposes and shall consist of (i) Lot 66 of Bernardo Heights North first above described, (ii) Lot 67 of Bernardo Heights North described in Exhibit A, if said Lot 67 is annexed into the Project and made part of the Recreation Area in accordance with the Article hereof entitled "Annexation" and (iii) Lots A, B, C and D of Bernardo Heights South described in Exhibit A, if said Lots A, B, C and D, or any of them, are so annexed into the Project.

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ARTICLE 2 - RESTRICTIONS ON USE

2.1 As to the Lots and each of them:

2.1.1 None of the Lots shall be used for other than single-family residential purposes. No buildings or structures shall be erected, altered, placed or permitted to remain on any of the Lots, other than the Open Space or Recreation Area, except one single-family dwelling, a private garage and other customary appurtenances incidental to the residential use of a Lot. Notwithstanding the foregoing, Declarant may use any Lot owned by Declarant, not exceeding at any time four in number, for the purpose of maintaining thereon a sales office, a construction office, and/or model homes constructed by or on behalf of Declarant. Such use shall terminate after Declarant has conveyed the last Lot in the Project owned by Declarant. Anything in the Article of this Declaration entitled "Amendment" notwithstanding, this Paragraph shall not be amended, modified or rescinded so long as Declarant owns a Lot which has not been conveyed to an Owner other than Declarant without the (i) prior written consent of Declarant and (ii) recording of said written consent in the Office of the County Recorder of San Diego County, California.

2.1.2 No animals of any kind shall be maintained, bred or kept on any Lot except that dogs, cats or other customary household pets in a reasonable number and size may be kept thereon; provided, however, that they are not kept, bred or maintained for any commercial purposes, and provided further, that the Neighborhood Association may adopt rules or regulations limiting or restricting the keeping of such pets. The Board of Directors shall specifically have the right to prohibit the maintenance of any pet which, in the opinion of the Board of Directors, after notice and hearing, constitutes a nuisance to any Owner.

2.1.3 No structure of a temporary character, trailer, tent, shack or other outbuilding shall be erected or placed on any Lot, either temporarily or permanently. Nothing contained in the foregoing shall be construed to preclude the use of a trailer, outbuilding or other temporary structure used to facilitate construction, or the convenience of persons engaged in construction, during the period of construction of any single-family residence on any Lot, provided that any such trailer, outbuilding or structure shall be removed forthwith upon the completion of any such single-family residence.

2.1.4 No noxious or offensive activity shall be carried on upon any of the Lots, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any person of reasonable sensitivity residing in the Project.

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2.1.5 No sign of any kind, except that of a customary address sign, a "For Sale" sign or a "For Rent" sign, and such signs as may be required by legal proceedings, may be displayed to the public view on any of the Lots; provided, however, that any Owner displaying a "For Sale" or "For Rent" sign shall, in good faith and using its reasonable best efforts, endeavor to effect the sale or rental of its Lot, as the case may be. Notwithstanding the foregoing, Declarant may display or post any signs, flags, poles or other objects on any Lot owned by Declarant which Declarant, in Declarant's sole discretion, deems appropriate in connection with the sale of any of the Lots and until Declarant has conveyed the last Lot owned by Declarant in the Project. Anything in the Article of these Neighborhood Restrictions entitled "Amendment" to the contrary notwithstanding, this sentence, and the immediately preceding sentence of this paragraph, shall not be amended, modified or rescinded so long as Declarant owns a Lot which has not been conveyed to an Owner other than Declarant, without the (i) prior written consent of Declarant and (ii) the recording of such written consent in the Office of the County Recorder of San Diego County, California.

2.1.6 All equipment, refuse cans and other containers shall be kept screened and concealed from view from any of the Lots or streets within the Community. All rubbish, trash and refuse shall be regularly removed from each Lot and shall not be allowed to accumulate thereon.

2.1.7 No outside clotheslines or other outside clothes drying or airing facilities shall be erected or maintained on any Lot so as to be visible from any of the Lots or streets within the Community.

2.1.8 No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors, whether attached to a building or structure or otherwise.

2.1.9 No commercial vehicle, automobile, truck, truck "cab," tractor, bus, motorcycle, trailer, recreational vehicle, van, camper, camper shell, motor home, mobile home, dune buggy, boat, sailboat, yacht, or other vehicle, sea-going vessel or equipment of any kind shall be parked, stored, deposited, maintained, repaired or otherwise kept on any Lot other than within a garage or other enclosed building on a Lot; provided, however, that passenger automobiles owned or regularly used by an Owner or a member of an Owner's immediate family, or guests thereof, may be temporarily parked in the driveway of such Owner's Lot during the normal waking hours of such Owner or such Owner's family. No dismantled or wrecked vehicle or equipment shall be parked, stored, deposited or the like on any Lot other than within a garage or other enclosed building on a Lot.

2.1.10 No Owner shall, either temporarily or permanently, use his garage for any use other than the parking of vehicles and the storage of miscellaneous personal property; in no event shall any garage be used for human habitation.

2.1.11 No Owner shall lease or rent less than its entire Lot. No Owner shall lease or rent its Lot for a term of less than 30 days, except an Owner who is a lender in possession of a Lot following (i) a default in a First Mortgage, (ii) a foreclosure proceeding or (iii) any deed or other arrangement in lieu of foreclosure. Other than the foregoing, there shall be no restriction on the right of any Owner to lease or rent its Lot. An Owner shall be responsible for any act of any tenant or other occupant of such Owner's Lot which constitutes a breach of any provision of the Neighborhood Bylaws, these Neighborhood Restrictions or any rule or regulation adopted by the Board of Directors.

2.1.12 The Owner of a Lot whose residential structure has been damaged or destroyed by fire or other calamity shall promptly and diligently cause such structure to be repaired or restored. This obligation shall not extend to the installation of furniture and the like, but is for the purpose of preventing unsightliness caused by such damage or destruction and any resultant health or safety problems to other Owners within the Project and to the public.

2.1.13 No commercial trade or business shall be carried on upon any Lot.

2.1.14 All buildings, structures and other improvements upon each Lot, including walkways and paving, shall, at all times, be maintained in good condition and repair. Each Owner shall make all appropriate repairs and replacements as often as the same shall become necessary in order to conform with the foregoing standard. In the event the provisions of this paragraph are violated, the Neighborhood Association or any agent or authorized independent contractor of the Neighborhood Association, after 30 days' prior written notice to the Owner of the Lot on which buildings, structures or improvements are not so maintained, may enter upon such Lot and perform such maintenance as may be necessary in order to put any such buildings, structures or other improvements in good condition and repair. Such entry and maintenance work shall be in addition to all other remedies available to the Neighborhood Association as provided herein. Neither the Neighborhood Association nor any officer, agent or authorized independent contractor of the Neighborhood Association shall, by such entry, be deemed guilty of any manner of trespass.

2.1.15 The first Owner of a Lot other than Declarant shall cultivate and landscape the unimproved areas of said Lot in conformance with standards established by the Community Archi-

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tectural Committee. Written and diagrammatic plans and specifications for such cultivation and landscaping shall be submitted to the Community Architectural Committee for review in time reasonably sufficient to enable the cultivation and landscaping contemplated by such plans to be completed within six months after the date upon which said first Owner acquired legal or equitable title to the Lot which is the subject of such plans and specifications; provided, that in any event shall be submitted to the Community Architectural Committee within three months after such first Owner acquires such title. In the event the Community Architectural Committee advises the Owner submitting any such plans and specifications that all or any portion of such plans and specifications do not so comply with such standards as established by the Community Architectural Committee, said Owner shall revise said plans and specifications, or such portion thereof, so as to conform to such standards. Each such first Owner shall diligently seek to obtain approval of such plans and specifications by the Community Architectural Committee and, after receiving such approval, such Owner shall complete the cultivation and landscaping work contemplated by such plans and specifications within six months after the date upon which such Owner acquired such title to such Lot. After the completion of such cultivation and landscaping work, each Owner of each Lot shall maintain the landscaping upon said Owners' Lot in good condition and in conformance with standards established by the Community Architectural Committee, removing all weeds and watering lawns and shrubs as often as the same shall be necessary. In the event any such landscaping is not so maintained, the Neighborhood Association or its agent or authorized independent contractor, after 30 days prior written notice to the Owner of the Lot in question, may enter upon such Lot and perform such landscaping work. Such entry and the performance of such landscaping shall be in addition to all other remedies available to the Neighborhood Association as provided herein. Neither the Neighborhood Association nor any officer, agent or authorized independent contractor of the Neighborhood Association shall, by such entry or the performance of such work, be deemed guilty of any manner of trespass.

2.1.16 No fences, hedges or walls shall be erected or maintained on any Lot, other than as are initially installed by Declarant, unless first approved by the Neighborhood Architectural Control Committee.

2.1.17 There shall be no exterior newspaper tubes or freestanding mailboxes except as may have been initially installed by Declarant or thereafter approved by the Neighborhood Architectural Control Committee.

2.1.18 No basketball standards or fixed sports apparatus shall be erected on any Lot or be attached to any Building located on any Lot, including, but not limited to, a residential structure or garage on any Lot.

2.1.19 Notwithstanding the provisions of this Paragraph 2.1, those portions of the Lots forming the Open Space and the Recreation Area shall be improved and used only in accordance with the provisions of Paragraphs 2.2 and 2.3, respectively.

2.2 As to the Open Space:

2.2.1 The Open Space shall be improved and used only for (i) vehicular and pedestrian movement within the Project, including access to the Lots, (ii) temporary vehicular parking of passenger automobiles, trucks having a gross vehicle weight rating of less than 5,000 pounds and motorcycles in areas, if any, designated by the Board of Directors, (iii) recreational use by the Owners and occupants of Lots and their guests, subject to the rules and regulations established by the Board of Directors and (iv) beautification of the Project and providing privacy to the residents thereof. A nonexclusive easement upon and across the Open Space for private roadway purposes and for vehicular and pedestrian ingress and egress is and shall be appurtenant to each Lot, and a nonexclusive easement upon and across the Open Space for accepting and draining rainwater from the residential structure situated upon each Lot is and shall be appurtenant to each Lot. In addition to the foregoing easements, a nonexclusive easement under, over, upon and across the Open Space for purposes of maintaining, repairing and replacing water, gas, sewer, electric, telephone, cable television, sanitary services, storm drains and other utility pipes, mains, wires, conduits, laterals and poles is and shall be appurtenant to each Lot; any Owner effecting the maintenance, repair or replacement of any of such pipes, mains, wires, conduits, laterals of poles servicing its Lots shall promptly remedy any damage caused thereby to the Open Space and shall restore the Open Space to its condition prior to any such work having been performed.

2.2.2 No activity shall be carried on in the Open Space which shall be contrary to rules and regulations adopted by the Board of Directors relating to use of and activity in the Open Space.

2.2.3 No portion of the Open Space shall be used for any purpose or in any manner which shall cause any structure in the Project to be uninsurable against loss by fire or the perils covered under the extended coverage policy(ies) of hazard insurance which the Board of Directors is required to keep in force pursuant to the Article hereof entitled "Destruction; Insurance," or cause any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse renewal thereof.

2.2.4 No Owner shall make any alteration or improvement to the Open Space, or remove any planting, structure, furnishing or other object therefrom except with the written consent

of the Board of Directors. Subject to the offset of such amounts as Neighborhood Association may receive from insurance carried by Neighborhood Association in accordance with the Article of these Neighborhood Restrictions entitled "Destruction; Insurance," an Owner shall be liable to the Neighborhood Association for all costs incurred by the Neighborhood Association for the replacement or repair of any personal property owned by the Neighborhood Association and damaged in, or removed from, the Open Space by such Owner, its guests or any occupant of such Owner's Lot.

2.2.5 Subject to the offset of such amounts as the Neighborhood Association may receive from insurance carried by the Neighborhood Association in accordance with the Article of these Neighborhood Restrictions entitled "Destruction; Insurance," an Owner shall be liable to the Neighborhood Association for all damage or destruction to the Open Space or to any improvements thereon or thereto, including but not limited to, buildings, recreational facilities and landscaping, caused by the act or omission (including the failure to maintain such Owner's Lot) of such Owner, its guests or any occupant of such Owner's Lot.

2.2.6 Parking shall be allowed in the Open Space subject to rules and regulations of the Neighborhood Association which are not inconsistent with this Declaration. The Neighborhood Association may permit the temporary parking in the Open Space of passenger automobiles, motorcycles and trucks having a gross vehicle weight rating of less than 5,000 pounds. No truck having a gross vehicle weight in excess of 5,000 pounds, truck "cab," tractor, bus, trailer, recreational vehicle, van, camper, camper shell, motor home, mobile home, dune buggy, boat, sailboat, yacht or other vehicle, sea-going vessel or equipment of any kind shall be parked, stored, deposited, maintained, repaired or otherwise kept on or in the Open Space, and no dismantled or wrecked vehicle (including portions thereof), sea-going vessel or equipment shall be parked, stored, deposited, maintained, repaired or otherwise kept in the Open Space. Nothing herein shall in any manner limit or prohibit the Board of Directors from adopting regulations allowing guest parking in the Open Space.

2.2.7 No sign of any nature shall be displayed or posted by an Owner in the Open Space. Notwithstanding the foregoing, and subject to a concomitant obligation to restore, Declarant and its sales agents shall have the right to the nonexclusive use of the Open Space for the purpose of maintaining sales offices and signs reasonably necessary to market the Lots, until the earlier to occur of the following: (i) that certain date which is five years after the conveyance of the Open Space by Declarant to Neighborhood Association, or (ii) the sale by Declarant of the last Lot within the Project, including any development phase which may be annexed to and made a part of the

Project pursuant to the Article hereof entitled "Annexation." Anything in the Article entitled "Amendment" to the contrary notwithstanding, this Paragraph shall not be amended, modified or rescinded prior to the conveyance by Declarant of the last Lot within the Project, including any development phase which may be annexed to and made a part of the Project pursuant to the Article hereof entitled "Annexation," without the (i) prior written consent of Declarant and (ii) recording of said written consent in the Office of the County Recorder of San Diego County, California. The use of the Open Space by Declarant and its agents shall not unreasonably interfere with the use by the other Owners.

2.2.8 No radio or television antenna, or radio transmitter tower or facility of any kind shall be constructed, erected or otherwise placed in the Open Space, excepting therefrom (i) one or more master television antenna(e) which may be erected thereon by Declarant or Neighborhood Association and thereafter maintained or (ii) any facility for cable television which may be contracted for in accordance with an agreement entered into between Neighborhood Association (or the Declarant for the benefit of Neighborhood Association) and a cable television company, provided such cable television services will be made available to each and every Lot.

2.3 As to the Recreation Area:

2.3.1 The Recreation Area shall be improved and used only for recreational use by the Owners and occupants of Lots and their guests, subject to the rules and regulations established by the Board of Directors, which in any event shall not be inconsistent with the uses permitted by the recorded subdivision maps affecting the Project.

2.3.2 No activity shall be carried on in the Recreation Area which is contrary to rules and regulations adopted by the Board of Directors relating to use of and activity in the Recreation Area.

2.3.3 No Owner shall make any alteration or improvement to the Recreation Area, or remove any planting, structure, furnishing or other object therefrom except with the written consent of the Board of Directors. Subject to the offset of such amounts as the Neighborhood Association may receive from insurance carried by the Neighborhood Association in accordance with the Article of these Neighborhood Restrictions entitled "Destruction; Insurance," an Owner shall be liable to the Neighborhood Association for all costs incurred by the Neighborhood Association for the replacement or repair of any personal property owned by the Neighborhood Association and damaged in, or removed from, the Recreation Area by such Owner, its guests or any occupant of such Owner's Lot.

2.3.4 Subject to the offset of such amounts as the Neighborhood Association may receive from insurance carried by the Neighborhood Association in accordance with the Article of these Neighborhood Restrictions entitled "Destruction; Insurance," an Owner shall be liable to the Neighborhood Association for all damage or destruction to the Recreation Area caused by the act or omission of such Owner, its guests or any occupant of such Owner's Lot.

2.3.5 No automobile, truck, truck "cab," tractor, bus, motorcycle, trailer, recreational vehicle, van, camper, camper shell, motor home, mobile home, dune buggy, boat, sailboat, yacht or other vehicle, sea going vessel or equipment of any kind shall be parked, stored, deposited, maintained, repaired or otherwise kept on or in the Recreation Area, and no dismantled or wrecked vehicle (including portions thereof), sea-going vessel or equipment shall be parked, stored, deposited, maintained, repaired or otherwise kept in the Recreation Area, except as permitted by rules and regulations adopted by the Board of Directors.

2.3.6 No sign of any nature shall be displayed or posted by an Owner in the Recreation Area except within areas, or on bulletin boards, provided by the Neighborhood Association for that purpose.

2.3.7 No radio or television antenna, or radio transmitter tower or facility of any kind shall be constructed, erected or otherwise placed in the Recreation Area, excepting therefrom (i) one or more master television antenna(e) which may be erected thereon by Declarant or the Neighborhood Association and thereafter maintained or (ii) any facility for cable television which may be contracted for in accordance with an agreement entered into between the Neighborhood Association (or the Declarant for the benefit of the Neighborhood Association) and a cable television company, provided such cable television services will be made available to each and every Lot.

ARTICLE 3

EASEMENTS ACROSS OPEN SPACE AND RECREATION AREA AND OWNERSHIP OF BENEFICIAL INTEREST IN COMMON PERSONALTY

3.1 Declarant hereby covenants for itself, its successors and assigns, that it will convey to the Neighborhood Association the fee estate in and to the Open Space and the Recreation Area prior to the first conveyance by Declarant of a Lot to an Owner. Such conveyance shall be subject to this Declaration and to such covenants, conditions, reservations, restrictions, easements and other matters of record (except any mortgage, deed of trust or other monetary lien) at the time such conveyance is filed for record with the County Recorder of San Diego County, California.

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No sale, transfer, dedication or other conveyance by the Neighborhood Association of the Open Space, or the Recreation Area, or any part thereof, shall be effective unless the instrument(s) evidencing such sale, transfer, dedication or conveyance of record is executed and acknowledged by two-thirds of each class of Members, as such Members are constituted as of a date not more than 30 days before the recordation of such instrument. A certificate of the Secretary of the Neighborhood Association executed, acknowledged and recorded prior to or concurrently with such instrument shall be conclusive evidence of the identity and number of the Members as of the date thereof.

3.2 Notwithstanding anything contained in this Declaration to the contrary, Declarant, for itself and its successors in interest, hereby reserves a nonexclusive easement over, under, upon and across the Open Space, the Recreation Area and each Lot for drainage and encroachment purposes and for ingress and egress, all for Declarant's reasonable use in completing the improvements and performing necessary repair work within the Project (including, but not limited to, improvements and repair work in connection with any development phase annexed to and made a part of the Project pursuant to the Article hereof entitled "Annexation"), said reservation of easement becoming effective concurrently with the conveyance by Declarant of the first Lot within the Project without necessity of Declarant setting forth such reservation in the deed with respect to said conveyance. Said reservation of easement shall expire and be of no further force and effect upon the occurrence of one of the following events, whichever first occurs, (i) five years after the date on which this Declaration has been recorded or (ii) the conveyance by Declarant of the last Lot within the Project, including any development phase which may be annexed to and made a part of the Project pursuant to the Article entitled "Annexation." Notwithstanding the Article entitled "Amendment," no amendment, revocation or rescission of said reservation of easement may be had prior to the conveyance by Declarant (or its successor) of the last Lot within the Project, including any development phase which may be annexed to and made a part of the Project pursuant to the Article entitled "Annexation," without the (i) written consent of the Declarant and (ii) recording of such consent in the Office of the Recorder of San Diego, County, California.

3.3 The Neighborhood Association shall be and become the owner of all maintenance, recreational and other equipment acquired by it (i) for the maintenance and improvement of the Project and (ii) to implement the performance of its other duties hereunder. The transfer of such personal property by the Neighborhood Association pursuant to the Bylaws shall transfer title thereto free and clear of any claim on the part of any Owner.

3.4 The Neighborhood Association shall maintain the Open Space in a manner approved by the City. The facilities to be so maintained shall specifically include, without limitation all (i) private streets and parking areas, including curbs, gutters, pavements, and street lights, and (ii) all storm drains, sewers and water facilities not within a public easement designated for such purpose.

ARTICLE 4

PLANNED DEVELOPMENT CHARACTER OF PROJECT

4.1 The Project is and has been developed as a planned development pursuant to California Business and Professions Code Section 11003.

4.2 The Open Space and the Recreation Area shall remain in the ownership and control of Neighborhood Association and there shall be no judicial partition thereof. Nothing herein shall be deemed to prevent partition of a cotenancy in a Lot other than the Open Space and the Recreation Area.

4.3 Except as set forth in this Article, neither the Owners nor the Neighborhood Association shall, by act or omission, without the prior written consent of at least 67 percent of all first Mortgagees (based upon one vote for each First Mortgage owned) be entitled to:

(i) Abandon or terminate the planned development character of the Project;

(ii) Partition, subdivide, encumber, sell or transfer the Open Space or the Recreation Area or the improvements thereon; provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Open Space or the Recreation Area, as the case may be, shall not be a transfer within the meaning of this clause;

(iii) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(iv) Waive or abandon any scheme of regulations or the enforcement thereof pertaining to the architectural design or the exterior appearance of the residential improvements situated on the Lots, the exterior maintenance of said residential improvements or the maintenance and upkeep of the Open Space and the Recreation Area and the improvements thereon;

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(v) Fail to maintain insurance coverage under an extended coverage hazard policy(ies) against loss by fire and perils with respect to all insurable improvements located in the Open Space and the Recreation Area (if any) and all insurable personalty owned by the Neighborhood Association in an amount not less than 100 percent of the insurable value (based on then current replacement costs) of said improvements and of said personalty as determined annually by an insurance carrier selected by the Board of Directors pursuant to this Declaration; or

(vi) Use hazard insurance proceeds for losses to said improvements located in the Open Space or the Recreation Area and/or said personalty owned by the Neighborhood Association, for other than the repair, replacement or reconstruction of said improvements and/or personalty.

ARTICLE 5

THE NEIGHBORHOOD ASSOCIATION

5.1 The Neighborhood Association is, effective upon the recordation hereof, the "management body" to provide for the management, control, maintenance, architectural control and preservation of the Project, all as more specifically set forth in this Declaration, the Neighborhood Articles, the Neighborhood Bylaws and any regulations from time to time adopted by the Board of Directors pursuant to any of said documents. The Open Space and the Recreation Area (and all improvements within the Open Space and the Recreation Area) shall be maintained by the Neighborhood Association in such a condition as to allow the Open Space and the Recreation Area (and all such improvements) to reasonably operate in the manner, or serve the function, for which they were intended. The Neighborhood Association shall, and hereby does, assume liability for damage to, and repair of, City utilities in the event that damage is caused thereto by the Neighborhood Association or its agents or independent contractors in performing maintenance or repair work upon private utility services within the Project.

5.2 Each Owner shall be and become a Member of the Neighborhood Association contemporaneously with the acquisition by such Owner of a Lot (whether such acquisition occurs by (i) conveyance of a Lot by Declarant, (ii) voluntary transfer, assignment or conveyance of a Lot, (iii) involuntary transfer of a Lot, including without limitation by reason of the death of an Owner, or (iv) foreclosure [by trustee's power of sale or by judicial process] of a deed of trust or other lien on a Lot) without necessity of documentation or other action, of any kind, by any person. The Board of Directors may require that any person acquiring a Lot notify the Neighborhood Association in writing of such acquisition so as to facilitate accurate record

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keeping of the membership. Where two or more persons hold or own a Lot, as joint tenants or otherwise, they shall constitute a single Member.

5.3 Members shall be divided into two classes for the purposes of voting, Class A and Class B. Class A Member(s) shall be all Owners of Lots except Declarant and said Class A Members shall be entitled to one vote for each Lot owned. The lone Class B Member shall be Declarant who shall be entitled to three votes for each Lot owned. Declarant's Class B voting status shall cease and convert to Class A voting status on the earlier occurrence of one of the following: (i) when the total votes outstanding in Class A equal the total votes outstanding in Class B, (ii) on that certain date which is two years after the original issuance by the California Department of Real Estate of the most recent Final Subdivision Public Report for a phase of development of the Project or (iii) on that certain date which is four years after the original issuance by the California Department of Real Estate of a Final Subdivision Public Report with respect to the first phase of development of the Project.

5.4 Should any Owner fail to maintain such Owner's Lot and the structures, landscaping and improvements located thereon in a manner as required by this Declaration as determined in the sole and absolute discretion of the Board of Directors, the Neighborhood Association, after approval by a two-thirds vote of the Board of Directors, and after giving at least 15 days' written notice to such Owner regarding the work to be done, shall have the right, through its officers, agents, employees, or independent contractors, to enter onto any such Lot and to maintain, repair and restore the Lot and any structures, landscaping and improvements located thereon to the condition required by the Declaration as determined by the Board of Directors. However, no entry into a residence may be made without the consent of the Owner thereof, and such entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by the Neighborhood Association. There is hereby created a nonexclusive easement in favor of the Neighborhood Association, and its officers, agents, employees and independent contractors, to enter onto each Lot to provide maintenance, repair and restoration as hereinabove stated, subject to the foregoing notice and consent requirements.

5.5 In addition to the right of the Neighborhood Association to enter upon any Lot pursuant to Paragraph 5.4, the officers, agents, employees and independent contractors of the Neighborhood Association shall have a nonexclusive easement to enter any Lot for the purpose of performing or satisfying all other rights, duties and obligations of the Neighborhood Association hereunder, provided that such entry shall occur (i) at a reasonable hour and (ii) after reasonable notice has been given to the Owner of such Lot. In the event that there is an emer-

gency and the Owner of such Lot is not available at the time of such emergency, the officers, agents, employees and independent contractors of the Neighborhood Association may enter such Lot immediately and without notice for the sole purpose of taking such action as is necessary under the circumstances.

5.6 The Neighborhood Association shall have the right to grant permits, licenses and easements over, upon, under and across the Open Space and the Recreation Area for utilities and other purposes necessary for the proper operation of the Project. Each Owner, by acquiring its interest in a Lot, shall be deemed to have designated the Neighborhood Association as such Owner's attorney in fact, to execute, on behalf of such Owner, any document effecting the grant of any such permit, license or easement.

5.7 In addition to all other rights, powers and duties possessed by and vested in the Board of Directors under these Neighborhood Restrictions, the Neighborhood Articles and the Neighborhood Bylaws, the Board of Directors shall possess and be vested with the right and power to (i) impose reasonable monetary penalties, in such amounts as determined by the Board of Directors and which do not exceed the sums allowed by law, against an Owner and (ii) seek reimbursement for costs as follows:

5.7.1 As a disciplinary measure for any breach of any of the (i) limitations, restrictions, conditions or covenants set forth in these Neighborhood Restrictions (other than a breach by failure to pay an assessment), (ii) provisions of the Neighborhood Bylaws (iii) provisions of the Neighborhood Articles or (iv) rules or regulations adopted by the Board of Directors pursuant to these Neighborhood Restrictions, the Neighborhood Articles or the Neighborhood Bylaws.

5.7.2 As a means of reimbursing the Neighborhood Association for costs incurred by the Neighborhood Association (i) for the repair of damages to the Open Space or the Recreation Area or any improvements or personalty thereto or thereon allegedly caused by such Owner, its guests or any occupant of such Owner's Lot or (ii) in bringing (a) such Owner, (b) the occupant of such Owner's Lot, (c) any Lot and/or (d) the structures, landscaping and/or improvements on any Lot, into compliance with these Neighborhood Restrictions (other than the payment of assessments), the Neighborhood Bylaws or said rules and regulations.

5.8 Any imposition of a monetary penalty or any reimbursement for costs incurred pursuant to Paragraph 5.7 must be done in good faith and in a fair and reasonable manner. The Neighborhood Association, at its option, shall have the right and power to

institute a legal action against an Owner seeking a personal judgment against such Owner to impose such a monetary penalty and/or to obtain reimbursement of such costs, together with court costs and reasonable attorneys' fees incurred in any such action, and the institution and prosecution of such action shall be deemed to be a fair and reasonable procedure as required by this paragraph. Alternatively, prior to the institution of such a legal action, the Neighborhood Association may follow the non-judicial procedure hereinafter set forth. The Owner shall be given 15 days' prior notice of the imposition of a monetary penalty, or the amount of the costs to be reimbursed. Said notice must set forth the reason for the imposition of the monetary penalty or reimbursement of such costs and may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class, registered or certified mail sent to the last address of the Owner shown on the Neighborhood Association's records. The Owner must be provided an opportunity to be heard, orally or in writing, not less than five days before the effective date of the imposition of each monetary penalty, or by which such costs are to be so reimbursed, by a properly convened meeting of the Board of Directors. Any such breach which is not remedied in the calendar month in which any such monetary penalty is imposed against an Owner by reason thereof shall, until fully remedied, be deemed to constitute a new breach in each succeeding calendar month for which the Board of Directors may in each such calendar month impose a new monetary penalty pursuant to this Paragraph.

5.9 Upon written request, the Neighborhood Association shall, within ten days after the mailing of such request if such request is sent by mail, or within ten days after delivery of such request if such request is delivered other than by mail, provide to an Owner, Mortgagee or Interested Person making such request, a copy of these Neighborhood Restrictions, the Neighborhood Articles or the Neighborhood Bylaws, together with a true statement in writing as to any delinquent assessments, penalties, attorneys' fees and other charges as of the date of such request on the Lot owned by such Owner or in which such Mortgagee or Interested Person has an interest. The Association may impose a fee for providing such documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents. A properly executed statement of the Neighborhood Association as to the status of assessments on a Lot is binding upon the Neighborhood Association as of the date of its issuance.

ARTICLE 6 - NEIGHBORHOOD ARCHITECTURAL CONTROL

6.1 A Neighborhood Architectural Control Committee consisting, at all times, of three persons, shall be formed as set forth below and in the Neighborhood Bylaws, for the purposes of

performing its duties as described in these Neighborhood Restrictions and the Neighborhood Bylaws and as may be delegated to it, from time to time, by the Board of Directors. The original Neighborhood Architectural Control Committee shall be appointed by Declarant. Thereafter, the Neighborhood Architectural Control Committee shall be appointed in accordance with the Neighborhood Bylaws (subject to Declarant's rights herein reserved). Declarant hereby reserves to itself the power to appoint a majority of the members of the Neighborhood Architectural Control Committee until all of the Lots have been sold by Declarant.

6.2 No building, fence, wall or other structure shall be constructed, erected, placed or altered upon any Lot, nor shall any alteration or change be made to the exterior of any residential structure situated upon a Lot, nor shall any trees, bushes, shrubs or plants which are in excess of six feet in height, or are likely to grow to a height in excess of six feet, be planted or placed on any Lot, until the building or alteration plans, landscaping plans, specifications, location plat and color scheme thereof have been approved by the Neighborhood Architectural Control Committee. In considering any such plans, the Neighborhood Architectural Control Committee shall take into account (i) the quality of workmanship and materials to be used, (ii) harmony of external design with existing structures in the Project (iii) the interference, or potential for interference with the view from any Lot and (iv) compliance with this Declaration. In the event the Neighborhood Architectural Control Committee fails to approve or disapprove any such plans, specifications, plats or schemes within 30 days after all necessary documents have been received by the the Neighborhood Architectural Control Committee, the Owner requesting said approval may submit a written notice to the Neighborhood Architectural Control Committee advising the same of its failure to act; only if the Neighborhood Architectural Control Committee fails to approve or disapprove any such plans, specifications, plats or schemes within 30 days after the receipt of said notice from the Owner, said plans, specifications, plats or schemes shall be incontrovertibly deemed to be approved.

6.3 Notwithstanding the Article hereof entitled "Amendment," no amendment, revocation or rescission of this Article may be had, nor shall Declarant, or any successor thereof, or any other "Merchant Builders" as defined in the Community Declaration, be prohibited from completing the construction and development of the Project prior to the conveyance by Declarant (or its successor) of the last Lot owned by Declarant without the (i) written consent of Declarant and (ii) recording of such consent in the office of the Recorder of San Diego County, California. Such written consent shall not be required after the conveyance by Declarant (or its successor or such other Merchant Builder) of all the Lots.

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ARTICLE 7 - THE COMMUNITY ASSOCIATION

7.1 The officers, agents, employees and independent contractors of the Community Association shall have a nonexclusive easement to enter upon the Project, or any portion thereof, for the purpose of performing or satisfying the duties and obligations of the Community Association as set forth in the Community Declaration, the Community Bylaws, the Community Articles and the rules and regulations of the Community Board and the Community Architectural Committee.

7.2 The lien of any Assesment imposed upon any Lot pursuant to these Neighborhood Restrictions shall be subordinate and inferior to the lien of any assessment imposed upon such Lot pursuant to the Community Declaration.

7.3 Declarant, for each Lot which it owns within the Project, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, does and is hereby deemed to covenant and agree to pay to the Community Association, any Community Assessments imposed upon such Lot. The Community Assessments shall be levied and collected as provided in the Community Declaration. The Community Association, in its sole and absolute discretion, may elect to require the Neighborhood Association to administer, levy, collect and enforce the Community Assessments imposed upon Lots within the Project. All such funds collected by the Neighborhood Association shall be held in trust by the Neighborhood Association for the benefit of the Community Association, and such funds shall be disbursed to the Community Association as provided in the Community Declaration. The Community Association, in its sole and absolute discretion, may elect to administer, levy, collect and enforce the assessments provided for under these Neighborhood Restrictions. All such funds collected by the Community Association shall be utilized in the manner and for the purposes specified in these Neighborhood Restrictions and in the Community Declaration, the Community Bylaws, the Community Articles, and the rules and regulations of the Community Board and the Community Architectural Committee.

7.4 In addition to all of the rights and obligations which have been conferred or imposed upon the Neighborhood Association pursuant to these Neighborhood Restrictions, the Neighborhood Articles or the Neighborhood Bylaws, the Neighborhood Association shall be entitled to exercise any of the rights conferred upon it and be subject to all of the obligations imposed upon it pursuant to the Community Declaration, the Community Bylaws or the Community Articles. The the Neighborhood Association (including, without limitation, the Neighborhood Architectural Committee of the Neighborhood Association) shall also be subject to all superior rights and powers which have been conferred upon the

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Community Association pursuant to the Community Declaration, the Community Bylaws and the Community Articles.

7.5 Each Owner and such Owner's Lot(s) shall be subject to all of the covenants, conditions, restrictions and provisions contained in the Community Declaration. In the event of any conflict between any of the covenants, conditions, restrictions or provisions of these Neighborhood Restrictions, the Neighborhood Articles or the Neighborhood Bylaws with any of the covenants, conditions, restrictions or provisions of the Community Declaration, the Community Bylaws or the Community Articles, then, in such event, the covenants, conditions, restrictions and provisions of the Community Declaration, the Community Bylaws and the Community Articles, as the case may be, shall govern and prevail.

ARTICLE 8 - ACCOUNTING

8.1 The Board of Directors shall maintain books of account of all its receipts and expenditures and shall cause such books to be examined annually as of the close of each fiscal year and a report to be made thereon to the Neighborhood Association. Each Owner (or its duly appointed representative) and each First Mortgagee shall be entitled at reasonable times to inspect the books and records of the Neighborhood Association, to have such books and records examined at said Owner's or First Mortgagee's expense by an attorney or accountant representing such Owner or First Mortgagee and to make excerpts or copies of such books and records or portions thereof, and each such Owner (or its duly appointed representative) or First Mortgagee, at his own expense, shall have the right to have such books and records independently audited by an accountant.

ARTICLE 9 - SCOPE; ENFORCEMENT

9.1 The limitations, restrictions, conditions and covenants set forth in these Neighborhood Restrictions constitute a general scheme for (i) the maintenance, protection and enhancement of the value of the Project and all Lots and (ii) the benefit of all Owners. Said limitations, restrictions, conditions and covenants are imposed on each Lot for the benefit of every other Lot and the present and future Owners thereof. Said limitations, restrictions, conditions and covenants are and shall be covenants running with the land or equitable servitudes, as the case may be. The Community Association is, and shall be deemed to be, a third party beneficiary of the provision of these Neighborhood Restrictions.

9.2 Notwithstanding the provisions of the Article hereof to the contrary, at any time, 65 years after the date of recordation

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of these Neighborhood Restrictions, these Neighborhood Restrictions and each and every limitation, restriction, condition and covenant contained herein may be terminated and extinguished upon execution and filing for record in the Office of the County Recorder of San Diego County, California, of a written instrument which (i) declares that the provisions of these Neighborhood Restrictions are thereby terminated and extinguished, (ii) is signed and acknowledged by the Owners entitled to exercise a majority of the total voting power of the Neighborhood Association and (iii) bears, or has attached thereto, the consent of at least 67 percent of all First Mortgagees as of the time of recordation of said written instrument.

9.3 Breach of any of said limitations, restrictions, conditions or covenants (or the continuation thereof) may be enjoined, abated or remedied by appropriate legal proceedings by (i) the Neighborhood Association, (ii) the Community Association, (iii) any Owner, its heirs, devisees, executors, administrators, successors and assigns or (iv) any Mortgagee, any of whom is herein referred to as an "Enforcing Person." Damages at law for any such breach, other than breach by failure to pay assessment(s), are hereby declared to be inadequate.

9.4 The result of or condition caused by a violation of any of said limitations, restrictions, conditions or covenants, other than the payment of assessment(s), is and shall be a nuisance, and every remedy in law or equity now or hereafter available against a public or private nuisance may be exercised by any Enforcing Person.

9.5 The failure of any Enforcing Person to enforce any of said limitations, restrictions, conditions or covenants shall not constitute a waiver of the right to enforce the same thereafter. No liability shall be imposed on or incurred by any Enforcing Person as a result of such failure.

9.6 The prevailing party in any action at law or in equity instituted by an Enforcing Person(s) to enforce or interpret the limitations, restrictions, conditions or covenants contained herein shall be entitled to all costs incurred in connection therewith, including but not limited to court costs and reasonable attorneys' fees.

ARTICLE 10 - RIGHTS OF MORTGAGEES

10.1 Any Owner may voluntarily or involuntarily encumber his Lot with or by a real property mortgage, deed of trust or other instrument of hypothecation.

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10.2 A breach of any of the foregoing limitations, restrictions, conditions or covenants shall not defeat or render invalid the lien of any First Mortgage made in good faith and for value as to a Lot or any undivided interest therein; provided, however, such limitations, restrictions, conditions and covenants shall be binding upon and effective against any person whose title to said Lot is acquired by foreclosure, trustee's sale or otherwise.

10.3 Each and every lien created by or pursuant to this Declaration, including but not limited to, the assessment liens described in the Article entitled "Assessments," is and shall be subordinate, inferior and subject to the lien and charge of any (i) First Mortgage of record prior to the date of said lien encumbering any Lot and given for value and (ii) blanket construction (including acquisition) mortgage(s) or deed(s) of trust encumbering all or any part of the Project which mortgage(s) or deed(s) of trust may have been subordinated to these Neighborhood Restrictions.

10.3.1 Any person who acquires title to any Lot by purchasing the same at a foreclosure or trustee's sale of a First Mortgage, shall take title to such Lot free of any (i) claims by or on behalf of the Neighborhood Association for unpaid assessments accruing prior to the time such purchaser takes title to such Lot and (ii) assessment lien then encumbering any such Lot. Such unpaid assessments shall be reallocated among the Owners (other than said purchaser).

10.3.2 In the event any Mortgagee (i) shall acquire title to any Lot by judicial foreclosure, exercise of power of sale contained in any real property mortgage or deed of trust, or deed in lieu of foreclosure and (ii) shall thereafter sell and convey such Lot, any real property mortgage or deed of trust received by such lender as security for all or a portion of the purchase price of such Lot shall be incontrovertibly deemed "given for value." Notwithstanding the provisions of Paragraph 10.3 above, any lien created by or pursuant to these Neighborhood Restrictions, which lien arises from failure to pay assessment(s) accruing during the period of such Mortgagee's holding of title to said Lot, shall be a lien superior to the lien of said real property mortgage or deed of trust received to secure a portion of said purchase price.

10.4 In the event of any breach or default by any Owner in the performance of any obligation under these Neighborhood Restrictions or the Neighborhood Bylaws, and in the further event such breach or default is not cured within 60 days after its occurrence, the Board of Directors shall, if any First Mortgagee shall have so requested of the Neighborhood Association, immediately notify, in writing, such First Mortgagee of such Owner's Lot of said default; provided, however, failure to give such

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notice shall in nowise affect any right or remedy of any enforcing person under the Article hereof entitled "Scope; Enforcement."

10.5 Each First Mortgagee shall be entitled, upon request, to (i) receive notice of any and all meetings of the Neighborhood Association and (ii) designate a representative to attend such meetings on its behalf.

10.6 In the event there shall be any express or implied conflict between any provision of this Article and any other provision of these Neighborhood Restrictions, the provisions of this Article shall govern and prevail.

ARTICLE 11

ASSESSMENTS

11.1 The Board of Directors has and shall have the right and power to make, from time to time, reasonable assessments upon the Lots to meet anticipated authorized expenditures of the Neighborhood Association (which shall include the establishment of an adequate reserve fund for replacement of all buildings, facilities and improvements in and to the Open Space and the Recreation Area and all personalty owned by the Neighborhood Association) and to change from time to time the amount, installments and/or frequency of payment of assessments.

11.1.1 No increase or decrease in the amount of such reasonable assessments for anticipated authorized expenditures of the Neighborhood Association in any one fiscal year of the Neighborhood Association which exceeds 20 percent of the regular assessment for the immediately preceding fiscal year may be made without the vote or written ballot of (i) the Owners entitled to exercise a majority of the total voting power in each of the two voting classes as provided in Paragraph 5.3 hereof and in the Article of the Bylaws entitled "Voting Rights," or (ii) upon cessation of one of the two voting classes, the Owners entitled to exercise a majority of the total voting power in the remaining voting class, provided that such vote or written ballot shall include the votes of a majority of the Owners other than Declarant. Each Owner shall be assessed separately for a share of such anticipated authorized expenditures, which share shall be levied against each Owner according to the ratio of the number of Lots owned by the Owner assessed to the total number of Lots subject to assessment.

11.1.2 Separate written notices of the making of such assessment (including in such notice the amount thereof and the frequency of payment) shall be deposited into the United States

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mail, postage prepaid, directed to the attention of each Owner, bearing the address of the Lot owned by such Owner (or such other address to which such Owner shall have directed the Neighborhood Association to deliver such notice), at least 60 days prior to the beginning of a fiscal year; such assessment upon a Lot shall be a personal obligation of the Owner of the Lot to which such assessment relates at the time such assessment is made and, unless such assessment has been reduced to a recorded lien as hereinafter provided, the obligation to pay such assessment shall not pass to the successor in title to such Lot unless such successor expressly agrees, in writing, to assume such obligation. The amount of any such assessment together with any late payment penalty, costs and reasonable attorneys' fees in the event enforcement is commenced shall be and become a lien upon any Lot assessed when the Board of Directors causes to be recorded in the Office of the County Recorder of San Diego County, California, a notice of assessment, which shall state the amount of such assessment and any late payment penalty, costs and attorneys' fees, a description of the Lot against which the same has been assessed and the name of the record Owner thereof. Upon payment of such assessment and charges or other satisfaction thereof, the Board of Directors shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. Unless sooner satisfied and released, or unless the enforcement thereof is initiated as herein provided, such lien shall expire and be of no further force or effect one year after the date of recordation of said notice of assessment; provided, however, that said one-year period may be extended by the Board of Directors for not more than one additional year by recording a written extension thereof.

11.1.3 Such lien may be enforced by sale of the Lot by the Board of Directors, on behalf of the Neighborhood Association, its attorney or other person authorized by the Board of Directors to conduct the same after failure of the Owner to pay such an assessment in accordance with its terms; such sale shall be conducted in accordance with the provisions of California Civil Code Sections 2924, 2924b, 2924c, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Board of Directors, on behalf of the Neighborhood Association, shall have the right to (i) bid at any foreclosure sale of a Lot, (ii) a credit, in any such bidding, in the amount of the aggregate of the unpaid assessment(s), said interest and charges and (iii) hold, lease, mortgage and/or convey said Lot in the name of the Neighborhood Association. Nothing herein shall prohibit the Board of Directors from instituting legal proceedings against an Owner to collect the debt of an assessment(s) owed by such Owner.

11.2 The Board of Directors may also levy and collect special assessment(s) for capital improvements or other purposes

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in the same manner as regular assessments are levied and collected as described in Paragraph 11.1. The amount of any such special assessment, together with any late payment penalty incurred pursuant to this Article, costs and reasonable attorneys' fees in the event enforcement is commenced, shall be and become a lien upon any Lot in the same manner as regular assessments become a lien. Provided, however, no such special assessment exceeding, in the aggregate, five percent of the budgeted gross expenses of the Neighborhood Association for the then current fiscal year of the Neighborhood Association may be levied without the vote or written ballot of (i) the Owners entitled to exercise a majority of the total voting power in each of the two voting classes as provided in the Article of the Bylaws entitled "Voting Rights" or (ii) upon cessation of one of the two voting classes, the Owners entitled to exercise a majority of the total voting power in the remaining voting class, provided that such vote or written ballot shall include the votes of a majority of the Owners other than Declarant. The provisions of the preceding sentence shall not apply to special assessment(s) for repair, or the like, described in the Article entitled "Destruction; Insurance."

11.3 In the event the Neighborhood Association does not receive an Owner's payment of the entire amount of a regular or special assessment imposed upon its Lot pursuant to this Article within 30 days after the due date thereof, a late payment penalty by way of damages shall be immediately due and payable by such Owner. Each of the Owners recognizes and acknowledges that the late payment of assessments will cause the Neighborhood Association to incur additional costs and expenses in connection with its management, control, maintenance, architectural control and preservation of the Project. In the event of any such late payment, the Neighborhood Association shall be entitled to damages for the detriment caused thereby, but it is extremely difficult and impractical to ascertain the extent of such damages. Accordingly, each Owner shall pay to the Neighborhood Association a late payment penalty equal to such amount as may be provided under rules or regulations then promulgated by the Board of Directors, provided that such amount shall not exceed the sums for such late payment penalties allowed by law (see, e.g., Title I, Part 4 of Division 3 of the California Civil Code). Such late payment penalties shall be liquidated damages for all such costs and expenses, other than attorneys' fees, court costs and other costs incurred by the Neighborhood Association in connection with the creation and/or foreclosure of a lien for delinquent regular or special assessments. Acceptance of any such late payment penalty by the Neighborhood Association shall in no event constitute a waiver of such Owner's default with respect to the late payment (i.e., the overdue amount), nor prevent the Neighborhood Association from exercising any of its other rights

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ARTICLE 12

DESTRUCTION; INSURANCE

12.1 The Board of Directors shall keep, under one master policy (i) all buildings (if any) and other insurable improvements (if any) in the Open Space and the Recreation Area and (ii) all fixtures, equipment, supplies and personalty owned by the Neighborhood Association, insured against loss by perils under a multi-peril policy(ies) of hazard insurance for the interest of all Owners, protecting against, at least, (i) loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and (ii) perils covered for similar planned development projects, including those covered by the standard "all risk" endorsement. In addition, the master policy shall contain an "agreed amount and inflation guard endorsement" if one is available from the insurance carrier. Further, such master policy shall contain a "construction code endorsements" if, at the time such policy is obtained, there is a construction code provision that requires changes to the undamaged portions of building or other improvements which constitute a part of the Open Space or the Recreation Area, even when only part of the Project is destroyed by an insured hazard. Typically, such endorsements include demolition cost endorsements, contingent liability from operation of building laws endorsement and increased cost of construction endorsement. In addition to the foregoing, such policies shall include such other endorsements as may be required by the FNMA and/or FHLMC to purchase, guarantee, insure or subsidize any mortgage encumbering a Lot at any time that FNMA and/or FHLMC has acquired, or proposes to acquire an interest in any such mortgage. The amount of coverage of such insurance shall be not less than 100 percent of the insurable value (based on then current replacement cost) of said buildings and improvements, fair market value of such fixtures equipment, supplies and personalty as determined annually by an insurance carrier selected by the Board of Directors.

12.1.1 The name of the insured under each policy of such insurance shall be substantially "Fairway Heights Owners' Association, a California nonprofit mutual corporation, for use and benefit of individual owners," followed, if desired by either the Neighborhood Association or the insurance carrier(s), by the designation of the Owners. Authority to adjust losses covered by the Neighborhood Association's policy(ies) shall be vested in the Board of Directors, and insurance proceeds shall be payable to the Neighborhood Association or to Mortgagees, as their interests appear.

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and remedies hereunder or at law. In addition to the late payment penalty described above, each Owner shall pay to the Neighborhood Association the amount of reasonable attorneys' fees, court costs and other costs incurred by the Neighborhood Association in connection with the creation and/or foreclosure of a lien for delinquent regular or special assessments.

11.4 Until such time as the Board of Directors shall change the same pursuant to Paragraph 11.1, such assessments shall be due and payable monthly on the first day of each calendar month, commencing, as to all Lots, on the first day of the calendar month next following the first conveyance by Declarant of a Lot to an Owner. Recordation of this Declaration shall not constitute a "notice of assessment" under Paragraph 11.1, but shall be the equivalent of "separate written notice of the making of such assessment" described in Paragraph 11.1. Declarant shall be absolutely liable for the monthly installment of any assessment, and any special assessment, constituting a lien on any Lot and accruing prior to the conveyance thereof by Declarant. Provided, however, that insofar as an assessment may be imposed against a subdivision interest which Declarant owns and which does not include a structural improvement for human occupancy (such as an unimproved, annexed phase), Declarant shall be exempt from the payment of that portion of any such assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of structural improvements. Such exception from the payment of assessments shall be in effect only until there has been recorded a notice of completion of a structural improvement constructed on the property subject to the exemption, or until 120 days after the issuance of a building permit for the construction of a structural improvement on such property, whichever first occurs.

11.5 Anything in Paragraph 11.1 to the contrary notwithstanding, if any tax is assessed to Declarant or to the Neighborhood Association upon the entire Project or upon the Open Space or the Recreation Area only, a share thereof shall be included in the assessment upon each Owner which share shall be the portion which bears to the total tax assessed the same relationship as the purchase price of the land which constitutes such Owner's Lot bears to the aggregate of purchase prices of all such land. "Purchase price" means the price charged for such land by Declarant in its regular course of business; as to any land which has never been sold in the regular course of business, it shall mean the price at which such land is offered for sale to the public.

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12.2 If, within the Open Space or the Recreation Area a steam boiler is in operation, the Board of Directors shall keep in force boiler explosion insurance evidenced by a standard form of boiler and machinery insurance policy and providing coverage as a minimum, \$100,000 per accident per location. If a steam boiler is in operation within a residence located on a Lot, the Owner of said Lot shall provide such insurance.

12.3 If the Project is or becomes located in an area identified by the Secretary of Housing and Urban Development or the Federal Emergency Management Agency as an area having special flood hazards, a "master" or "blanket" policy of flood insurance on the Project must be maintained in the amount of the lesser of (i) the maximum coverage available under the National Flood Insurance Act of 1968, as amended, for all buildings and other insurable property within any portion of the Project which is located within such area identified as having special flood hazards or (ii) the greater of either (a) 100 percent of current "replacement cost" of all such buildings and other insurable property or (b) the outstanding principal balances of mortgage loans on all Lots. The name of the insured under each policy of insurance shall be as set forth in Paragraph 12.1 above.

12.4 In the event of any loss, damage or destruction so insured against, the Board of Directors shall cause the same to be replaced, repaired or rebuilt. In the event the cost of such replacement, repair or rebuilding exceeds the hazard insurance proceeds received therefor, the Board of Directors shall levy and collect a special assessment in an equal amount from each Owner in the Project. In any event, all such hazard insurance proceeds received for such loss, damage or destruction shall be used for such replacement, repair or rebuilding.

12.5 The Board of Directors shall procure and keep in force during the term hereof insurance (containing a "severability of interest" clause or endorsement) in the name of the Neighborhood Association and the Owners against any liability to the public (including the Owners) resulting from any occurrence in or about the Open Space or the Recreation Area with coverage in the amount of at least \$1,000,000 per occurrence, for personal injury (including deaths of persons) and/or property damage in connection with the operation, maintenance or use of the Open Space, and legal liability arising out of lawsuits related to employment contracts in which the Neighborhood Association is a party. The policy(ies) of such insurance shall contain a waiver of subrogation by the insurer(s) against (i) the Neighborhood Association, (ii) each of the directors serving from time to time on the Board of Directors, and (iii) the Owners.

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12.6 The Board of Directors shall procure and keep in force during the term hereof insurance in the name of the Neighborhood Association against dishonest acts on the part of the Board of Directors, volunteers and other persons responsible for handling funds belonging to or administered by the Neighborhood Association; such insurance or, in lieu thereof, fidelity bond, shall be written in an amount not less than one and one-half times the Neighborhood Association's estimated annual operating expenses and reserves.

12.7 Each Owner shall keep all buildings and other insurable improvements on such Owner's Lot insured for the interest of such Owner and such Owner's mortgagees, as their interests may appear. Such insurance shall provide, as a minimum, fire and extended coverage, with waiver of any fall of building clause, on a replacement cost basis in an amount not less than that necessary to comply with any coinsurance percentage stipulated in such insurance policy. The amount of coverage of such insurance shall be such that in the event of any damage or loss to the improvements so insured the insurance proceeds shall provide at least the lesser of (i) compensation equal to the full amount of damage or loss or (ii) compensation to such Owner's First Mortgagee equal to the full amount of the unpaid balance of said First Mortgagee's mortgage on such Owner's Lot. In lieu of the insurance to be maintained by each Owner pursuant to this Paragraph 12.7, the Neighborhood Association may procure and maintain a blanket policy of hazard insurance with the same coverage as described above in this Paragraph, insuring the single-family residential structure on each Owner's Lot. Any such blanket policy of insurance must name the Neighborhood Association as the insured for the benefit of the Owners. The premiums for any such blanket insurance policy shall be an expense of the Neighborhood Association and included in the assessments described in Paragraph 11.1.

12.8 Each multi-peril policy(ies) of hazard insurance shall be issued by an insurance carrier which (i) has a financial rating by Best's Insurance Reports of (a) Class VI or better, provided it has a general policy holder's rating of at least B, or (b) Class V or better, provided it has a general policy holder's rating of at least A and (ii) is authorized to transact business within the State of California.

12.9 In the event of any loss, damage or destruction to any improvements in the Open Space or the Recreation Area or personalty owned by the Neighborhood Association not insured against under the policy(ies) of insurance required of the Neighborhood Association hereunder, the Board of Directors shall undertake to cause the same to be replaced, repaired or rebuilt. The cost of such replacement, repair or rebuilding shall be assessed equally to all of the Owners in the Project.

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12.10 Copies of all such insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Neighborhood Association and open for inspection by the Owners at any reasonable time(s). All such insurance policies shall (i) provide that they shall not be reducible or cancellable by the insurer, without first giving at least ten days' prior notice in writing to the Neighborhood Association and all First Mortgagees, (ii) contain a waiver of subrogation by the insurer(s) against the Neighborhood Association, the Board of Directors and the Owners, (iii) contain or have attached a standard mortgagee clause or endorsement (customarily used by private institutional lenders in San Diego County, California) in favor of all First Mortgagees, (iv) provide that any insurance trust agreement will be recognized, (v) provide that the insurance will not be prejudiced by any acts or omissions of Owners that are not under the control of the Neighborhood Association, (vi) provide that the policy will be primary, even if an Owner has other insurance that covers the same loss, and (vii) contain such other endorsement(s) as such First Mortgagees may require to fully protect their interests in form and of content as customarily used by private institutional lenders in San Diego County, California.

12.11 Nothing contained in this Article shall be construed to supersede any provision of the Article entitled "Planned Development Character of Project."

ARTICLE 13

CONDEMNATION

13.1 In the event of any conflict between the provisions of this Article and those of any other Article of this Declaration, the provisions of this Article shall govern and control.

13.2 In this Article, the following words and phrases shall have, respectively, the following meanings:

13.2.1 "Appropriation" means any taking of or damage to any part of the Open Space or Recreation Area (or any interest therein) by reason of any exercise of the power of eminent domain (whether by condemnation proceedings, inverse condemnation or otherwise) or by reason of any transfer of any part of the Open Space or Recreation Area (or any interest therein) made in avoidance of such an exercise.

13.2.2 "Condemnor" means any governmental entity or person possessing the right and power of eminent domain which exercises said right and power, or threatens so to do, with respect to any part of the Open Space or the Recreation Area (or any interest therein).

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13.2.3 "Award" means compensation, including, but not limited to, monetary and other consideration, paid by a Condemnor for an Appropriation.

13.3 The Board of Directors is hereby irrevocably appointed as the agent for every Owner to (i) negotiate with any Condemnor for settlement of an Award for any Appropriation, (ii) defend any action brought for an Appropriation, and to engage and compensate counsel and expert witnesses therefor or to aid the Board of Directors in the exercise of any of its powers under this Article, (iii) conduct, arrange or supervise an independent appraisal to determine the value of the Open Space or the Recreation Area affected by any Appropriation, (iv) receive in the name of the Neighborhood Association any Award and to retain the same, pending its disbursement, in a noninterest-bearing bank account in the name of the Neighborhood Association and (v) disburse or retain the same, pursuant to the following Paragraphs of this Article.

13.4 If an Award affecting all or a portion of the Open Space or the Recreation Area is not apportioned among the Owners by court judgment or by agreement between the Condemnor and the Board of Directors as the Owners' agent, and after the value of the Open Space or the Recreation Area affected by any Appropriation has been determined by independent appraisal, as soon as may be practicable after the receipt by the Neighborhood Association of any Award, the Board of Directors will disburse the same pursuant to the following:

13.4.1 First, to contractors, subcontractors, materialmen and others for the costs of the repair or restoration of damage or destruction to the Open Space or the Recreation Area caused by an Appropriation, or to the Neighborhood Association in reimbursement for such costs; the balance of the award is hereinafter referred to as "Award Balance."

13.4.2 Second, the Award Balance to the Neighborhood Association. In the event that the entire Open Space or the Recreation Area is appropriated, the Award Balance shall be distributed to the Owners so that each Owner receives one equal share of such Award Balance for each Lot in the Project owned by such Owner. In the event that the Open Space or the Recreation Area is appropriated only in part, the Award Balance shall be retained by the Neighborhood Association or disbursed to the Owners in whole or in part as determined by the Board of Directors.

13.5 In the event there shall be any express or implied conflict between any provision of this Article and any provision of a note or deed of trust held by a Mortgagee, the provisions of said note or deed of trust shall govern and prevail.

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ARTICLE 14

DECLARANT'S SECURITY FOR ITS OBLIGATIONS

14.1 If the Neighborhood Association is obligee under a bond (the "Bond") obtained pursuant to Business and Professions Code Section 11018.5 (a)(2)(A), to secure completion of improvements in and to the Open Space or the Recreation Area, the following provisions shall govern any action brought by the Neighborhood Association to enforce the obligations under the Bond:

14.1.1 The Board of Directors shall, within ten days after passage of the Grace Period (hereinafter defined), consider and vote on the question of action to be taken by the Neighborhood Association to enforce the obligations under the Bond with respect to any improvement in or to the Open Space or the Recreation Area for which a Notice of Completion has not been filed within 60 days (the "Grace Period") after the completion date specified for that improvement in the "Planned Construction Statement" appended to the Bond. If the Neighborhood Association has, in writing, extended the time for completion of any improvement in or to the Open Space or the Recreation Area, the Board of Directors shall consider and vote on the question of action to be taken to enforce the obligations under the Bond if a Notice of Completion has not been filed for said improvement within 30 days (the "Grace Period") after the expiration of said extended time period. Any such extension granted by the Neighborhood Association shall override any contrary decision of the Board of Directors.

14.1.2 If the Board of Directors fails to consider and vote on the question of action to be taken by the Neighborhood Association to enforce the obligations under the Bond or should the Board of Directors decide not to initiate action to enforce said obligations, a special meeting of Members shall be held to consider and vote on such action if Members having at least five percent of the voting power of the Neighborhood Association sign and submit to the Board of Directors a petition demanding such meeting. Such meeting shall be held not less than 35 days nor more than 45 days after receipt by the Board of Directors of said petition. At such special meeting, all Members other than Declarant shall be entitled to vote.

14.1.3 If, at such special meeting, Members (other than Declarant) having a majority of the voting power of the Neighborhood Association (exclusive of the voting power attributed to Declarant) vote in favor of taking action to enforce the Bond, the Board of Directors shall immediately initiate and thereafter pursue appropriate action in the name of

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the Neighborhood Association to enforce the obligations under the Bond. If the Board of Directors refuses to pursue such action, then any Member(s) may initiate and pursue appropriate action in the name of the Neighborhood Association to enforce the obligations under the Bond. Funds for pursuing such action shall be obtained by means of a special assessment of the Owners pursuant to the Article hereof entitled "Assessments;" such funds shall be kept in a separate account at a bank designated by the Neighborhood Association and used only for initiation and prosecution of said action.

14.1.4 If, at such special meeting, Members (other than Declarant) having a majority of the voting power of the Neighborhood Association (exclusive of the voting power attributed to Declarant) vote against taking action to enforce the Bond, then no such action may be taken by any Director serving on the Board of Directors or by any Member on behalf of the Neighborhood Association for a period of 60 days after said special meeting. If no Notice of Completion is filed for said improvements in or to the Open Space or the Recreation Area within 60 days after the date of said special meeting, the provisions of the foregoing Paragraphs shall govern the action to be taken by the Board of Directors and the Neighborhood Association with respect to enforcing the obligations under the Bond.

14.2 If Declarant posts a surety bond or deposits funds (pursuant to Section 2792.9, Article 12, Chapter 6, Title 10, California Administrative Code) for the benefit of the Neighborhood Association, to assure the fulfillment by Declarant of its obligations to pay assessments, the exoneration or release of such bond or funds being subject to the conditions set forth in said Section 2792.9, and a dispute arises between Declarant and the Neighborhood Association with respect to the question of satisfaction of such conditions for exoneration or release, then, in such event, such dispute shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. The fee payable to the American Arbitration Association to initiate such arbitration shall be remitted by Declarant; however, the costs of such arbitration shall ultimately be borne as determined by the Arbitrator(s) under the aforesaid Commercial Arbitration Rules.

ARTICLE 15

ANNEXATION

15.1 Declarant has, and shall have, the absolute right to impose these Neighborhood Restrictions upon all or any portion of

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the property described in Exhibit A, by annexation of any such property in the manner hereinafter set forth and, when such annexation is accomplished, these Neighborhood Restrictions shall be of the same force and effect with respect to such annexed property as if such annexed property was originally described herein. Such annexation may occur from time to time, may affect all or any portion of the property described in Exhibit A and any such annexation shall be accomplished as follows:

15.1.1 Prior to the annexation of all or any portion of the property described in Exhibit A, Declarant shall file for record in the Office of the County Recorder of San Diego County, California, on or before three years after the date of the original issuance of the then most recent Final Subdivision Public Report issued by the California Department of Real Estate for a phase of development of the Project, a Declaration of Annexation and Restrictions describing the property to be annexed and otherwise substantially in form as set forth in Exhibit C;

15.1.2 Following the recordation of any such Declaration of Annexation and Restrictions, the annexation into the Project of the property described in such Declaration of Annexation and Restrictions shall be accomplished upon (i) the first conveyance by Declarant of a Lot in such property to an Owner, and (ii) the conveyance to the Neighborhood Association, in fee, prior to or concurrently with the conveyance of such Lot, of any Open Space Lot or Recreation Area Lot within the property being annexed.

15.1.3 At any time following the recordation of a Declaration of Annexation and Restrictions, but prior to the first conveyance of a Lot in the property described in such Declaration of Annexation and Restrictions, Declarant shall have the right to record a Termination and Extinction of Declaration of Annexation and Restrictions describing all or any portion of such property and otherwise substantially in form as set forth in Exhibit D and, upon recordation thereof, (i) any Declaration of Annexation and Restrictions described therein shall cease to be of any force or effect with respect to the property described in such Termination and Extinction of Declaration of Annexation and Restrictions and (ii) any subsequent conveyance of a Lot in the property described in such Termination and Extinction of Declaration of Annexation and Restrictions (or the conveyance of any other interest therein) shall not accomplish the annexation into the Project of the property described in such Termination and Extinction of Declaration of Annexation and Restrictions.

15.1.4 A Declaration of Annexation and Restrictions may contain complementary additions to and/or reasonable modifications of the provisions of this Declaration as may be appropriate to reflect the different character, if any, of the developmental plan for the property to be annexed.

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15.2 Nothing contained herein shall be construed to permit, expressly or by implication, Declarant to (i) annex or deannex any portion of the property described in Exhibit A which does not constitute a legal lot or parcel or (ii) sell a Lot in any phase of development of the Project without first having obtained a Final Subdivision Public Report thereon from the Department of Real Estate of the State of California.

15.3 Upon annexation of all or any portion of the property described in Exhibit A, and except to the extent Declarant may be entitled to an exemption by reason of the provisions of Paragraph 11.4 of this Declaration, assessments (as provided in the Article hereof entitled "Assessments") against the Lots in such annexed property shall commence on the first day of the calendar month next following the recording of the first conveyance by Declarant of a Lot in such annexed property to an Owner. At the time of such commencement of assessments, the anticipated authorized expenses of the Neighborhood Association shall be adjusted to reflect the costs to the Neighborhood Association of the management, operation and maintenance of the Project arising by reason of such annexation, and the assessment upon each Lot then subject to assessment shall be accordingly adjusted so as to apportion all of said costs equally among all of the Lots then subject to assessment.

15.4 During any period in which assessments have not commenced with respect to all or a portion of the property described in Exhibit A, Declarant shall hold harmless the Neighborhood Association (and other Owners) for any charges or costs incurred by the Neighborhood Association with respect to such property for which assessments have not commenced.

15.5 No vote(s) in the Neighborhood Association shall be attributable to ownership of all or any portion of the property described in Exhibit A until such property has been annexed into the Project. Upon annexation of such property, the Owner (including Declarant) of Lot(s) within such annexed property shall be entitled to the number of votes as provided in this Declaration.

15.6 Notwithstanding the Article hereof entitled "Amendment," no amendment, revocation or rescission of this Article may be had so long as Declarant owns a Lot which has not been conveyed to an Owner other than Declarant without the (i) written consent of Declarant and (ii) recording of such consent in the Office of the Recorder of San Diego County, California.

15.7 Unless otherwise specifically provided in this Declaration, each Owner shall have equal rights and obligations with respect to the Open Space or the Recreation Area, without regard

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to whether such Open Space or the Recreation Area is created, or became a part thereof, before or after such Owner acquires its Lot.

ARTICLE 16

AMENDMENT

16.1 These Neighborhood Restrictions may be amended only by written instrument (or counterparts thereof) (i) signed and acknowledged (a) by the Owners entitled to exercise 67 percent of the total voting power in each of the two voting classes of the Neighborhood Association, as provided in the Article of the Neighborhood Bylaws entitled "Voting Rights" or (b) upon cessation of one of the two voting classes, by the Owners entitled to exercise 67 percent of the total voting power in the remaining voting class, provided that such signatures include the signatures of not less than a majority of Owners other than Declarant and (ii) filed for record in the Office of the County Recorder of San Diego County, California. Any written instrument amending these Neighborhood Restrictions shall bear, or have attached thereto, the written consent of (i) the Community Board or other governing body of the Community Association, and (ii) until September 30, 1990, of the "Declarant" identified in the Community Restrictions. Further, any written instrument amending these Neighborhood Restrictions shall bear, or have attached thereto, the written consent of 51 percent (based upon one vote for each First Mortgage owned) of all those holders (hereinafter referred to individually as "Eligible Mortgage Holder" and collectively as "Eligible Mortgage Holders"), of a First Mortgage encumbering a Lot as of the time of recording such amendment who have requested in writing that the Association notify such holders of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders, if such amendment would (i) affect to any degree the rights, powers, privileges, interests or security of first Mortgagees as set forth in the Article hereof entitled "Planned Development Character of Project," "The Neighborhood Association," "Accounting," "Scope; Enforcement," "Rights of Mortgagees" and the following paragraphs hereof: 1.1.16, 2.1 and 16.1 (ii) change the boundaries of any Lot or convert any Lot into Open Space or any other type of common area, or vice versa, (iii) impose any restriction on an Owner's right to sell or transfer his or her Lot, other than as set forth in subparagraph 2.1.5 hereof, or (iv) establish self management when professional management had been required previously by an Eligible Mortgage Holder pursuant to guidelines of the Federal National Mortgage Association.

16.2 If for any reason, the consent of any Eligible Mortgage Holder is desired but not required by the provisions of Paragraph

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16.1 above, any such Eligible Mortgage Holder shall be conclusively deemed to have consented to an addition or amendment to these Neighborhood Restrictions for which such consent is not so required if any of such Eligible Mortgage Holder fails to submit a response to any written proposal for such an addition or amendment within 30 days after the delivery of such proposed addition or amendment to such Eligible Mortgage Holder.

16.3 It is the intent of Declarant that these Neighborhood Restrictions, the Neighborhood Articles, the Neighborhood Bylaws and the Project meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a Lot by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and such other similar entities, agencies or organizations. In the furtherance of that intent, Declarant expressly reserves the right, and shall be entitled by unilateral amendment of these Neighborhood Restrictions as long as Declarant owns more than 25 percent of the Lots, to incorporate any provisions that are, in the opinion of the cited entities or governmental agencies, required to conform these Neighborhood Restrictions, the Neighborhood Articles, the Neighborhood Bylaws or the Project to the requirements or policies of any such entities or governmental agencies. Provided, however, that any such provision shall first have been approved by the California Department of Real Estate in connection with its issuance of a Final Subdivision Public Report or amendment to it with respect to the Project. Each Owner and each Mortgagee by acceptance of a deed of or encumbrance against a Lot consents to the incorporation into these Neighborhood Restrictions of any such provisions as if set forth herein in full. The Board of Directors and each Owner shall take any action or shall adopt any resolutions required by Declarant or any Mortgagee to conform these Neighborhood Restrictions or the Project to the requirements of any of the cited entities or agencies.

16.4 Each such amendment to this instrument shall become effective only upon being filed for record as hereinabove provided and shall, from and after its effective date, be as effective as this instrument as to all (i) the Lots, (ii) the Project and (iii) the Owners (as of the effective date) and their successors in interest.

ARTICLE 17

GENERAL PROVISIONS

17.1 Notices required by these Neighborhood Restrictions, or desired, to be given shall be conclusively deemed served (i) if personally served, at the time of such service, and (ii) if

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mailed, 48 hours after deposit thereof in the United States mail, postage prepaid, addressed to the person(s) to whom such notice is to be given at the last known address of such person(s).

17.2 In the event any limitation, restriction, condition, covenant or provision contained in these Neighborhood Restrictions is held to be invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of these Neighborhood Restrictions shall, nevertheless, be and remain in full force and effect.

17.3 No provision of the Neighborhood Bylaws or the Neighborhood Articles, and no action of the Neighborhood Association, in violation or contravention of any provision of these Neighborhood Restrictions shall be valid, subsisting or of any effect whatsoever.

17.4 Captions in these Neighborhood Restrictions are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of these Neighborhood Restrictions or any of the terms hereof.

17.5 These Neighborhood Restrictions and every provision hereof shall be construed to facilitate the operation of the Project.

IN WITNESS WHEREOF, these Neighborhood Restrictions have been executed as of the 30th day of October, 1984.

W. WOLF PROPERTIES, INC.,
a California corporation

By [Signature]
Vice President

By [Signature]
Secretary

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Illinois
 STATE OF CALIFORNIA)
) SS
 COUNTY OF KNOX)

On Nov. 6, 1984, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jerry A. Bills, known to me to be the President, and JEAN L. Musolf, known to me to be Ass't. Secretary of FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION, a federally chartered savings and loan association, and acknowledged to me that such association executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Patricia Padilla
 Notary Public in and for said
 County and State
 My Comm. Expires 11/11/87

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PROPERTY WHICH MAY BE ANNEXED INTO PROJECT

PARCEL 1:

Lots 1 through 19, inclusive, Lots 52 through 61, inclusive, and Lot 67 of BERNARDO HEIGHTS NORTH, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11111, filed in the Office of the County Recorder of San Diego County, California, December 18, 1984.

PARCEL 2:

Lots 2 through 5, inclusive, of BERNARDO HEIGHTS UNIT NO. 10, according to Map thereof No. 9857, filed in the Office of the County Recorder of San Diego County, California, on October 30, 1980, together with Parcel 1 of Parcel Map No. 13376, filed in the Office of the County Recorder of San Diego County, California, on July 16, 1984, as File/Page No. 84-266302 of Official Records, all being in the City of San Diego, County of San Diego, State of California.

EXHIBIT A

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RECORDING REQUESTED BY:
OWNER
WHEN RECORDED MAIL TO:

XXXXXXXXXXXX

SPACE ABOVE FOR REPORTER'S
USE

DECLARATION OF ANNEXATION AND RESTRICTIONS

THIS DECLARATION OF ANNEXATION AND RESTRICTIONS, made and executed by [Name of Declarant] herein referred to as "Declarant,"

WITNESSETH THAT:

WHEREAS, Declarant is the owner of the property described as:

[LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED]

WHEREAS, Declarant (or Declarant's predecessor in interest) has caused to be executed, acknowledged and recorded a Declaration of Restrictions, recorded _____, 19____, File/Page No. _____, Official Records of _____ County, California (the "Declaration of Restrictions").

WHEREAS, the Declaration of Restrictions provides, inter alia, for the annexation and incorporation into the Project described in the Declaration of Restrictions of certain property described therein, including but not limited to, the property described above (the "Annexation Property").

WHEREAS, Declarant desires to effect said annexation and incorporation and to subject the Annexation Property to the Declaration of Restrictions in the manner provided for in the Declaration of Restrictions.

NOW, THEREFORE, by this Declaration of Annexation and Restrictions, Declarant hereby declares that upon the first conveyance by Declarant of a Lot in the Annexation Property to an

EXHIBIT B
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an Owner and the conveyance of Lot(s) _____ to the Fairway Heights Owners Association, (i) the Annexation Property shall be annexed into the Project described in the Declaration of Restrictions and (ii) the Annexation Property, and each and every Lot therein, shall be held, leased, encumbered, sold and/or conveyed by Declarant, and each and every successor in interest of Declarant, subject to the limitations, restrictions, conditions and covenants set forth in the Declaration of Restrictions and this Declaration of Annexation and Restrictions.

IN WITNESS WHEREOF, this Declaration of Annexation and Restrictions has been executed at _____, California, as of the ___ day of _____, 19__.

**EXHIBIT
DO NOT SIGN**

EXHIBIT B
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RECORDING REQUESTED BY:

OWNER

WHEN RECORDED MAIL TO:

XXXXXXXXXXXX

SPACE ABOVE FOR RECORDER'S USE

TERMINATION AND EXTINCTION OF DECLARATION OF ANNEXATION AND RESTRICTIONS

THIS TERMINATION AND EXTINCTION OF DECLARATION OF ANNEXATION AND RESTRICTIONS, made and executed by [Name of Declarant] herein referred to as "Declarant,"

WITNESSETH THAT:

WHEREAS, Declarant is the owner of the property described as:

[LEGAL DESCRIPTION OF PROPERTY TO BE DELETED]

WHEREAS, Declarant (or Declarant's predecessor in interest) has caused to be executed, acknowledged and recorded a Declaration of Restrictions, recorded _____, 19__, File/Page No. _____, Official Records of _____ County, California (the "Declaration of Restrictions").

WHEREAS, the Declaration of Restrictions provides, inter alia, for the annexation and incorporation into the Project described in the Declaration of Restrictions of certain property described therein, including, but not limited to, the property described above (the "Subject Property").

WHEREAS, Declarant has caused to be executed, acknowledged and recorded a Declaration of Annexation and Restrictions, recorded _____, 19__, File/Page No. _____, Official Records of _____ County, California, which describes the Subject Property.

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WHEREAS, the Declaration of Restrictions provides that prior to the conveyance by Declarant of a Lot in the property described in said Declaration of Annexation and Restrictions to an Owner, Declarant has the right to record a Termination and Extinction of Declaration of Annexation and Restrictions substantially in form as set forth herein.

WHEREAS, Declarant has not conveyed a Lot in the property described in said Declaration of Annexation and Restrictions.

WHEREAS, Declarant desires to terminate and extinguish the effect of said Declaration of Annexation and Restrictions as set forth herein.

NOW, THEREFORE, by this Termination and Extinction of Declaration of Annexation and Restrictions, Declarant hereby declares that upon the first conveyance of a Lot, or any other interest, in the Subject Property (i) the Subject Property shall not be annexed into the Project described in the Declaration of Restrictions and (ii) the Subject Property and each and every Lot therein shall be hereafter held, leased, encumbered, sold and/or conveyed by Declarant, and each and every successor in interest of Declarant, free and clear of the limitations, restrictions, conditions and covenants set forth in the Declaration of Restrictions.

IN WITNESS WHEREOF, this Termination and Extinction of Declaration of Annexation and Restrictions has been executed at _____, California, as of the _____ day of _____, 19__.

EXHIBIT
DO NOT SIGN

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