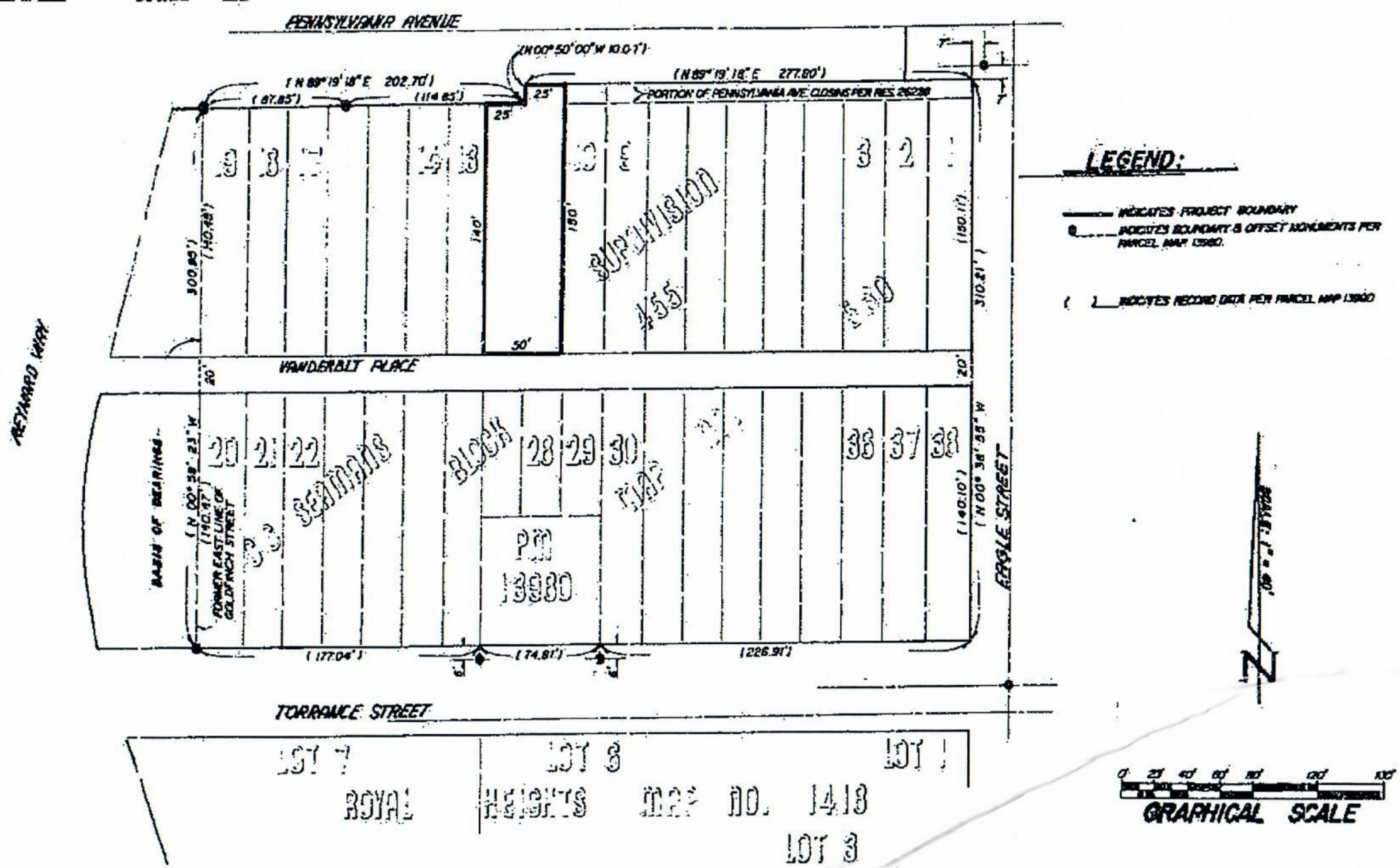
VANDERBILT PLACE
condominium plan

ENGINEER'S NOTE:

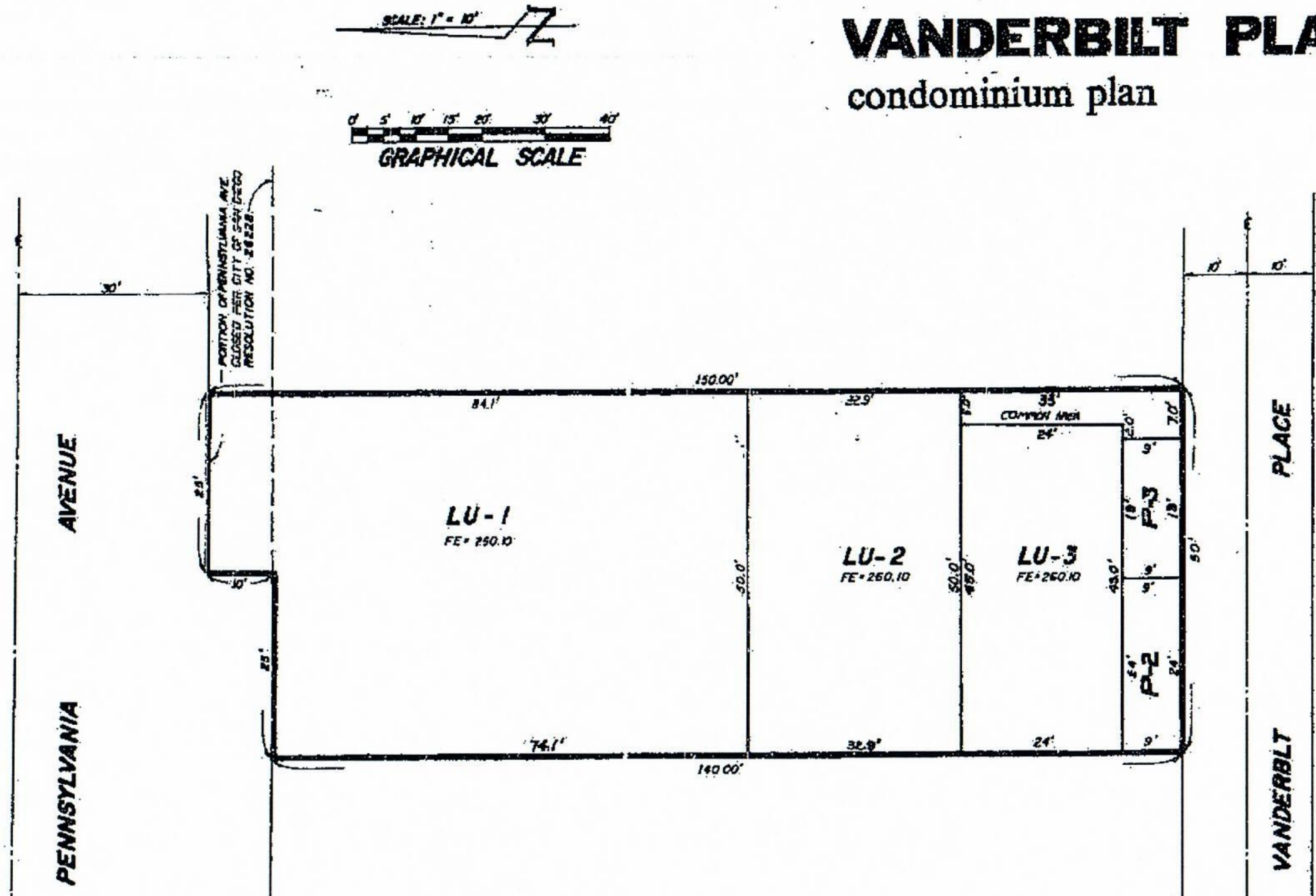
THE PROCEDURE OF SURVEY AND THE MONUMENTATION OF THE PROPERTY CORNERS AS SHOWN ON THIS MAP HAVE BEEN COMPLETED BY OTHERS. THE ACCURACY OF THE PROPERTY SURVEY AND MONUMENT LOCATIONS IS THE RESPONSIBILITY OF THAT ENGINEER OR SURVEYOR.

[illegible] R.E. #34548 — DATE: 9-4-[illegible]



VANDERBILT PLACE

condominium plan



HORIZONTAL CONTROL

VANDERBILT PLACE

condominium plan

CONDOMINIUM PROJECT LEGAL DESCRIPTION:

LOTS 11 AND 12 IN BLOCK 466 OF C. C. SCHANS SUBDIVISION OF A PORTION OF THE EAST HALF OF PUEBLO LOT 1123, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 530, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, APRIL 14, 18[illegible].

TOGETHER WITH THAT PORTION OF THE SOUTH 10.00 FEET OF PENNSYLVANIA AVENUE, LYING IMMEDIATELY NORTH OF AND ADJOINING SAID LOT 11, AS VACATED AND CLOSED TO PUBLIC USE ON FEBRUARY 21, 1921, BY RESOLUTION NO. 26[illegible] OF COMMON COUNCIL OF THE CITY OF SAN DIEGO.

BASIS OF ELEVATION:

[illegible] AVE AND PENNSYLVANIA AVE
S.E.B.P. ELEVATION = 2[illegible] M.S.L.

NOTES AND DEFINITIONS:

1. LIVING UNITS ARE NUMBERED LU-1, LU-2, AND LU-3 INCLUSIVE. TOTAL NUMBER OF LIVING UNITS IS 3.

2. "CONDOMINIUM" SHALL MEAN AND REFER TO AN ESTATE IN THE REAL PROPERTY SHOWN HEREON AS DEFINED IN CIVIL CODE SECTION 1351(F), AND SHALL CONSIST OF AN UNDIVIDED INTEREST AS TENANT-IN-COMMON IN A PORTION OF THE REAL PROPERTY COUPLED WITH A SEPARATE INTEREST IN SPACE CALLED A UNIT, THE BOUNDARIES OF WHICH ARE DESCRIBED ON THIS PLAN WITH SUFFICIENT DETAIL TO LOCATE ALL BOUNDARIES OF WHICH ARE DESCRIBED ON THIS PLAN WITH SUFFICIENT DETAIL TO LOCATE ALL BOUNDARIES THEREOF.

3. UNIT SHALL MEAN AND REFER TO THE SEPARATE INTEREST IN SPACE IN THE CONDOMINIUM PROJECT (PROJECT) WHICH IS NOT OWNED IN COMMON WITH THE OTHER OWNERS OF THE OTHER CONDOMINIUM IN THE PROJECT. SAID UNITS ARE SHOWN AND DESCRIBED BY THE FLOOR PLAN ON SHEET 3 HEREIN. THE BOUNDARIES OF EACH UNIT ARE AS FOLLOWS:

   A. THE LOWER LIMIT IS THE HORIZONTAL PLANE LYING 12 FEET BELOW THE LIVING UNIT FINISH FLOOR.

   B. THE UPPER LIMIT IS THE HORIZONTAL PLANE LYING 24 FEET ABOVE THE LIVING UNIT FINISH FLOOR.

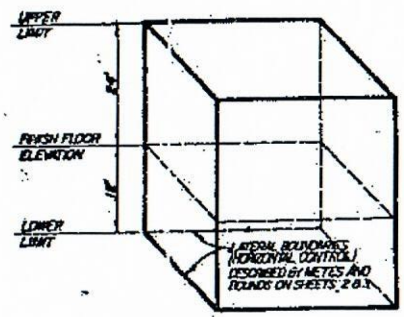
   C. THE LATERAL LIMITS ARE THE VERTICAL PLANES PASSING THROUGH THE LINES DESCRIBED ON THESE MAPS.

4. "EXCLUSIVE USE COMMON AREAS" SHALL MEAN AND REFER TO THOSE PORTIONS OF THE COMMON AREA TO WHICH AN EXCLUSIVE RIGHT TO USE IS GRANTED TO AN OWNER AS SHOWN AND DESCRIBED ON THE CONDOMINIUM PLAN AND SHALL CONSIST OF PARKING SPACES.

   THOSE "EXCLUSIVE USE COMMON AREAS" CONSISTING OF PARKING SPACES ARE APPURTENANT TO THE LIVING UNIT BEARING THE SAME NUMBER.

5. DIMENSIONS LABELED HEREIN SHALL HAVE PRECEDENCE OVER DISTANCES SCALED FROM PLANS.

6. ALL VERTICAL AND HORIZONTAL LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED OR APPARENT, ON THIS CONDOMINIUM PLAN.



7. "COMMON AREA" SHALL MEAN AND REFER TO THE ENTIRE CONDOMINIUM PROJECT, EXCEPT THE SEPARATE INTERESTS SHOWN HEREON. "COMMON AREA" INCLUDES, WITHOUT LIMITATION: REAL PROPERTY THAT IS NOT PART OF ANY UNIT AND THOSE PORTIONS OF UTILITY INSTALLATIONS THAT DO NOT EXCLUSIVELY SERVE ONE UNIT.

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS MAP IS THE FORMER EAST LINE OF GOLDFINCH STREET

LEGEND:

INDICATES CONDOMINIUM PROJECT BOUNDARY LINE..........
INDICATES VERTICAL BOUNDARY PLANE OF UNIT..........
INDICATES HORIZONTAL CONTROL LINE (UNIT TIE)..........
INDICATES UNIT NUMBER.......... 1
INDICATES LIVING UNIT.......... LU
INDICATES PARKING SPACE (EXCLUSIVE USE AREA).......... P

ENGINEER'S CERTIFICATE:

I HEREBY STATE THAT I AM A REGISTRED CIVIL ENGINEER OF THE STATE OF CALIFORNIA AND THAT THIS PLAN CONSISTING OF 3 SHEETS CORRECTLY SHOWS THE BOUNDARIES OF THE LAND AND THE RELATION THEREOF OF THE UNITS SHOWN HEREON WITH MINOR VARIATIONS.

REGISTERED PROFESSIONAL ENGINEER
JERRY ARLO HELMS
CE 26548
EXP [illegible]
CIVIL
STATE OF CALIFORNIA

Jerry A. Helms
JERRY A. HELMS R.C.E. 26548

9-1-93
DATE

RECORDING REQUESTED BY:

FIRST AMERICAN TITLE COMPANY

WHEN RECORDED MAIL TO:

BRIAN D. GREENBERG, ESQ.
ONE AMERICA PLAZA
SUITE 940
600 WEST BROADWAY
SAN DIEGO, CA 92101-3362

Space Above for Recorder's Use

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

VANDERBILT PLACE CONDOMINIUMS

THIS DECLARATION INCLUDES AN ARTICLE: (A) WHICH PROVIDES FOR BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND (B) WAIVES THE RIGHT TO A JURY TRIAL. CONSULTATION WITH AN ATTORNEY IS SUGGESTED IF THERE ARE ANY QUESTIONS WITH REGARD TO THIS ARTICLE.

10/2/21

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AND RESERVATION OF EASEMENTS

FOR

VANDERBILT PLACE CONDOMINIUMS

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

VANDERBILT PLACE CONDOMINIUMS

P R E A M B L E:

THIS DECLARATION is made by Yun-San Huang and Ricky Likal Kuo, wife and husband as community property with right of survivorship, Kory Trapp, a married man as his sole and separate property and James Russell Williamson and Cynthia Jean Webb, Trustees of The Williamson Living Trust, dated September 15, 2017 collectively referred to as "Declarant" or "Declarants".

RECITALS:

A. Declarant's are the owners of certain real property located in the City of San Diego, County of San Diego, State of California ("Property") and described as follows:

LOTS 11 AND 12 IN BLOCK 456 OF C.C. SEAMANS SUBDIVISION OF A PORTION OF THE EAST HALF OF PUEBLO LOT 1122, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 530, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, APRIL 14, 1888.

TOGETHER WITH THAT PORTION OF THE SOUTH 10.00 FEET OF PENNSYLVANIA AVENUE, LYING IMMEDIATELY NORTH OF AND ADJOINING SAID LOT 11, AS VACATED AND CLOSED TO PUBLIC USE AS OF FEBRUARY 21, 1921, BY RESOLUTION OF THE CITY OF SAN DIEGO.

B. It is the desire and intention of Declarant's to create a "condominium project" within the meaning California Civil Code Section 4125, to comply with Business and Professions Code Section 11000 et. seq., to subdivide the Property (as hereinafter defined) as authorized by Section 66427 of the California Government Code into "condominiums" as defined in Section 783 of the California Civil Code, and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the condominiums created pursuant to the Davis-Stirling Common Interest Development Act (Civil Code Section 4000 et.seq.).

C. The Declarants declare that all the Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used occupied and improved subject to the limitations, restrictions, reservations, rights, easements, conditions and covenants contained in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of the Property for the purpose of enhancing the value, desirability and attractiveness of the Property. All provisions of this Declaration, including without limitation the easements, uses, obligations, covenants, conditions and restrictions hereof, are hereby imposed as equitable servitudes upon the Property. All of the limitations, restrictions, reservations, rights, easements, conditions and covenants herein shall run with and burden the Property and shall be binding on and for the benefit of all of the Property and all Persons having or acquiring any right, title or interest in the Property, or any part thereof, and their successive owners and assigns. Declarant further declares that the Declaration shall meet the requirements of California Civil Code Section 5975.

D. The Association and its members covenant and agree that the undivided interest in the Common Area, the membership in the Association, any easements conveyed therewith and the fee title to each respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit; provided, however, that this restriction upon the severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Property is suspended in accordance with Section 4610 of the California Civil Code and the provisions of Article X hereof. Any conveyance by an Owner of a Condominium, or any portion thereof shall be presumed to convey the entire Condominium, together with a membership in the Association in accordance with Civil Code Section 4630.

ARTICLE I

1. Definitions.

Unless otherwise expressly provided, the following words and phrases when used herein shall have the following specified meanings.

1.1. Annual Budget Report.

Annual Budget Report shall mean the report described in Civil Code Section 5300.

1.2. Annual Policy Statement.

Annual Policy Statement shall mean the statement described in Civil Code Section 5310.

1.3. Architectural Committee or Committee.

Architectural Committee or Committee shall mean the Architectural Review Committee created pursuant to Article IV hereof.

1.4. Articles.

Articles shall mean the Articles of Association for the Association.

1.5. Assessment, Regular.

Regular Assessment shall mean a charge against a particular Owner and the Condominium, representing a portion of the Common Expenses which are to be levied among all of the Owners and their Condominiums in the Project in the manner and proportions provided herein in accordance with Civil Code Section 5600 (a).

1.6. Assessment, Special.

Special Assessment shall mean a charge against a particular Owner, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association in accordance with Civil Code Section 5600 (a).

1.7. Association.

Association shall mean the "VANDERBILT PLACE CONDOMINIUMS OWNERS ASSOCIATION", an unincorporated association, its successors and assigns. The Association is an "association" as defined in Section 4080 of the California Civil Code.

1.8. Association Maintenance Funds.

Association Maintenance Funds shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article V hereof.

1.9. Beneficiary.

Beneficiary shall mean a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee or Beneficiary.

1.10. Board or Board of Directors.

Board or Board of Directors shall mean the Board of Directors of the Association in accordance with Civil Code Section 4085.

1.11. Board Meeting.
Board meeting means either of the following:

(a) A congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the board, to hear, discuss, or deliberate upon any items of business that is within the authority of the board.

(b) A teleconference, where a sufficient number of directors to establish a quorum of the board, in different locations, are connected by electronic means, through audio or video or both. A teleconference meeting shall be conducted in a manner that protects the rights of members of the association, and otherwise complies with the requirements of this act. Except for a meeting that will be held solely in executive session, the notice of the teleconference meeting shall identify at least one physical location so that members of the association may attend, and at least one director shall be present at that location. Participation by directors in a teleconference meeting constitutes presence at that meeting as long as all directors participating are able to hear one another, as well as members of the association speaking on matters before the board.

1.12. Budget.
Budget shall mean a written, itemized estimate of the income and Common Expenses of the Association in performing its functions under this Declaration, which Budget shall be prepared pursuant to the Bylaws and in accordance with Civil Code Section 5300.

1.13. Bylaws.
Bylaws shall mean the Bylaws of the Association as adopted by the Board, as such Bylaws may be amended from time to time.

1.14. City.
City shall mean the City of San Diego, State of California, and its various departments, divisions, employees and its representatives.

1.15. Close of Escrow.
Close of Escrow shall mean the date on which a deed is Recorded conveying a Condominium to a retail purchaser.

1.16. Common Area .
Common Area shall mean the area shown and described on the Condominium Plan as "Common Area".

As set forth on the Condominium Plan, upon conveyance by the Declarant of the first fractional interest to a person, the Common Area shall be owned by the respective unit owners as an appurtenance to their respective Units as tenants-in-common in equal undivided one-third fractional interests. The Common Area consists a walkway and the property for the two (2) parking spaces.

1.17. Common Expenses.
Common Expenses shall mean those expenses for which the Association is responsible under this Declaration, including the actual and estimated costs of: maintenance, management, operation, repair and replacement of the Common Area; unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments; the costs of any and all utilities metered to more than one Unit and other commonly metered charges for the Property; the costs of trash collection and removal (as applicable); the costs of maintenance of the clustered mailboxes and address identification signs; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers accountants, attorneys and other employees; the cost of all gardening, security, and other services which benefit the Common Area; the costs of fire, casualty and liability insurance, worker's compensation insurance, errors and omissions and director officer and agent liability, including the costs of bonding of the members of the Board; taxes paid by the Association, including any blanket tax assessed against the Property; amounts paid by the Association for discharge of any lien or encumbrance levied against the Property, or portions thereof, and the costs of any other item or items incurred by the Association, for any reason whatsoever in connection with the Property, for the common benefit of the Owners.

1.18. Condominium.
Condominium shall mean and refer to an estate in the Condominium Property, as defined in Civil Code Section 4125(b) and shall consist of:

(A) A separate interest in space called a "Unit";
(B) An appurtenant undivided fractional interest as tenant-in-common in a portion of the Condominium Property described herein as "Common Area".

1.19. Condominium Plan.
In accordance with Civil Code Sections 4285, a Condominium Plan shall mean the recorded plan, as amended from time to time, consisting of (1) a description or survey map of a condominium project, which shall refer to or show monumentation on the ground, (2) a three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the Common Area and each separate interest and (3) a certificate consenting to the recordation of a condominium plan pursuant to the Davis-Stirling Common Interest Development Act that is signed and acknowledged by all of the following in accordance with Civil Code Section 4290:

(1) The record Owner of fee title to that property included in the condominium project.

(2) In the case of a condominium project which will terminate upon the termination of an estate for years, by all lessors and lessees of the estate for years.

(3) In the case of a condominium project subject to a life estate, by all life tenants and remainder interests.

(iv) The trustee or the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage encumbering the property.

Owners of mineral rights, easements, rights-of-way, and other nonpossessory interests do not need to sign the certificate.

1.20. Declarant.
In accordance with Civil Code Section 4130, Declarant shall mean the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the person or group of persons who sign the original declaration or who succeed to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration. Declarant shall include any beneficiary or other transferee acquiring Declarant's remaining interest in condominiums within the condominium project by virtue of foreclosure, power of sale or deed in lieu under a deed of trust securing the obligation of Declarant, which deed of trust encumbers all or any portion of the condominium project.

1.21. Declaration.
Declaration shall mean this instrument, as it may be amended from time to time, that contains the information required by Civil Code Sections 4250 and 4255 as provided in Civil Code Section 4135.

1.22. Deed of Trust.
Deed of Trust shall mean a Mortgage as further defined herein.

1.23. DRE .
DRE shall mean the California Department of Real Estate and any successor agency thereto.

1.24. Exclusive Use Common Area.
Exclusive Use common area shall mean a portion of the common area designated by the Declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests. Unless the Declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, doorframes and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common area allocated exclusively to that separate interest. Notwithstanding the provisions of the declaration, internal and external telephone wiring designed to serve a single separate interest, but located outside the boundaries of the separate interest, is exclusive use common area allocated exclusively to that separate interest. The Exclusive Use Common Area in the Project consists of two (2) Parking Spaces.

1.25. FHA.
FHA shall mean the Federal Housing Administration of the United States Department of Housing and Urban Development and any department or agency of the United States government which succeeds to the FHA's function of insuring notes secured by Mortgages on residential real estate.

1.26. FHLMC.
FHLMC shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporation.

1.27. Fiscal Year.
Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.28. Fannie Mae.
Fannie Mae shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

1.29. GNMA.
GNMA shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successor to such association.

1.30. Governing documents.
Governing documents means the declaration and any other documents, such as bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association as provided in Civil Code Section 4150.

1.31. Improvements.
Improvements shall mean all structures and appurtenances thereto of every type and kind, including but not limited to, buildings, walkways, sprinkler pipes, fences, walls, landscaping, the exterior surfaces of any visible structure and the paint on such surfaces, planted trees and shrubs, and gates.

1.32. Manager/Managing Agent.
Manager shall mean the Person employed by the Association pursuant to and limited by the provisions of this Declaration, and delegated the duties, power or functions of the Association as limited by this Declaration, the Bylaws and the terms of the agreement between the Association and said Person. As provided in Civil Code Section 4158 (a) a managing agent is a person who, for compensation or in expectation of compensation, exercise control over the assets of a common interest development. A managing agent does not include any of the following: (1) a regulated financial institution operating within the normal course of its regulated business practice or (2) an attorney at law acting within the scope of the attorney's license.

1.33. Member, Membership.
Member means an owner of a separate interest as provided in Civil Code Section 4160.

1.34. Mortgage.
Mortgage shall mean any Recorded mortgage or deed of trust or other conveyance of one or more Condominiums or other portion of the Property to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance.

1.35. Mortgagee, Mortgagor.
Mortgagee shall mean a Person to whom a Mortgage is made and shall include the Beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his or its property to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor" and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.36. Notice and Hearing.
Notice and Hearing shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at the Owner's expense, in the manner further provided in the Bylaws.

1.37. Owner.
Owner shall mean the Person or Persons, including Declarant holding fee simple interest to a Condominium. The term "Owner" shall include a seller under an executory contract of sale but shall exclude Mortgagees.

1.38. Person.
Person shall mean a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity as provided in Civil Code Section 4170.

1.39. Property/Condominium Property or Project.
Property/Condominium Property or Project shall mean all of the real property described in Paragraph A of the Preamble to this Declaration. The Property is a "common interest development" and a "condominium project" as defined in Section 4100(b) and Section 4125(a), respectively, of the California Civil Code.

1.40. Record, File, Recordation.
Record, Recorded, Filed, or Recordation shall mean, with respect to any document, the recordation or filing of such document in the Office of the San Diego County Recorder.

1.41. Residence.
Residence shall mean a Unit, intended for use by a single Family.

1.42. Restrictions.
Restrictions shall mean this Declaration and the Rules and Regulations of the Association from time to time in effect.

1.43. Rules and Regulations.
Rules and Regulations shall mean the rules and regulations adopted by the Board pursuant to this Declaration or the Bylaws, as such rules and regulations may be amended from time to time.

1.44. Separate Interest , Living Unit or Unit.
Each Unit shall mean a separate interest in space defined in Civil Code Section 4125(b). Each of the Units shall be a separate freehold estate. The Units are shown and numbered on the Condominium Plan as "LU-1", LU-2" and "LU-3".The total number of Units is 3. Each Unit is a three-dimensional division of land the boundaries of which are as shown on the Condominium Plan .

1.45. VA.
VA shall mean the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

2.6. Repair and Maintenance by the Association and the Unit Owners..

In accordance with Civil Code Section 4775(a), unless otherwise provided in the declaration of a common interest development, the Association is responsible for repairing, replacing or maintaining the Common Area, other than the exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to the separate interest The Owners of Unit 1, Unit 2 and Unit 3 are responsible for all maintenance of all improvements within their Unit as shown on the Condominium Plan. The Association is responsible for maintenance of the Common Area walkway and the two (2) Parking Spaces.

2.7. Use of Agent.

The Board of Directors, on behalf of the Association, may contract with a Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The maximum term of any such contract ("Management Contract") shall be one (1) year, unless a longer term is approved either by vote or written assent of a majority of the voting power of the Association or in which case the maximum term of the Management Contract shall be three (3) years. The maximum term of any contract providing for Declarant's services to the Association or the Project shall also be three (3) years. Each such contract for Declarant's services and each Management Contract shall provide for its termination by either party thereto with cause upon no more than thirty (30) days written notice to the other party, and without cause and without payment of a termination fee upon no more than ninety (90) days written notice to the other party.

ARTICLE III

3. Partition of the Common Area.

3.1. Partition.

Except as provided in Civil Code Section 4610 (a), there shall be no judicial partition of the Common Area, or any part thereof for the term of the Project, nor shall Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Project seek any such judicial partition.

ARTICLE IV

4. Architectural Review Committee.

4.1. Members of Committee.

The Architectural Review Committee, sometimes referred to herein as the "Architectural Committee" or the "Committee," shall be comprised of three (3) members. The governing body of the Association shall have the power to appoint all of the members of the Committee. The Committee members appointed by the Board shall be from the membership of the Association. The Board may adopt, amend and repeal, by unanimous vote, "Architectural Guidelines" (the "Guidelines") in accordance with Civil Code Section 4355. The Guidelines shall conform to the requirements of Civil Code Sections 4720 and 4735. The Committee shall examine any request made pursuant to this Article, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Property and the Guidelines referred to herein. Board members may also serve as Committee members.

4.2. Review of Plans and Specifications.

The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. No construction, alteration, removal relocation, demolition, repainting, addition, installation, modification, decoration redecoration or reconstruction of an Improvement, including landscaping, in the Property shall be commenced or maintained, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Committee and approved in writing by the Committee; provided, however, that any Improvement may be repainted without Committee approval so long as the Improvement is repainted the identical color which it was last painted. Without limiting the generality of the foregoing, the provisions of this Article IV apply to the construction, installation, alteration and modification of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714, the City Building Code, applicable zoning regulations, and associated City ordinances. The Owner submitting the plans and specifications ("Applicant") shall obtain a written, dated receipt therefor from an authorized agent of the Committee. Until changed by the Board, the address for the submission of plans and specifications shall be the principal office of the Association. The Committee shall approve plans and specifications submitted for its approval only if it deems that the installation, construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Area or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof will not become a burden on the Association. Declarant, and any Person to which Declarant may assign all or a portion of its exemption hereunder, need not seek or obtain Architectural Committee approval of any person for Improvements constructed on the Property by Declarant or such Person, as the case may be.

The Committee may condition its approval of proposals or plans and specifications for any Improvement (1) upon the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Property as a result of such work, (2) on such changes therein as it deems appropriate, (3) upon the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (4) upon the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (5) upon the Applicant's agreement to reimburse the Association for the cost of maintenance, (6) upon the Applicant's agreement to complete the proposed work within a stated period of time, or (7) all of the above, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submission plans for approval, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The Committee may provide that the amount of the fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. Decisions of the Committee and the reasons therefor shall be transmitted by the Committee to the Applicant at the address set forth in the application for approval within forty-five (45) days after receipt by the Committee of ll materials required by the Committee. Any application submitted pursuant to this Section 4.2 shall be deemed approved unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the Committee of all required materials. The Applicant shall meet any review or permit requirements of the City prior to making any alterations or Improvements permitted hereunder.

4.3. Meetings of the Committee.
The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 4.8. In the absence of such designation, the vote or written consent of a majority of the Committee shall constitute an act of the Committee.

4.4. No Waiver of Future Approvals.
The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

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

4.6. Inspection of Work.
The Committee or its duly authorized representative may at any time inspect any work for which approval of plans is required under this Article IV ("Work"), which right to inspect shall include the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the Committee-approved plans for the Work or with the requirements of this Declaration ("Noncompliance").

(a) Time Limit. The Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the latest to occur of the following events: (I) submittal of the plans for the Work to the Committee for its approval as provided in this Article IV; (ii) completion of the Work as provided in the Committee- approved plans; and (iii) written notice from the Owner to the Committee that the Work has been completed. This time limit for inspection and notification by the Committee shall be extended indefinitely if any of these conditions has not occurred. If the Committee fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

(b) Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days from the date of notification from the Committee, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, as provided in this Declaration, the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a Notice of Noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

4.7. Scope of Review.
The Architectural Committee shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, solely on the basis of aesthetic considerations, consistency with this Declaration, and the overall benefit or detriment which would result to the immediate vicinity and the Property generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features. The Committee's approval or disapproval shall be based solely on the considerations set forth in this Article IV, and the Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

4.8. Variances.

The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by a majority of the Committee, and shall become effective upon Recordation. After Declarant has lost the right to appoint a majority of the members of the Committee, the Board must approve any variance recommended by the Committee before any such variance shall become effective. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of the Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the residence.

4.9. Appeals.

For so long as Declarant has the right to appoint and remove a majority of the members of the Committee, decisions of the Committee shall be final, and there shall be no appeal to the Board of Directors. When Declarant is no longer entitled to appoint and remove a majority of the members of the Committee the Board may, at, its discretion, adopt policies and procedures for the appeal of Committee decisions for reconsideration by the Board. The Board shall have no obligation to adopt or implement any such appeal procedures, and in the absence of Board adoption of appeal procedures, all decisions of the Committee shall be final.

4.10. Physical Change to a Members Separate Interest or to the Common Area.

In accordance with Civil Code Section 4765(a), this section applies if the governing documents require association approval before a member may make a physical change to the member's separate interest or to the common area. In reviewing and approving or disapproving a proposed change, the association shall satisfy the following requirements:

(1) The association shall provide a fair, reasonable, and expeditious procedure for making its decision. The procedure shall be included in the association's governing documents. The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for response to an application or a request for reconsideration by the board.

(2) A decision on a proposed change shall be made in good faith and may not be unreasonable, arbitrary, or capricious.

(3) Notwithstanding a contrary provision of the governing documents, a decision on a proposed change may not violate any governing provision of law, including, but not limited to, the Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) or a building code or other applicable law governing land use or public safety.

(4) A decision on a proposed change shall be in writing. If a proposed change is disapproved, the written decision shall include both an explanation of why the proposed change is disapproved and a description of the procedure for reconsideration of the decision of the Board.

(5) If a proposed change is disapproved, the applicant is entitled to reconsideration by the board, at an open meeting of the board. This paragraph does not require reconsideration of a decision that is made by the board or a body that has the same membership as the board, at a meeting that satisfies the requirements of Article 2 (commencing with Section 4900) of Chapter 6. Reconsideration by the board does not constitute dispute resolution within the meaning of Section 5905.

(b) Nothing in this section authorizes a physical change to the common area in a manner that is inconsistent with an association's governing documents, unless the change is required by law.

(c) An association shall annually provide its members with notice of any requirements for association approval of physical changes to property. The notice shall describe the type of changes that require association approval and shall include a copy of the procedures used to review and approve or disapprove a proposed change.

(b) This section shall not prohibit an association from applying landscaping rules established in the governing documents to the extent the rules fully conform with the requirements of subdivision (a).

ARTICLE V

5. Maintenance Funds and Assessments.

5.1. Personal Obligation of Assessments.
Declarant, for each Condominium owned by it, hereby covenants and agrees to pay, and each Owner, by acceptance of a deed to a Condominium whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Regular Assessments for Common Expenses and (2) Special Assessments, such assessments to be established and collected as provided herein. In accordance with Civil Code Section 5600(a), except as provided in Section 5605, the Association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and the Act. (b) The Association shall not impose or collect an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied. Each regular and special assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of the Condominium at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of the Condominium or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments shall not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser.

5.2. Regular assessments/Commencement-Collection.
The Board of Directors shall authorize and levy the amount of the regular assessment upon each Condominium, as provided herein, by majority vote of the Board. The Regular assessment shall commence on all Condominiums on the first day of the first calendar month following the first Close of Escrow for the sale of a Condominium subject to this Declaration. All Regular assessments shall be equally assessed against the Members and their Condominiums based upon the number of Condominiums owned by each Member. Regular assessments for fractions of any month involved shall be prorated. Declarant shall pay its full pro rata share of the Regular assessments on all unsold Condominiums for which Regular assessments have commenced. The Board shall fix the amount of the Regular assessment against each Condominium at least thirty (30) days in advance of each Regular assessment period. However, unless otherwise established by the Board, the initial Regular assessments shall be assessed in accordance with the Budget prepared by the Declarant. Written notice of any change in the amount of an Regular assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due. From time to time the Board may determine that all excess funds in the Operating Fund be retained by the Association and used to reduce the following year's Regular assessment. Upon dissolution of the Association incident to the abandonment or termination of the Property, any amounts remaining in any of the Maintenance Funds shall be distributed to or for the benefit of the Members in the same proportions as such monies were collected from the Members.

Each Member shall pay to the Association his Regular Assessment in installments at such frequency and in such amounts as established by the Board. Each installment of Regular assessments may be paid by the Member to the Association in one check or in separate checks as payments attributable to deposits into specified Association Maintenance Funds. If any installment of an Regular assessment payment is less than the amount assessed and the payment does not specify the Association Maintenance Fund or Funds into which it should be deposited, the receipt by the Association from that Member shall be credited in order of priority first to the Operating Fund, until that portion of the Regular assessment has been satisfied, and second to the Reserve Fund.

5.3. Maintenance Funds of Association.
The Board of Directors shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (1) an Operating Fund for current Common Expenses of the Association, (2) an adequate Reserve Fund for capital improvements, replacements, painting and repairs of the Common Area (which cannot normally be expected to occur on an annual or more frequent basis), and for payment of deductible amounts for policies of insurance which the Association obtains as provided in Section 8.1 hereof, and (3) any other funds which the Board of Directors may establish to the extent necessary under the provisions of this Declaration. Nothing contained herein shall limit, preclude or impair the establishment of additional Maintenance Funds by the Association, so long as the amounts assessed to, deposited into and disbursed from any such Fund are earmarked for specified purposes authorized by this Declaration.

5.4. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and for the operation, replacement, improvement and maintenance of the Common Area and to discharge any other obligations of the Association under this Declaration. All amounts deposited into the Maintenance Funds must be used solely for the common benefit of all of the Owners for purposes authorized by this Declaration. Disbursements from the Operating Fund shall be made by the Board of Directors for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used. Disbursements from the Reserve Fund shall be made by the Board of Directors only for the purposes specified in this Article V. Nothing in this Declaration shall be construed in such a way as to prohibit the use of Association assessments or funds to abate any annoyance or nuisance emanating from outside the boundaries of the Property. Regular Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws.

5.5. Limitations on Regular Assessment Increases.

The Board shall levy Regular Assessments in accordance with the following provisions:

In accordance with Civil Code Section 5605(a), Annual increases in regular assessments for any fiscal year shall not be imposed unless the board complies with paragraphs (1), (2), (4), (5), (6), (7) and (8) of subdivision (b) of Section 5300 with respect to that fiscal year, or has obtained the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

(c) For purposes of this section, "quorum" means more than 50 percent of the members. In accordance with Civil Code Section 5610, Section 5605 does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

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

(b) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the Association is responsible where a threat to personal safety on the property is discovered.

(c) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the Association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual budget report under Section 5300. However, prior to the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(d) In accordance with Civil Code Section 5615, the Association shall provide individual notice pursuant to Section 4040 to the members of any increase in the regular or special assessments of the Association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

(e) In accordance with Civil Code Section 5620(a), Regular assessments imposed or collected to perform the obligations of the Association under the governing documents or this act shall be exempt from execution by a judgment creditor of the Association only to the extent necessary for the Association to perform essential services such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision. (b) This exemption shall not apply to any consensual pledges, liens or encumbrances that have been approved by a majority of a quorum of members pursuant to Section 4070 at a member meeting or election, or to any state tax lien, or to any lien for labor or materials supplied to the common area.

5.6. Assessment Payment.
In accordance with Civil Code Section 5650(a), regular or special assessments and any late charges, reasonable fees and costs of collection, reasonable attorney's fee, if any, and interest, if any, as determined in accordance with subdivision (b), shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied. (b) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due, unless the declaration provides for a longer period, in which case the longer period shall apply. If an assessment is delinquent, the association may recover all of the following:

(1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.

(2) A late charge not exceeding 10 percent of the delinquent assessment or ten dollars ($10.00), whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.

(3) Interest on all sums imposed in accordance with this section, including the delinquent assessments, reasonable fees and costs of collection, and reasonable attorney's fees at an annual rate not to exceed 12 percent, commencing 30 days after the assessment becomes due, unless the declaration specifies the recovery of interest at a rate of a lesser amount, in which case the lesser rate of interest shall apply.

(c) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

5.7. Assessment Payment Procedures.
In accordance with Civil Code Section 5655(a), any payments made by the owner of a separate interest toward a debt described in subdivision (a) of Section 5650 shall first be applied to the assessments owed, and, only after the assessments are paid in full shall payments be applied to the fees and costs of collection, attorney's fees, late charges or interest. (b) When an owner makes a payment, the owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received it. (c) The Association shall provide a mailing address for overnight payment of assessments. The address shall be provided in the annual policy statement.

5.8. Dispute Resolution Procedures.
In accordance with Civil Code Section 5658(a), if a dispute exists between the owner of a separate interest and the association regarding any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and the amount in dispute does not exceed the jurisdictional limits of the small claims court stated in Sections 116.220 and 116.221 of the Code of Civil Procedure, the owner of the separate interest may, in addition, to pursuing dispute resolution pursuant to Article 3 (commencing with Section 5925) of Chapter 10, pay under protest the disputed amount and all other amounts levied, including any fees and reasonable costs of collection, reasonable attorney's fees, late charges, and interest, if any, pursuant to subdivision (b) of Section 5650, and commence an action in small claims court pursuant to Chapter 5.5 (commencing with Section 116.110) of Title 1 of the Code of Civil Procedure. (b) Nothing in this section shall impede an association's ability to collect delinquent assessments as provided in this article or Article 3 (commencing with Section 5700).

5.9. Notification Requirements Prior to Recording a lien.
In accordance with Civil Code Section 5660, at least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a debt that is past due under Section 5650, the association shall notify the owner of record in writing by certified mail of the following:

(a) A general description of the collection and lien enforcement procedures of the association and thé method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records pursuant to Section 5205, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:

"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENT, IT MAY BE SOLD WITHOUT COURT ACTION."

(b) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.

(c) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the association.

(d) The right to request a meeting with the board as provided in Section 5665.

(e) The right to dispute the assessment debt by submitting a written request for dispute resolution to the association pursuant to the association's "meet and confer" program required by Article 2 (commencing with Section 5900) of Chapter 10.

(f) The right to request alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with Section 5925) of Chapter 10 before the Association may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

5.10. Payment Plans.
In accordance with Civil Code Section 5665(a), an owner, other than an owner of any interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 11211.7 of the Business and Professions Code, may submit a written request to meet with the board to discuss a payment plan for the debt noticed pursuant to Section 5660. The Association shall provide the owners the standards for payment plans, if any exists. (b) The board shall meet with the owner in executive session within 45 days of the postmark of the request, if the request is mailed within 15 days of the date of the postmark of the notice, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more directors to meet with the owner. (c) Payment plans may incorporate any assessments that accrue during the payment plan period. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan. (d) Payment plans shall not impede an association's ability to record a lien on the owner's separate interests to secure payments of delinquent assessments. (e) In the event of a default on any payment plan, the association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

5.11. Dispute Resolution via Meet and Confer.
In accordance with Civil Code Section 5670, prior to recording a lien for delinquent assessments, an association shall offer
the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10.

5.12. Liens.
In accordance with Civil Code Section 5673, for liens recorded on or after January 1, 2006, the decision to record a lien for delinquent assessments shall be made only by the board and may not be delegated to an agent of the association. The board shall approve the decision by a majority vote of the directors in an open meeting. The board shall record the vote in the minutes of that meeting.

5.13. Recordation of Notice of Delinquent Assessment.

In accordance with Civil Code Section 5675(a), the amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with subdivision (b) of Section 5650, shall be lien on the owner's separate interest in the common interest development from and after the time the Association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment, and other sums imposed in accordance with subdivision (b) of Section 5650, a legal description of the owner's separate interest in the common interest development against which the assessment and other sums are levied, and the name of the record owner of the separate interest in the common interest development against which the lien is imposed. (b) The itemized statement of the charges owed by the owner described in subdivision (b) of Section 5660 shall be recorded together with the notice of delinquent assessment. (c) In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 5700 to 5710, inclusive, the notice of delinquent assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. (d) The notice of delinquent assessment shall be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the President of the Association. (e) A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an owner of the separate interest in the Association's records, and the notice shall be mailed no later than 10 calendar days after recordation.

5.14. Priority of Lien.

In accordance with Civil Code Section 5680(a), a lien created pursuant to Section 5675 shall be prior to all other liens recorded subsequent to the notice of delinquent assessment, except that the declaration may provide for the subordination thereof to any other liens and encumbrances.

5.15. Recordation of Lien Release/Notice of Recission.

In accordance with Civil Code Section 5685(a), within 21 days of the payment of the sums specified in the notice of delinquent assessment, the Association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded, a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied. (b) If it is determined that a lien previously recorded against the separate interest has recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessments is recorded a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission. (c) If it is determined that an Association has recorded a lien for a delinquent assessment in error, the Association shall promptly reverse all late charges, fees, interest, attorney fees, cost of collection, costs imposed for the notice prescribed in Section 5660, and costs of recordation and release of the lien authorized under subdivision (b) of Section 5720, and pay all costs related to any related dispute resolution or alternative dispute resolution. In accordance with Civil Code Section 5690, an association that fails to comply with the procedures set forth in this article shall, prior to recording a lien, recommence the required notice process. Any cost associated with recommencing the notice process shall be borne by the association and not the owner of a separate interest.

5.16. Assessment Collection.

In accordance with Civil Code Section 5700(a), except as otherwise provided in this article, after the expiration of 30 days following the recording of a lien created pursuant to Section 5675, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a. (b) Nothing in Article 2 (commencing with Section 5650) or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to Article 2 (commencing with Section 5650) or prohibits an association from taking a deed in lieu of foreclosure.

5.17. Meet and Confer Program.
In accordance with Civil Code Section 5705(a) notwithstanding any law or provisions of the governing documents to the contrary, this section shall apply to debts for assessments that arise on and after January 1, 2006. (b) Prior to initiating a foreclosure on an owner's separate interest, the Association shall offer the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10 or alternative dispute resolution as set forth in Article 3 (commencing with Section 5925) of Chapter 10. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure. (c) The decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by the board and may not be delegated to an agent of the association. The board shall approve the decision by a majority vote of the directors in an executive session. The board shall record the vote in the minutes of the next meeting of the board open to all members. The board shall maintain the confidentiality of the owner or owners of the separate interest by identifying the matter in the minutes by the parcel number of the property, rather than the name of the owners or owners. A board vote to approve foreclosure of a lien shall take place at least 30 days prior to any public sale. (d) The board shall provide notice by personal service in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure to an owner of a separate interest who occupies the separate interest or to the owner's legal representative, if the board votes to foreclose upon the separate interest. The board shall provide written notice to an owner of a separate interest who does not occupy the separate interest by first-class mail, postage prepaid, at the most current address shown on the books of the association. In the absence of written notification by the owner to the association, the address of the owner's separate interest may be treated as the owner's mailing address.

5.18. Sale by Trustee.
In accordance with Civil Code Section 5710(a), any sales by the trustee shall be conducted in accordance with Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust. (b) In addition to the requirements of Section 2924, the association shall serve a notice of any default on the person names as the owner of the separate interest in the association's records or, if that person has designated a legal representative pursuant to this subdivision, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An owner may designate a legal representative in writing that is mailed to the association in a manner that indicates that the association has received it. (c) The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d, plus the cost of service for either of the following: (1) The notice of default pursuant to subdivision (b) or (2) The decision of the board to foreclose upon the separate interest of an owner as described in subdivision (d) of Section 5705.

5.19. Right of Redemption.
In accordance with Civil Code Section 5715(a), notwithstanding any law or any provisions of the governing documents to the contrary, this section shall apply to debts for assessments that arise on and after January 1, 2006. (b) A nonjudicial foreclosure by an association to collect upon a debt for delinquent assessments shall be subject to a right of redemption. The redemption period within which the separate interest may be redeemed from a foreclosure sale under this paragraph ends 90 days after the sale. In addition to the requirements of Section 2924f, a notice of sale in connection with an association's foreclosure of a separate interest in a common interest development shall include a statement that the property is being sold subject to the right of redemption created in this section.

5.20. Collection of Debts less than $1,800.00.

In accordance with Civil Code Section 5720(a), notwithstanding any law or any provisions of the governing documents to the contrary, this section shall apply to debts for assessments that arise on and after January 1, 2006. (b) An Association that seeks to collect delinquent regular or special assessments of an amount less than one thousand eight hundred dollars ($1,800.00), not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, may not collect through judicial or nonjudicial foreclosure, but may attempt to collect or secure that debt in any of the following ways: (1) By a civil action in small claims court, pursuant to Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure. An association that chooses to proceed by an action in small claims court and prevails, may enforce the judgment as permitted under Article 8 (commencing with Section 116.810) of Chapter 5.5 of Title 1 of Part 1 of the Code of Civil Procedure. The amount that may be recovered in small claims court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:

(A) The amount owed as of the date of filing the complaint in small claims court proceeding.

(B) In the discretion of the court, an additional amount to that described in subparagraph (A) equal to the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, equals or exceeds one thousand eight hundred dollars ($1,800.00) or the assessments secured by the lien are more than 12 months delinquent. An association that chooses to record a lien under these provisions, prior to recording the lien, shall offer the owners and, if so requested by the owner, participate in dispute resolution as set forth in Article 2 (commencing with Section 5900) of Chapter 10.

(2) By recording a lien on the owner's separate interest upon which the association may not foreclose until the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, equals or exceeds one thousand eight hundred dollars ($1,800.00) or the assessments secured by the lien are more than 12 months delinquent. An association that chooses to record a lien under these provisions, prior to recording the lien, shall offer the owner and, if so requested by the owner, participate in dispute resolution as set forth in Article 2 (commencing with Section 5900) of Chapter 10.

(3) Any other manner provided by law, except for judicial or nonjudicial foreclosure.

(C) The limitation on foreclosure of assessment liens for amounts under the stated minimum in this section does not apply to any of the following:

(1) Assessments secured by a lien that are more than 12 months delinquent.

(2) Assessments owned by owners of separate interests in time-share estates, as defined in subdivision (x) of Section 11212 of the Business and Professions Code.

(3) Assessments owed by the developer.

5.21. Charge Imposed in the repair of damage to the Common Area.

In accordance with Civil Code Section 5725(a), a monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common area and facilities by a member or the member's guest or tenant may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents. It is the intent of the legislature not to contravene Section 2792.26 of Title 10 of the California Code of Regulations, as that section appeared on January 1, 1996, for associations of subdivisions that are being sold under authority of a subdivision public report, pursuant to Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code. (b) A monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing documents, except for the late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the common areas and facilities for which the member was allegedly responsible or in bringing the member and his subdivision interest into compliance with the governing instruments may not be characterized nor treated in the governing documents as an assessment that may become a lien against the member's subdivision interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.

5.22. Requirements for Annual Policy Statement.
In accordance with Civil Code Section 5730(a), the annual policy statement, prepared pursuant to Section 5310, shall include the following notice, in at least 12-point type:

"NOTICE AND FORECLOSURE"

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment. Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on or after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars ($1,800.00). For delinquent assessments or dues in excess of one thousand eight hundred dollars ($1,800.00) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amount secured by the lien are not paid (Sections 5700 through 5720 of the Civil Code, inclusive).

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, later charges and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this (Section 5725 of the Civil Code).

The Association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that may result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code).

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code).

If a lien is recorded against an owner's property in error, the person's who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard (Section 5685 of the Civil Code).

PAYMENTS

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments (Section 5655 of the Civil Code).

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time (Section 5685 of the Civil Code).

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists (Section 5665 of the Civil Code).

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist (Section 5665 of the Civil Code).

(b) An association distributing the notice required by this section to an owner of an interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 112.11.7 of the Business and Professions Code may delete from the notice described in subdivision (a) the portion regarding meetings and payment plans.

5.23. Association's assignment and/or pledge.
In accordance with Civil Code Section 5735(a), an association may not voluntarily assign or pledge the association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the association. (b) Nothing in subdivision (a) restricts the right or ability of an association to assign or collect any unpaid obligations of a former member to a third party for purposes of collection.

5.24. Priority of Assessment Lien.
The lien of the assessments provided for herein, including interest and costs (including attorneys' fees), shall be subordinate to the lien of any previously Recorded first Mortgage upon one or more Condominiums or other portion of the Property. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from liens for any assessments thereafter becoming due. When the Beneficiary of a first Mortgage of record or other purchaser of a Condominium or other portion of the Property obtains title pursuant to a judicial or nonjudicial foreclosure of the first Mortgage, such Person, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such Person. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Owners of the Condominiums including such Person, his successors and assigns.

ARTICLE VI

6. Internal Dispute Resolution.

6.1. Application of this Article.
In accordance with Civil Code Section 5900(a), this article applies to a dispute between an association and a member involving their rights, duties and liabilities under this act, under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), or under the governing documents of the common interest development or association. (b) This article supplements, and does not replace, Article 3 (commencing with Section 5925), relating to alternative dispute resolution as a prerequisite to an enforcement action.

6.2. Fair, Reasonable and Expeditious Procedure.
In accordance with Civil Code Section 5905(a), an association shall provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article. (b) In developing a procedure pursuant to this article, an association shall make maximum, reasonable use of available local dispute resolution programs involving a neutral third party, including low-cost mediation programs such as those listed on the Internet Web sites of the Department of Consumer Affairs and the United States Department of Housing and Urban Development. (c) If an association does not provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article, the procedure provided in Section 5915 applies and satisfies the requirement of subdivision (a).

6.3. Minimum Requirements.
In accordance with Civil Code Section 5910, a fair, reasonable and expeditious dispute resolution procedure shall at a minimum satisfy all of the following requirements:

(a) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.

(b) The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for the association to act on a request invoking the procedure.

(c) If the procedure is invoked by a member, the association shall participate in the procedure.

(d) If the procedure is invoked by the association the member may elect not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the board.

(e) A resolution of a dispute pursuant to the procedure, which is not in conflict with the law or the governing documents, binds the association.

(f) The procedure shall provide a means by which the member and the association may explain their positions.

(g) A member of the association shall not be charged a fee to participate in the process.

6.4. Fair, Reasonable, Expeditious Dispute Procedure.
In accordance with Civil Code Section 5915(a), this section applies to an association that does not otherwise provide for a fair, reasonable and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable and expeditious, within the meaning of this article. (b) Either party to a dispute within the scope of this article may invoke the following procedure:

(1) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.

(2) A member of an association may refuse to meet and confer. The association may not refuse a request to meet and confer.

(3) The board shall designate a director to meet and confer.

(4) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.

(5) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designed on behalf of the association.

(c) An agreement reached under this section binds the parties and is judicially enforceable if both of the following conditions are satisfied:

(1) The agreement is not in conflict with law or the governing documents of the common interest development or association.

(2) The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.

(d) A member may not be charged a fee to participate in the process.

6.5. Minimum Requirement Procedure.
In accordance with Civil Code Section 5915(a), this section applies to an association that does not otherwise provide a fair, reasonable, and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable and expeditious dispute within the meaning of this article. (b) Either party to a dispute within the scope of this article may invoke the following procedure:

(1) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.

(2) A member of an association may refuse a request to meet and confer. The association may not refuse a request to meet and confer.

(3) The board shall designate a director to meet and confer.

(4) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other and confer in good faith in an effort to resolve the dispute.

(5) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the association.

(c) An agreement reached under this section binds the parties and is judicially enforceable if both of the following conditions are satisfied:

(1) The agreement is not in conflict with law or the governing documents of the common interest development or association.

(2) The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.

(d) A member may not be charged a fee to participate in the process.

6.6. Policy Statement Requirement.
In accordance with Civil Code Section 5920, the annual policy statement prepared pursuant to Section 5310 shall include a description of the internal dispute resolution process provided pursuant to this article.

6.7. Alternative Dispute Resolution Prerequisite to Civil Action.
In accordance with Civil Code Section 5925, as used in this article: (a) "Alternative dispute resolution" means mediation, arbitration, conciliation, or other nonjudicial procedure that involves a neutral third party in the decision making process. The form of alternative dispute resolution chosen pursuant to this article may be binding or non-binding, with the voluntary consent of the parties. (b) "Enforcement action" means a civil action or proceeding, other than a cross-complaint, for any of the following purposes:

(1) Enforcement of this act.
(2) Enforcement of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations).
(3) Enforcement of the governing documents.

6.8. Enforcement Action Requirements.
In accordance with Civil Code Section 5930(a), an association or a member may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article, (b) This section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits stated in Section 116.220 and 116.221 of the Code of Civil Procedure. (c) This section does not apply to a small claims action. Except as otherwise provided by law, this section does not apply to an assessment dispute.

6.9. Request for Resolution.
In accordance with Civil Code Section 5935(a), any party to a dispute may initiate the process required by Section 5930 by serving on all other parties to the dispute a Request for Resolution. The Request for Resolution shall include all of the following:

(1) A brief description of the dispute between the parties.

(2) A request for alternative dispute resolution.

(3) A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected.

(4) If the party on whom the request is served is the member, a copy of this article.

(b) Service of the Request for Resolution shall be served by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the request. (c) A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

6.10. Completion of Alternative Dispute Resolution.
In accordance with Civil Code Section 5940(a), if the party on whom a Request for Resolution is served accepts the request, the parties shall complete the alternative dispute resolution within 90 days after the party initiating the request receives the acceptance, unless this period is extended by written stipulation signed by both parties. (b) Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code applies to any form of alternative dispute resolution initiated by a Request for Resolution under this article, other than arbitration. (c) The costs of the alternative dispute resolution shall be borne by the parties.

6.11. Tolling of Time Limitation.
In accordance with Civil Code Section 5945, if a Request for Resolution is served before the end of the applicable time limitation for commencing an enforcement action, the time limitation is tolled during the following periods:

(a) The period provided in Section 5935 for response to a Request for Resolution.

(b) If the Request for Resolution is accepted, the period provided in Section 5940 for completion of alternative dispute resolution, including any extension of time stipulated to by the parties pursuant to Section 5940.

6.12. Requirements of Certificate.
In accordance with Civil Code Section 5950(a), at the time of commencement of an enforcement action, the party commencing the action shall file with the initial pleading a certificate stating that one or more of the following conditions are satisfied:

(1) Alternative dispute resolution has been completed in compliance with this article.

(2) One of the other parties to the dispute did not accept the terms offered for alternative dispute resolution.

(3) Preliminary or temporary injunctive relief is necessary.

(b) Failure to file a certificate pursuant to subdivision (a) is grounds for a demurrer or a motion to strike unless the court finds that dismissal of the action for failure to comply with this article would result in substantial prejudice to one of the parties.

6.13. Referral to Alternative Dispute Resolution.
In accordance with Civil Code Section 5955(a), after an enforcement action is commenced, on written stipulation of the parties, the matter may be referred to alternative dispute resolution. The referred action is stayed. During the stay, the action is not subject to the rules implementing subdivision (c) of Section 68603 of the Government Code. (b) The costs of alternative dispute resolution shall be borne the parties.

6.14. Amount of the Award.
In accordance with Civil Code Section 5960, in an enforcement action in which attorney's fees and costs may be awarded, the court, in determining the amount of the award, may consider whether a party's refusal to participate in alternative
dispute resolution before commencement of the action was reasonable.

6.15. Summary of Provisions.
In accordance with Civil Code Section 5965(a), an association shall annually provide its members a summary of the provisions of this article that specifically references this article. The summary shall include the following language:

"Failure of a member of the association to comply with alternative dispute resolution requirements of Section 5930 of the Civil Code may result in the loss of the member's right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law."

(b) The summary shall be included in the annual policy statement prepared pursuant to Section 5310.

ARTICLE VII

7. Property Easements and Rights of Entry.

7.1. Rights of Entry.
The Board of Directors shall have a limited right of entry in the interior of all Units for the purpose of inspecting the Project, and taking whatever corrective action may be deemed necessary or proper by the Board of Directors in connection with construction, maintenance or emergency repair for the benefit of the owners in common. However, such entry upon the interior of a Unit shall be made, except to effect emergency repairs or other emergency measures, only after three (3) days prior written notice to the Owner of such Unit and after authorization of the Board of Directors. Nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property or Improvements required to be maintained or repaired by the Owners. Nothing in this Article VI shall in any manner limit the right of the Owner to exclusive occupancy and control over the interior of his Unit. However, an Owner shall permit a right of entry to the Board of Directors or any other person authorized by the Board of Directors, as reasonably necessary, such as in case of any emergency originating in or threatening his Unit, whether the Owner is present or not. Any damage caused to a Unit by such entry by the Board of Directors or by any person authorized by the Board of Directors shall be repaired by the Association as a Common Expense of the Association. Furthermore, an Owner shall permit other Owners, or their representatives, to enter his Residence for the purpose of performing required installations, alterations or repairs to the mechanical or electrical services to a Residence, provided that such requests for entry are made in advance and entry is made at a time reasonably convenient to the Owner whose Unit is to be entered; and provided, further that the entered Unit is left in substantially the same condition as existed immediately preceding such entry. In case of an emergency, such right of entry shall be immediate. Any damage caused to a Unit by such entry by an Owner or its representatives shall be repaired by such Owner. Upon receipt of reasonable notice from the Association (which shall in no event be less than fifteen (15) days nor more than thirty (30) days each Owner shall vacate his Unit in order to accommodate efforts by the Association to perform any other maintenance or repairs pursuant to the Declaration. The Board shall have the right of entry to the Units and the right to remove Owners from their Units, as necessary, to accomplish its duties as provided herein. The cost of performing any such maintenance or repair shall be a Common Expense of the Association; however, each Owner shall bear his own costs of temporary relocation. If the Association acts to eradicate any wood destroying pests or organisms, then the procedure established in Section 2.6 shall control.

ARTICLE VIII

8. Residence and Use Restrictions.

All of the Property shall be held, used and enjoyed subject to the following limitations and restrictions and the exemptions of Declarant set forth in this Declaration.

8.1. Leasing of Residences.

An Owner may rent his Unit provided that the Unit is rented pursuant to a lease or rental agreement which is (a) in writing (b) of a term of at least thirty (30) days and (c) subject to all of the provisions of this Declaration. Notwithstanding the foregoing, in accordance with Civil Code Section 4740 (a), an owner of a separate interest in a common interest development shall not be subject to a provision in the governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to his or her separate interest. (b) Notwithstanding the provisions of this section, an owner of a separate interest in a common interest development may expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee or tenant. (c) For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions: (1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor. (2) Pursuant to subdivision (b) of, solely with respect to probate transfer, or subdivision (e), (f) or (g) of Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6. (d) Prior to renting or leasing his or her separate interest as provided in this section, an owner shall provide the association with verification of the date the owner acquired title to the separate interest and the name and contact information of the prospective tenant or lessee or the prospective tenant's or lessee's representative. (e) Nothing in this section shall be deemed to revise, alter, or otherwise affect the voting process by which a common interest development adopts or amends its governing documents. Notwithstanding the foregoing, in light of the proximity of the Project to the Pacific Ocean and subject to the requirements of the California Coastal Commission and the City of San Diego, the Owner of a Unit may rent or lease the Unit for a term agreeable to the Lessor and Lessee provided the Unit is otherwise Owner occupied. The owners shall determine the maximum number of persons who may rent a Unit subject to this Section 8.1. No pets are allowed when a Unit is rented.

8.2. Parking and Vehicular Restrictions.

(a) Authorized Vehicles. The following vehicles are Authorized Vehicles: motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two-wheel motorcycles, and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Properties intended for parking of motorized vehicles.

(b) Prohibited Vehicles. The following vehicles are Prohibited Vehicles: recreational vehicles (e.g., motorhomes, travel trailers, camper vans, boats, etc.), commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step-vans, concrete trucks, etc.), buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Board.

(c) General Restrictions. Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Unit and kept within the Property shall be parked in the Garage/Parking Space to the extent of the space available; provided that each Owner shall ensure that any Garage/Parking Space accommodates at least the number of Authorized Vehicles for which it was originally constructed. No repair, maintenance or restoration of any vehicle shall be conducted on the Property.

(d) Parking Regulations. The Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas not assigned to individual Units, including without limitation designating "parking," "guest parking," and "no parking" areas thereon; and shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Properties pursuant to California Vehicle Code Section 22658.2 or other applicable statute. If the Board fails to enforce any of the parking or vehicle use regulations, the City may, but need not, enforce such regulations in accordance with state and local laws and ordinances.

(e) Electric Vehicle Charging Stations.
In accordance with Civil Code Section 4745 (a) any covenant, restriction, or condition contained in any deed, contract, security instrument or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, as defined in Section 4150, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner's designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common area, or a parking space that is specifically designated for use by a particular owner, or is in conflict with the provisions of this section is void and unenforceable.

8.3. Nuisances.
No noxious or offensive activities shall be carried on upon the Property or on any public street abutting or visible from the Property. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residence and its contents, shall be placed or used in any such Residence. Noisy or smoky vehicles, large power equipment and large power tools, off-road motor vehicles or items which may unreasonably interfere with television or radio reception of any Owner in the Project and objects which create or emit loud noises or noxious odors, shall not be located, used or placed on any portion of the Property or on any public street abutting or visible from the Property, or exposed to the view of other Owners without the prior written approval of the Architectural Committee. The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner shall permit or cause anything to be done or kept upon the Property or on any public street abutting or visible from the Property which may increase the rate of insurance on Units or on the Property, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Owners, nor commit or permit any nuisance thereon or violate any law on any public street abutting or visible from the Property. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Residence. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of children and other family members or persons residing in or visiting his Unit. Any damage to the Common Area personal property of the Association, or property of another Owner, caused by such children or other family members shall be repaired at the sole expense of the Owner of the Unit where such children or other family members or persons are residing or visiting. In order to insure the quiet enjoyment of the Project by the Owners, no owner may undertake any improvement to his/her Unit which constitutes either an annoyance or a nuisance to another Owner. The undertaking of construction of an improvement in accordance with this Declaration, shall not be considered a "nuisance" hereunder. A violation of an ordinance or a regulation of the City of San Diego with regard to construction of an improvement shall constitute a "nuisance".

8.4. Noncommerical Signs/Posters/Flags/Banners.
In accordance with Civil Code Section 4710, (a) the governing documents may not prohibit posting or displaying of noncommercial signs, posters, flags or banners on or in a member's separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state or federal law. (b) For purposes of this section, a noncommercial sign, poster, flag or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora or balloons, or any other similar building, landscaping or decorative component or include the painting of architectural surfaces. (c) An association may prohibit noncommercial signs and posters that are more than nine square feet in size and noncommercial flags or banners that are more than 15 square feet in size.

8.5. Flag of the United States.

In accordance with Civil Code Section 4705, (a) except as required for the protection of the public health or safety, no governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by a member on or in the member's separate interest or within the member's exclusive use common area. (b) For purposes of this section, "display of the flag of the United States" means a flag of the United States made of fabric, cloth or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora or balloons, or any other similar building, landscaping or decorative component. (c) In any action to enforce this section, the prevailing party shall be awarded reasonable attorney's fees and costs.

8.6. Antennas/Satellite Dishes.

In accordance with Civil Code Section 4725, (a) Any covenant, condition or restriction contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, a common interest development that effectively prohibits or restricts the installation or use of a video or television antenna, including a satellite dish or that effectively prohibits or restricts the attachment of that antenna to a structure within that development where the antenna is not visible from any street or common area, except as otherwise prohibited or restricted by law, is void and unenforceable as to its application to the installation or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less. (b) This section shall not apply to any covenant, condition or restriction, as described in subdivision (a), that imposes reasonable restrictions on the installation or use of a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less. For purpose of this section, "reasonable restrictions" means those restrictions that do not significantly increase the cost of the video or television antenna system, including all related equipment, or significantly decrease its efficiency or performance and include all of the following:

(1) Requirements for application and notice to the association prior to the installation.

(2) Requirement of a member to obtain the approval of the association for the installation of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less on a separate interest owned by another.

(3) Provisions for the maintenance, repair or replacement of roofs or other building components.

(4) Requirements for installers of a video or television antenna to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(c) Whenever approval is required for the installation or use of a video or television antenna, including a satellite dish, the application for approval shall be processed by the appropriate approving entity for the common interest development in the same manner as an application for approval of an architectural modification to the property, and the decision on the application shall not be willfully delayed. (d) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees. Notwithstanding the foregoing, neither the Architectural Committee nor the Board of Directors shall impose or enforce any restrictions on Antennas which are inconsistent with the requirements set forth in Section 207 of the Telecommunications Act of 1996 (47U.S.C. Section 303 et. seq.), any regulations issued pursuant thereto, and/or any successor statute.

8.7. Prohibitions on Restrictions on Marketing.
In accordance with Civil Code Section 4730 (a) Any provision of a governing document that arbitrarily or unreasonably restricts an owner's ability to market the owner's interest in a common interest development is void. (b) No association may adopt, enforce or otherwise impose any governing document that does either of the following:

(1) Imposes an assessment or fee in connection with the marketing of an owner's interest in an amount that exceeds the association's actual or direct costs. That assessment or fee shall be deemed to violate the limitation set forth in subdivision (b) of Section 5600.

(2) Establishes an exclusive relationship with a real estate broker through which the sale or marketing of interests in the development is required to occur. The limitation set forth in this paragraph does not apply to the sale or marketing of separate interests owned by the association or to the sale or marketing of common area by the association.

(c) For purposes of this section, "market" or "marketing" mean listing, advertising, or obtaining or providing access to show the owner's interest in the development. (d) This section does not apply to rules or regulations made pursuant to Section 712 or 713 regarding real estate signs.

8.8. Prohibitions on Restrictions on Water Usage.
In accordance with Civil Code Section 4735, (a) notwithstanding any other law, a provision in the governing documents shall be void and unenforceable if it does any of the following:

(1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group.

(2) Has the effect of prohibiting or restricting compliance with either of the following:

(A) A water-efficient landscape ordinance adopted or in effect pursuant to subdivision (c) of Section 65595 of the Government Code.

(B) Any regulation or restriction on the use of water adopted pursuant to Section 353 or 375 of the Water Code.

(b) This section shall not prohibit an association from applying landscape rules established in the governing documents, to the extent the rules fully conform with the requirements of subdivision (a).

8.9. Inside and Outside Installations.
No outside installation of any type, including but not limited to clotheslines, shall be constructed, erected or maintained on any Residence, excepting antennae installed by Declarant as a part of the initial construction of the Property and except as may be installed by, or with the prior consent of the Architectural Committee. The type and color of all exposed window coverings shall be subject to the prior written approval of the Architectural Committee. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Residence shall be commenced without the prior written approval of the Architectural Committee. Nothing shall be done in any Unit or in, on or to the Common Area which will or may tend to impair the structural integrity of any building in the Property or which would structurally alter any such building except as otherwise expressly provided herein. There shall be no alteration, repair or replacement of wall or floor coverings within Units which may diminish the effectiveness of the sound control engineering within the buildings in the Project.

8.10. Liens against the Property.
In accordance with Civil Code Section 4615 (a), in a condominium project, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the condominium project or the owner's agent or contractor shall be the basis for the filing of a lien against any other property of any other owner in the condominium project unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs thereto. (b) Labor performed or services or materials furnished for the common area, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each condominium owner. (c) The owner of any condominium may remove that owner's condominium from a lien against two or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by the lien that is attributable to the owner's condominium. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Project for labor or materials alleged to have been furnished or delivered to the Project or any Condominium Unit for such Owner and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

8.11. Animal Restrictions.
In accordance with Civil Code Section 4715, (a) No governing documents shall prohibit the owner of a separate interest within a common interest development from keeping at least one pet within the common interest development, subject to reasonable rules and regulations of the association. This section may not be construed to affect any other rights provided by law to an owner of a separate interest to keep a pet within the development. (b) For purposes of this section, "pet" means any domesticated bird, dog, aquatic animal kept within an aquarium, or other animal agreed to between the association and the homeowner. (c) If the association implements a rule or regulation restricting the number of pets an owner may keep, the new rule or regulation shall not apply to prohibit an owner from continuing to keep any pet that the owner currently keeps in the owner's separate interest if the pet otherwise conforms with previous rules or regulations relating to pets. (d) For purposes of this section, "governing documents" shall include, but are not limited to, the conditions, covenants, and restrictions of the common interest development, and the bylaws, rule, and regulations fo the association.

8.12 Roof Restriction.
In accordance with Civil Code Section 4720, (a) no association may require a homeowner to install or repair a roof in a manner that is in violation of Section 13132.7 of the Health and Safety Code.

8.13. Business or Commercial Activity.
No part of the Property shall ever be used for any business, commercial (including auctions or similar events, manufacturing, mercantile, storage, vending or other nonresidential purposes, including without limitation any activity for which the provider is compensated in any way or receives any form of consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license; except Declarant, its successors and assigns may use any portion of the Property for a model home site and display and sales offices in accordance with Article VII hereof. The provisions of this Section 7.8 shall not preclude any of the above-described activities without external evidence thereof, provided that all of the following conditions are fulfilled: (a) such activities are conducted in conformance with all applicable governmental ordinances; (b) the patrons or clientele of such activities do not visit the Unit or park automobiles or other vehicles within the Property; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from the outside of the boundaries of the Unit; (d) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (e) such activities are consistent with the residential character of the Property and conform with the provisions of this Declaration.

8.14. Rubbish Removal.
Trash, garbage, or other waste shall be disposed of by residents of the Project only by depositing the same into trash containers designated for such use by the Board of Directors. No portion of the Property shall be used for the storage of building materials, refuse or any other materials. There shall be no exterior fires. The cost of trash collection shall be borne by the Owner of each Condominium and/or the Association as provided in the Budget approved by the Board of Directors.

8.15. Further Subdivision.

Except as otherwise provided herein, no Owner shall physically or legally further subdivide his Unit in any manner, including without limitation, the division of his Unit or his Condominium into time-share estates or time-share uses; provided, however, that this provision shall not be construed to limit the right of an Owner to (1) rent or lease all of his Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration; (2) to sell his Condominium; or (3) to transfer or sell any Condominium to more than one Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. Any failure by the lessee of the Unit to comply with the terms of this Declaration or the Rules and Regulations shall constitute a default under the lease or rental agreement. Notwithstanding the foregoing, no Unit in the Project may be partitioned or subdivided without the prior written approval of the Beneficiary of any first Mortgage on that Unit. This Section may not be amended without the prior written approval of the Beneficiaries of at least seventy-five percent (75%) of the first Mortgages of Condominiums in the Project.

8.16. Drainage.

There shall be no interference with or alteration of the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Architectural Committee. For the purpose hereof, "established" drainage is defined as the drainage which exists at the time of the first Close of Escrow for the sale of a Condominium, or that which is shown on any plans approved by the Architectural Committee.

8.17. Water Supply System.

No individual water supply or water softener system shall be permitted in any Unit unless such system is designed located, constructed and equipped in accordance with the requirements, standards, and recommendations of any applicable water district, the City, and all other applicable governmental authorities. Any sewage disposal system shall be installed only after approval by the Architectural Committee and any governmental health authority having jurisdiction.

8.18. Painting of Exterior.

Each Owner shall obtain the approval of the Architectural Control Committee prior to painting any portion of the exterior of the Building in which an Owner's Condominium is located.

8.19. Water Meters.

There are three (3) Water Meters in the Project. Each of the three (3) Unit Owners is assigned a separate Water Meter. Each Owner is responsible for payment of the costs incurred by use of the assigned Water Meter.

ARTICLE XIX

9. Insurance.

9.1 Right and Duty of Owners/Association to Insure.
The Project is a three (3) Unit Condominium Project. The Common Area is shown on the Condominium Plan. Each Owner shall secure adequate coverage for all improvements within the boundaries of the Owner's Unit as shown on the Condominium Plan.

9.2.. Duty to Obtain Insurance: Types.

(a) Public Liability. The Board shall cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), with such limits as may be considered acceptable to Fannie Mae (not less than $2 million covering all claims for personal injury and property damage arising out of a single occurrence), insuring against liability for bodily injury, death and property damage arising from the activities of the Association and its Members, with respect to the Common Area. The insurance shall meet the requirements of Civil Code Section 5805.

(b) Fire and Casualty Insurance. The Board shall also cause to be obtained and maintained fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Area and those portions of the Units consisting of all fixtures, installations or additions comprising a part of the buildings housing the Units and all built-in or set-in appliances, cabinets and initial basic floor coverings, as initially installed or replacements thereof in accordance with the original plans and specifications for the Project, or as installed by or at the expense of the Owners.

(c) Fidelity Bonds. Fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling funds of the Association, including, but not limited to, officers, directors, trustees, employees and agents of the Association and employees of the Manager of the Association, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than the sum equal to one-fourth (1/4) of the Regular Assessments on all Condominiums in the Project, plus reserve funds.

(d) Insurance Required by Fannie Mae, GNMA ,FHLMC.
The Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond coverage meeting the insurance and fidelity bond requirements for condominium projects established by Fannie Mae, GNMA and FHLMC, so long as any of which is a Mortgagee or Owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by Fannie Mae, GNMA, and FHLMC, as applicable.

(e) Other Insurance. The Board of Directors shall purchase such other insurance, as necessary, including but not limited to, errors and omissions, directors, officers and agents liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability and vandalism insurance, fidelity bonds and worker's compensation, and such other risks as shall customarily be covered with respect to condominium projects similar in construction, location and use. The Directors and Officers insurance shall insure the Association's directors and officers with regard to their acts or omissions while serving as officers and directors of the association. The insurance shall be not less than $500,000.00 and comply with the requirements of Civil Code Section 5800.

(f) Beneficiaries. Such insurance shall be maintained for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured subject, however, to loss payment requirements as set forth herein.

9.3. Waiver of Claims Against Association.
As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said Persons.

9.4. Right and Duty of Owners to Insure.
It is the responsibility of each Owner to provide insurance on all other property and improvements within the Unit. Each Owner shall maintain a current Insurance Services Office, Inc. ("ISO") Form HO-6 Policy (residential condominium homeowners insurance policy). This HO-6 Policy shall (1) insure all personal property located within the Owner's Residential Unit and/or Exclusive Use Common Area, including, any property of others under the care, custody or control of the Owner (2) insure everything within a Residential Unit, such as drywall, wallpaper, paneling, floors, carpet, cabinetry, fixtures and appliances, (3) any upgrades, Improvements and betterments which are located within the Residential Unit or Exclusive Use Area for an amount equal to the maximum insurable replacement value thereof.

9.5. Notice of Expiration Requirements.
If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice, and every other Person in interest who requests such notice of the insurer. In addition, fidelity bonds shall provide that they may not be canceled or substantially modified without ten (10) days prior written notice to any insurance trustee named pursuant to Section 9.6 and to each Fannie Mae servicer who has filed a written request with the carrier for such notice.

9.6. Insurance Premiums.
Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the Reserve Fund, to be used solely for the payment of premiums of required insurance as such premiums become due.

9.7. Trustee for Policies.
The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy shall be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. A record of all claims made shall be kept by the Association. All insurance proceeds under any such policies as provided for in Section 9.1 of this Article shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in Article X of this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 9.4 of this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

9.8. Actions as Trustee.
Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance, in a manner satisfactory to Beneficiaries of seventy-five percent (75%) of the first Mortgages held by first Mortgagees who have filed requests under Section 9.4. Duplicate originals or certificates of all policies of fire and casualty insurance maintained by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who have requested the same in writing.

9.9. Annual Insurance Review.

The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance referred to in Section 9.1 above. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on the Property except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

9.10. Required Waiver.

All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

(a) subrogation of claims against the Owners and tenants of the Owners;

(b) any defense based upon coinsurance;

(c) any right of setoff, counterclaim apportionment, proration or contribution by reason of other insurance not carried by the Association;

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

(e) any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;

(f) notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium;

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

(h) any denial of an Owner's claim because of negligent acts by the Association or other Owners; and

(I) prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

9.11. Notice of Change in Insurance Coverage.

In accordance with Civil Code Section 5810, the Association shall, as soon as reasonably practicable, provide individual notice pursuant to Section 4040 to all members if any of the policies described in the annual budget report pursuant to Section 5300 have lapsed, been cancelled, and are not immediately renewed, restored, or replaced or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, as to any of these policies. If the association receives any notice of nonrenewal of a policy described in the annual budget report pursuant to Section 5300, the association shall immediately notify its members if replacement coverage will not be in effect by the date the existing coverage will lapse.

ARTICLE X

10. Destruction of Improvements.

10.1. Restoration of the Property.
In the event of any destruction of any portion of the Property it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article X hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Architectural Committee have been approved in writing by sixty-seven percent (67%) of the Owners and by the Beneficiaries of fifty-one percent (51%) of first Mortgages upon the Condominiums. If the amount available from the proceeds of such insurance policies for such restoration and repair is at least eighty-five percent (85%) of the estimated cost of restoration and repair, a Reconstruction Assessment shall be levied by the Board of Directors to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than eighty-five percent (85%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("Conditions to Reconstruction") have first been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Property is approved by the affirmative vote or written consent of sixty-seven percent (67%) of the Owners and by the written consent of the Beneficiaries of fifty-one percent (51%) of the first Mortgages on the Condominiums in the Project; and (b) within six (6) months after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("Reconstruction Certificate"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than eighty-five percent (85%) of the estimated cost of restoration and repair, it shall be conclusively presumed that the Owners have determined not to proceed with restoration and repair and not to allow the Board to levy a Reconstruction Assessment, in which case the Owners may proceed as provided in Section 10.2 below.

10.2. Sale of Property and Right to Partition.
No Owner shall have the right to partition of his interest in the Condominium and there shall be no judicial partition of the Project, or any part thereof, except as provided in Section 4610 of the California Civil Code as amended or in any successor statute. For purposes of Subsection 4 of said Section 4610 partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 10.1 above have failed to occur; and (b) within six (6) months after the date on which destruction occurred restoration or repair has not actually commenced; and (c) the Owners of sixty-seven percent (67%) of the Condominiums in the Project approve the partition by vote or written consent. In such event, the Association, acting through a majority of the Board, shall prepare, execute and Record, as promptly as practical, a certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Project for the benefit of the Owners, and such other documents and instruments as may be necessary for the Association to consummate the sale of the Property at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately prior to such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Project. The Board is hereby authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. Notwithstanding the foregoing, the balance then due on any valid encumbrance of record shall be first paid in order of priority before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing herein shall be deemed to prevent partition of a cotenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner whether by deed, gift, devise, or by operation of law, for their own benefit and for the Units and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Project and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

10.3. Interior Damage.
Restoration and repair of any damage to the interior of any individual Residence, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Residence so damaged. In the event of a determination to rebuild the Property after partial or total destruction, as provided in this Article X, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Committee as provided herein.

10.4. Notice to Owners and Listed Mortgagees.
The Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Area, shall promptly notify all Owners and Beneficiaries, insurers and guarantors of first Mortgages on Condominiums in the Project who have filed a written request for such notice with the Board. The Board, immediately upon having knowledge of any damage or destruction affecting a Unit, shall promptly notify any Beneficiary, insurer or guarantor of any Mortgage encumbering such Unit who has filed a written request for such notice with the Board.

ARTICLE XI

11. Eminent Domain.
The term "taking" as used in this Article shall mean condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent domain. The Board shall represent the Owners, in any proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Unit Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article X.

11.1. Project Condemnation.
If there is a taking of an interest in all or part of the Project such that the ownership, operation and use of the Project in accordance with the provisions of this Declaration is substantially and adversely affected, and within one hundred twenty (120) days after the effective date of the taking the Owners of Units (a) not taken, or (b) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition prior to the taking (collectively, the "Remaining Units") do not by affirmative vote of at least one-third of their voting power approve the continuation of the Project and the repair, restoration and replacement to the extent feasible of the Common Area and the Remaining Units, then the Board shall proceed with the sale of that portion of the Project which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 11.2.

11.2. Condemnation of Common Area.
If there is a taking of (a) all or any portion of the Common Area, or any interest therein, other than the taking of an undivided interest therein taken as a result of the taking of a Condominium or (b) all or any portion of the Common Area (other than Exclusive Use Common Area), or any interest therein, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

11.3. Condemnation of Exclusive Use Common Area.
If there is a taking of all or any portion of an Exclusive Use Common Area which is not taken in connection with the taking of all or any portion of the Unit to which it is appurtenant, the award in condemnation shall be paid to the Owner of the Unit to which the taken Exclusive Use Common Area was appurtenant; provided, however, that such award shall first be applied to the balance then due on any mortgages encumbering such Owner's Condominium, in order of priority.

11.4. Condemnation of Condominiums.
If there is a taking of a Condominium, the award in condemnation shall be paid to the Owner of the Condominium; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

11.5. Condemnation of Portions of Units.

(a) Minor Takings Within Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration of such Units can be accomplished at a cost less than or equal to the sum of (A) the amount of the condemnation awards for such takings plus (B) any amounts the Owners of the taken Units wish to contribute to restoration plus (C) an amount less than or equal to five percent (5%) of the Budgeted gross expenses of the Association for that Fiscal Year (collectively, the "Allowable Cost"), then the Board shall contract for such restoration and levy a Reconstruction Assessment in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners' contributions, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards in excess of the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decreases in the fair market values of their Condominiums; provided, however, that such awards shall first be applied to the balance then due on any Mortgages encumbering such Owners' Condominiums, in order of priority.

(b) Minor Takings Exceeding Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a Special Meeting of the Members. If more than fifty percent (50%) of the Members are represented at such Special Meeting, either in person or by proxy, and a majority of the votes cast at such Special Meeting are in favor of levying a Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units wish to contribute to such restoration, then the Board shall contract for such restoration and levy a Reconstruction Assessment, and the condemnation awards Owners' contributions and Reconstruction Assessment shall be applied to such restoration.

(c) Major Takings. If the requisite approval is not obtained at the Special Meeting referred to in Section 11.5(b), or if there is a taking of a portion of one or more Units such that the Units are not capable of being restored such that the intended use of the Units as residential dwellings is not substantially and adversely affected, then the award in condemnation shall be paid to the Owners of the taken Units; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units and appurtenant Exclusive Use Common Areas shall become part of the Property, and the Owners of such taken Units, by acceptance of the award allotted to them in taking proceedings, hereby relinquish (i) to the Association such remaining portions of the taken Units and appurtenant Exclusive Use Common Area, and (ii) to the other Owners, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area. Each Owner relinquishing his interests pursuant to this Section shall, at the request of the Board and at the expense of the Association, execute and acknowledge such deeds and other instruments which the Board deems necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit or Residence shall not be liable for assessments under this Declaration which accrue on or after the date such Owner accepts his condemnation award.

11.6. Portions of Awards in Condemnation Not Compensatory for Value of Real Property.
Those portions of awards in condemnation which do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

11.7. Notice to Owners and Mortgagees.
The Board, upon learning of any taking affecting a material portion of the Property, or any threat thereof, shall promptly notify all Owners and those Beneficiaries, insurers and guarantors of Mortgages on Condominiums in the Project who have filed a written request for such notice with the Association. The Board, upon learning of any taking affecting a Unit, or any threat thereof, shall promptly notify any Beneficiary, insurer or guarantor of a Mortgage encumbering such Unit who has filed a written request for such notice with the Association.

ARTICLE XII

LENDER REQUIREMENTS

Section 12.1 Rights of Mortgagees and Rights of Guarantors of a Mortgage. Each Mortgagee and the guarantor of the mortgage on any Unit in the Condominium Project shall be given timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage;

(b) Any 60-day delinquency in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage;

(c) A lapse, cancellation, or material modification of any insurance policy maintained by the homeowners' association; and

(d) Any proposed action that requires the consent of a specified percentage of mortgages.

(e) A first mortgagee who obtains title to a condominium unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for any dues or charges accrued before the acquisition of title to the unit by the mortgagee. If the Association's lien priority includes costs of collecting the unpaid dues, the lender will be liable for any fees or costs related to the collection of the unpaid dues.

(f) No provision in this Declaration shall give a Condominium Unit Owner or any other party priority over the rights of the first mortgagee of the condominium unit pursuant to its mortgage in the case of payment to the unit owner of insurance proceeds or condemnation awards for losses to or taking a condominium unit and/or common elements.

(g) Any amendment to this Declaration of a material nature to mortgagees must be agreed to by mortgagees that represent at least 51% of the votes of unit estates that are subject to mortgages.

(h) Any action to terminate the legal status of the project after substantial destruction or condemnation occurs or for other reasons must be agreed to by mortgagees that represent at least 51% of the votes of the Unit estates that are subject to mortgages.

(i) Implied approval is assumed when a mortgagee fails to submit a response to any written proposal for an amendment within 60 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

ARTICLE XIII

13. Duration and Amendment.

13.1. Duration.
This Declaration shall continue in full force for a term of fifty (50) years from the date of Recordation hereof, after which the term shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination satisfying the requirements of an amendment to this Declaration as set forth in Section 13.2 is Recorded. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant Membership in the Association, as long as this Declaration shall continue in full force and effect.

13.2. Termination and Amendment.

(a) Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association at which a proposed amendment is to be considered. In accordance with Regulation 2792.24, the resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than (i) sixty-seven (67%) of the voting power of each Class of Members of the Association, and (ii) sixty-seven percent (67%) of the voting power of the Association residing in Members other than Declarant; provided that the specified percentage of the voting power of the Association necessary to amend a specified Section or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision. Where the two-class voting structure is still in effect as provided in the Condominium Project documents, at least fifty-one percent (51%) of each class of membership. The vote on a proposed amendment shall be by secret written ballot in accordance with Civil Code Section 5100.

(b) In addition to the required notice and consent of Members provided above, the Beneficiaries of fifty-one percent (51%) of the first Mortgages on all the Condominiums in the Project who have requested the Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees must approve any amendment to this Declaration which is of a material nature, as follows:

(1) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers or guarantors of first Mortgages as provided herein.

(2) Any amendment which would necessitate a Mortgagee after it has acquired a Condominium through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(3) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Condominium not being separately assessed for tax purposes.

(4) Any amendment relating to the insurance provisions as set out in Article VIII hereof, or to the application of insurance proceeds as set out in Article IX hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(5) Any amendment which would or could result in partition or subdivision of a Condominium Unit in any manner inconsistent with the provisions of this Declaration.

(6) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Condominium is proposed to be sold, transferred, or otherwise conveyed.

(7) Any amendment concerning:

(A) Voting rights;

(B) Rights to use the Common Area;

(C) Reserves and responsibility for maintenance, repair and replacement of the Common Area;

(D) Boundaries of any Units;

(E) Owners' interests in the Common Area;

(F) Convertibility of Common Area into Units or Units into Common Area;

(G) Leasing of Units;

(H) Establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage;

(I) Annexation or de-annexation of real property to or from the Property; or

(J) Assessments, assessment liens, or the subordination of such liens.

(c) Termination of this Declaration shall require approval by the Members as provided in subsection (a) of this Section 13.2. No such termination shall be effective unless it is also approved in advance either by fifty-one percent (51%) of the Beneficiaries of the first Mortgages on all of the Condominiums in the Project (if said termination is proposed by reason of the substantial destruction or condemnation of the Project) or by sixty-seven percent (67%) of such Beneficiaries (if said termination is for reasons other than such substantial destruction or condemnation).

(d) A copy of each amendment shall be certified by at least two (2) officers of the Association, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by two (2) officers of the Association that the requisite number of Owners and mortgagees have either voted for or consented in writing to any amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Mortgagees has been obtained.

(e) Notwithstanding any other provisions of this Section 13.2, at any time prior to the first Close of Escrow for the sale of a Condominium within the Project, Declarant may, subject to obtaining the prior written approval of any Mortgagee, unilaterally amend or terminate this Declaration by Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant.

(g) Notwithstanding any other provisions of this Section 13.2, for so long as Declarant owns any portion of the Property, Declarant may unilaterally amend this Declaration by Recording a written instrument signed by Declaration in order to conform this Declaration to the requirements of VA, FHA, Fannie Mae, GNMA or FHLMC then in effect.

13.3. Amendment of Developer Provisions.

(a) In accordance with Section 4230, notwithstanding any provision of the governing documents to the contrary, the board may, after the developer has completed construction of the development, has terminated construction activities, and has terminated marketing activities for the sale, lease or other disposition of separate interests within the development, adopt an amendment deleting from any of the governing documents any provision which is unequivocally designed or intended, or which by its nature can only have been designed or intended to facilitate the developer in completing the construction or marketing of the development. However, provisions of the governing documents relative to a particular construction or marketing phase of the development may not be deleted under the authorization of this subdivision until that construction or marketing phase has been completed.

(b) The provisions which may be deleted by action of the board shall be limited to those which provide for access by the developer over or across the common area for the purpose of (1) completion of construction of the development and (2) the erection, construction or maintenance of structures or other facilities designed to facilitate the completion of construction or marketing of separate interests.

(c) At least 30 days prior to taking action pursuant to subdivision (a), the board shall deliver to all members, by individual delivery, pursuant to Section 4040, (1) a copy of all amendments to the governing documents proposed to be adopted under subdivision (a), and (2) a notice of the time, date and place the board will consider adoption of the amendments. The board may consider adoption of amendments to the governing documents pursuant to subdivision (a) only at a meeting that is open to all members, who shall be given opportunity to make comments thereon. All deliberations of the board on any action proposed under subdivision (a) shall be conducted in an open meeting.

(d) The board may not amend the governing documents pursuant to this section without the approval of a majority of a quorum of members, pursuant to Section 4070. For purposes of this section, "quorum" means more than 50 percent of the members who own no more than two separate interests in the development.

ARTICLE XIV

14. General Provisions.

14.1. Enforcement of Restrictions.

(a) Violations Identified by the Association. If the Board determines that there is a violation of any provision of the Restrictions, or the Architectural Committee determines that an Improvement which is the maintenance responsibility of an Owner is in need of installation, maintenance, repair, restoration or painting, then the Board shall give written notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) the length of time the Owner has to remedy the violation including, if applicable the length of time the Owner has to submit plans to the Architectural Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Architectural Committee.

If an Owner does not perform such corrective action as is required by the Board and the Architectural Committee within the allotted time, the Board, after Notice and Hearing, may undertake to remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. Such Special Assessment shall be subject to enforcement and collection by the Board in accordance with the procedures provided for in this Declaration.

If the violation involves nonpayment of any type of Assessment, then the Board shall be entitled to collect such delinquent Assessment pursuant to the procedures set forth in Article V.

(b) Violations Identified by an Owner. In the event that an Owner alleges that another Owner, his family, guests or tenants, is violating the Restrictions (other than nonpayment of any type of Assessment), the Owner must first submit the matter to the Board before the complaining Owner may resort o a court of law for relief with respect to the alleged violation.

(c) Legal Proceedings. Failure to comply with any of the terms of the Restrictions by an Owner, his family, guests, employees, invitees or tenants, shall be grounds for relief, which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; provided, however, that the procedures established in Sections 14.1 (a) and (b) above must first be followed, if they are applicable. In addition, the parties shall comply with the requirements of Civil Code Section 4000 et. seq.).

(d) Limitation on Expenditures. The Association shall not incur litigation expenses, including without limitation attorneys' fees, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings without the approval of a majority of the voting power of the Association, excluding the voting power of any Owner who would be a defendant in such proceedings. Such approval shall not be necessary if the legal proceedings are initiated to (ii) enforce the use restrictions contained in Article VIII hereof, (ii) enforce the architectural control provisions contained in Article IV hereof, or (iii) collect any unpaid assessments levied pursuant to this Declaration.

(e) Schedule of Fines. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner for the failure of such Owner, or of a resident of or visitor to such Owner's Unit, to comply with any provisions of the Restrictions. Such fines or penalties may only be assessed by the Board after Notice and Hearing.

(f) No Waiver. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision, or any other provision hereof.

(g) Right to Enforce. The Board, any Owner (not at the time in default hereunder), or Declarant (so long as Declarant is an Owner) shall be entitled to enforce the Restrictions as described in this Article. Each Owner shall have a right of action against the Association for the Association's failure to comply with the Restrictions. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive.

(h) Attorneys Fees. Any judgment rendered in any action or proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and costs of court.

14.2. Severability.

The provisions hereof shall be deemed independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

14.3. Interpretation.

In accordance with Section 4215, any deed, declaration or condominium plan for a common interest development shall be liberally construed to facilitate the operation of the common interest development, and its provisions shall be presumed to be independent and severable. Nothing in Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part I of Division 2 shall operate to invalidate any provisions of the governing documents. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the plural, the singular; and the masculine, feminine and neuter shall each include the other, unless the context dictates otherwise.

14.4. Mergers or Consolidations.

Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Property, together with the covenants and restrictions established upon any other property, as one plan.

14.5. No Public Right or Dedication.

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use.

14.6. Nonliability and Indemnification.

(a) General Limitation. Except as specifically provided in the Restrictions or as required by law, no right, power, or responsibility conferred on the Board or the Architectural Committee by this Declaration, the Articles or the Bylaws shall be construed as a duty, obligation or disability charged upon the Board, the Architectural Committee, any member of the Board or of the Architectural Committee, or any other officer, employee or agent of the Association. No such Person shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's acts or omissions within what such Person reasonably believed to be the scope of his Association duties ("Official Acts"), except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. No such Person shall be liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct.

(b) Damages Limitation. In accordance with Civil Code Section 5800 (a), a volunteer officer or volunteer director of an association that manages a common interest development that is exclusively residential, shall not be personally liable in excess of the coverage of insurance specified in paragraph (4) to any person who suffers injury, including, but not limited to, bodily injury, emotional distress, wrongful death, or property damage or loss as a result of the tortious act or omission of the volunteer officer or volunteer director if all of the following criteria are met:

(1) The act or omission was performed within the scope of the officer's or director's association duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not willful, wanton, or grossly negligent.

(4) The association maintained and had in effect at the time the act or omission occurred and at the time a claim is made one or more policies of insurance that shall include coverage for (A) general liability of the association and (B) individual liability of officers and directors of the association for negligent acts or omissions in that capacity; provided that both types of coverage are in the following minimum amounts:

(A) At least five hundred thousand dollars ($500,000.00) if the common interest development consists of 100 or fewer separate interest.

(B) At least one million dollar ($1,000,000.00) if the common interest development consists of more than 100 separate interests.

(b) The payment of actual expenses incurred by a director or officer in the execution of the duties of that position does not affect the director's or officer's status as a volunteer within the meaning of this section.

(c) An officer or director who at the time of the act or omission was a declarant, or who received either direct or indirect compensation as an employee from the declarant, or from a financial institution that purchased a separate interest in a judicial or nonjudicial foreclosure of a mortgage or deed of trust on real property, is not a volunteer for the purposes of this section.

(d) Nothing in this section shall be construed to limit the liability of the association for its negligent act or omission or for any negligent act or omission of an officer or director of the association.

(e) This section shall only apply to a volunteer officer or director who is a tenant of a tenant of a separate interest in the common interest development or is an owner of no more than two separate interests in the common interest development.

(f) (1) For purposes of paragraph (1) of subdivision (a), the scope of the officer's or director's association duties shall include, but shall not be limited to, both of the following decisions:

(A) Whether to conduct an investigation of the common interest development for latent deficiencies prior to the expiration of the applicable statute of limitations.

(B) Whether to commence a civil action against the builder for defects in design or construction.

(2) It is the intent of the Legislature that this section clarify the scope of association duties to which the protections against personal liability in this section apply. It is not the intent of the Legislature that these clarifications be construed to expand, or limit, the fiduciary duties owed by the directors or officers.

14.7. Notices.
Except as otherwise provided in this Declaration, notice to be given to an Owner shall be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one or more co-owners of a Condominium or to any general partner of a partnership owning a Condominium shall be deemed delivery to all co-owners or to the partnership, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address shall have been furnished, to the street address of such Owner's Unit. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Board of Directors in which case the notice provisions of the Bylaws shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners.

14.8. Constructive Notice and Acceptance.
Every person who owns, occupies or acquires any right, title estate or interest in or to any Condominium or other portion of the Property does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof.

ARTICLE XV

15. Managing Agent.

15.1. Written Disclosures of Prospective Managing Agent.
In accordance with Civil Code Section 5375, a prospective management agent of a common interest development shall provide a written statement to the Board of Directors of the Association of a common interest development as soon as practicable, but in no event more than ninety (90) days, before entering into a management agreement which shall contain all of the following information concerning the managing agent:

(1) The names and business addresses of the owners or general partners of the managing agent. If the managing agent is a corporation, the written statement shall include the names and business addresses of the directors and officers and shareholders holding greater than ten percent (10%) of the shares of the corporation.

(2) Whether or not any relevant licenses such as architectural design, construction, engineering, real estate, or accounting have been issued by the State of California and are currently held by the persons specified in paragraph (1). If a license is currently held by any of those persons, the statement shall contain the following information:

(A) What license is held.

(B) The date the license is valid.

(C) The name of the licensee appearing on that license.

(c) Whether or not any relevant professional certifications or designations such as architectural design construction, engineering, real property management, or accounting are currently held by any of the persons specified in subdivision (a), including, but not limited to, a professional common interest development manager. If any certification or designation is held, the statement shall include the following information:

(1) What the certification or designation is and what entity issued it.

(2) The dates the certification or designation is valid.

(3) The names in which the certification or designation is held.

15.2. Handling of Association Funds by Managing Agent.
In accordance with Civil Code Section 5380 (a), a managing agent of a common interest development who accepts or receives funds belonging to the Association shall deposit all such funds that are not placed into an escrow account with a bank, savings association, or credit union or into an account under the control of the Association, into a trust fund account maintained by the managing agent in a bank, savings association, or credit union in California. All funds deposited by the managing agent in the trust fund account shall be kept in California in a financial institution, as defined in Section 31041 of the Financial Code which is issued by the federal government, and shall be maintained there until disbursed in accordance with written instructions from the Association entitled to the funds.

(b) At the written request of the board, the funds the managing agent accepts or receives on behalf of the association shall be deposited into an interest-bearing account in a bank, savings association, or credit union in California, provided all of the following requirements are met:

(1) The account is in the name of the managing agent as trustee for the Association or in the name of the Association.

(2) All of the funds in the account are covered by insurance provided by an agency of the federal government.

(3) The funds in the account are kept separate, distinct, and apart from the funds belonging to the managing agent or to any other person or entity for whom the managing agent holds funds in trust except that the funds of various Associations may be commingled as pursuant to subdivision (d).

(4) The managing agent discloses to the board, the nature of the account, how interest will be calculated and paid, whether service charges will be paid to the depository and by whom, and any notice requirements or penalties for withdrawal of funds from the account.

(5) No interest earned on funds in the account shall inure directly or indirectly to the benefit of the managing agent or his or her employees.

(c) The managing agent shall maintain a separate record of the receipt and disposition of all funds described in this section, including any interest earned on the funds.

(d) The managing agent shall not commingle the funds of the Association with his or her own money or with the money of others that he or she receives or accepts, unless all of the following requirements are met:

(1) The managing agent commingled the funds of various Associations on or before February 26, 1990, and has obtained a written agreement with the Board of Directors of each Association that he or she will maintain a fidelity and surety bond in an amount that provides adequate protection to the Associations as agreed upon by the managing agent and the Board of Directors of each Association.

(2) The managing agent discloses in the written agreement whether he or she is deriving benefits from the commingled account or the bank, credit union, or savings institution where the moneys will be on deposit.

(3) The written agreement provided for pursuant to this subdivision includes, but is not limited to, the name and address of the bonding companies, the amounts of the bonds, and the expiration dates of the bonds.

(4) If there are any changes in the bond coverage or the companies providing the coverage, the managing agent discloses the fact to the Board of Directors of each affected Association as soon as practical, but in no event more than ten (10) days after the change.

(5) The bonds assure the protection of the Association and provide the Association at least ten (10) days notice prior to cancellation.

(6) Completed payments on behalf of the Association are deposited within twenty-four (24) hours or the next business day and do not remain commingled for more than 10 calendar days.

(e) The prevailing party in an action to enforce this Article shall be entitled to recover reasonable legal fees and court costs.

(f) As used in this Article, "completed payment" means funds received which clearly identify the account to which the funds are to be credited.

ARTICLE XVI

16. Causes of Action in Tort.

16.1. Lawsuits Against the Association.
In accordance with Civil Code Section 5805, any cause of action in tort against any owner of a separate interest arising solely by reason of an ownership interest as tenant-in-common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests if both of the insurance requirements in paragraphs (1) and (2) are met:

(1) The association maintained and has in effect for this cause of action one or more policies of insurance which include coverage for general liability of the Association and (2) the coverage described in paragraph (1) is in the following minimum amounts:

(i) At least two million dollars ($2,000.000.00) if the common interest development consists of 100 or fewer separate interests; or

(ii) At least three million dollars ($3,000,000.00) if the common interest development consists of more than 100 separate interests.

ARTICLE XVII

17. Civil Code Section 4225.

17.1. Prohibition on Restrictive Covenants.
In accordance with Civil Code Section 4225 (a), no declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

17.2. Role of Board of Directors.
(b) Notwithstanding any other provision of law or provision of the governing documents, the board, without the approval of the members, shall amend this Declaration, or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate this Declaration or other governing document without the restrictive covenant but with no other change to the Declaration or other governing document.

17.3. Amendment.
(c) If the declaration is amended under this section, the board shall record the restated declaration in each county in which the common interest development is located. If the articles of incorporation are amended under this section, the board shall file a certificate of amendment with the Secretary of State pursuant to Section 7814 of the Corporations Code.

17.4. Enforcement.
(d) If after providing written notice to the Association, pursuant to Section 4025, requesting that the Association delete a restrictive covenant that violates subdivision (a), and the Association fails to delete the restrictive covenant within thirty (30) days of receipt the notice, the Department of Fair Employment and Housing, a city or county in which a common interest development is located, or any person may bring an action against the Association for injunctive relief to enforce subdivision (a). The court may award attorney's fees to the prevailing party.

ARTICLE XVIII

18. Internal Dispute Resolution.

18.1. Requirements of Civil Code Section 5900 et. seq.
In accordance with Civil Code Section 5900(a), this article applies to a dispute between an association and a member involving their rights, duties, or liabilities under this act, under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), or under the governing documents of the common interest development or association. (b) This article supplements, and does not replace, Article 3 (commencing with Section 5925), relating to alternative dispute resolution as a prerequisite to an enforcement action.

18.2. Fair, Reasonable and Expeditious Procedure.
In accordance with Civil Code Section 5905(a), an association shall provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article. (b) In developing a procedure pursuant to this article, an association shall make maximum, reasonable use of available local dispute resolution programs involving a neutral third party, including low-cost mediation programs such as those listed on the Internet Web sites of the Department of Consumer Affairs and the United States Department of Housing and Urban Development. (d) If an association does not provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article, the procedure provided in Section 5915 applies and satisfies the requirements of subdivision (a).

ARTICLE XIX

19. Documentation to be provided Prospective Purchaser.

19.1. Owner Requirements of Section 4525.
The Owner of a separate interest shall provide the following documents to a prospective purchaser of the separate interest, as soon as practicable before the transfer of title or the execution of a real property sale contract, as defined in Section 2985:

(1) a copy of all governing documents. If the association is not incorporated, this shall include a statement in writing from an authorized representative of the association that the association is not incorporated.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Civil Code Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Civil Code Section 51.3 and a statement specifying the applicable provision of Civil Code Section 51.3.

(3) A copy of the most recent documents distributed pursuant to Article 7(commencing with Section 5300) of Chapter 6.

(4) A true statement in writing from an authorized representative of the Association as to the amount of the Association's current regular and special assessments and fees, any assessments levied upon an Owner's interest in the common interest development which are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be a lien upon the owner's interest in a common interest development pursuant to Article 2 (commencing with Section 5650) of Chapter 8.

(5) A copy or a summary of any notice previously sent to the Owner pursuant to Section 5855 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the Association's right to enforce the governing documents against the Owner of the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require an Association to inspect an Owner's separate interest.

(6) A copy of the preliminary list of defects provided to each member pursuant to Section 6000, unless the Association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the Association complies with Section 6100. Disclosure of the initial list of defects pursuant to this paragraph does not waive any privilege attached to the document. The initial list of defects shall also include a] statement that a final determination as to whether the list of defects is accurate and complete has not been made.

(7) A copy of the latest information provided for in Section 6100.

(8) Any change in the Association's current regular and special assessments and fees which have been approved by the board, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision.

(9) If there is a provision in the governing documents that prohibit the rental or leasing of any of the separate interest in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition and its applicability.

(10) If requested by the prospective purchaser, a copy of the minutes of board meetings, excluding meetings held in executive session conducted over the previous 12 months, that were approved by the board.

19.2 Association Requirements of Section 4525.
In accordance with Civil Code Section 4530(a), upon written request, the association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest, or any other recipient authorized by the owner, with a copy of the requested documents specified in Section 4525. (b)(1) Upon receipt of a written request, the association shall provide, on the form described in Section 4528, a written or electronic estimate of the fees that will be assessed for providing the requested documents. The documents required to be made available pursuant to this section may be maintained in electronic form, and may be posted on the association's Internet Web site. Requesting parties shall have the option of receiving the documents by electronic transmission if the association maintains the documents in electronic form. The association may collect a reasonable fee based upon the association's actual cost for the procurement, preparation, reproduction, and delivery of the documents requested pursuant to the provisions of this section. (2) No additional fees may be charged by the association for the electronic delivery of the documents requested. (3) Fees for any documents required by this section shall be distinguished from other fees, fines or assessments billed as part of the transfer or sales transaction. Delivery of the documents required by this section shall not be withheld for any reason nor subject to any condition except the payment of the fee allowed pursuant to paragraph (1). (4) An association may contact with any person or entity to facilitate compliance with the requirements of this subdivision on behalf of the association. (5) The association shall also provide a recipient authorized by the owner of a separate interest with a copy of the completed form specified in Section 4528 at the time the required documents are delivered.

ARTICLE XX

20. Requirements of Civil Code Section 4510.

20.1. Prohibitions on Restriction of Access.
In accordance with Civil Code Section 4510, except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, the Association may not deny an Owner or occupant physical access to his or her "separate interest", as defined in Article I, Section 1.43 herein, either by restricting access through the common areas to the Owner's separate interest or by restricting access solely to the Owner's separate interest.

ARTICLE XXI

21. Requirements of Civil Code Section 4210

21.1. Recordation of Statement of Relevant Information.

In order to facilitate the collection of Regular Assessments, special assessments, transfer fees and similar charges as authorized by Sections 4530, 4575 and 4580 and similar charges, the board is authorized to record a statement or amended statement identifying relevant information for the association. This statement may include any or all of the following information:

(a) The name of the association as shown in the declaration or the current name of the association, if different.

(b) The name and address of a managing agent or treasurer of the Association or other individual or entity authorized to receive assessments and fees imposed by the Association.

(c) A daytime telephone number of the authorized party identified in subdivision (b) if a telephone number is available.

(d) A list of separate interests subject to assessment by the Association, showing the assessor's parcel number or legal description, or both, of the separate interests.

(e) The recording information identifying the declaration governing the Association.

(f) If an amended statement is being recorded, the recording information identifying the prior statement or statements which the amendment is superceding.

ARTICLE XXII

22. Requirements of Civil Code Section 5405.

22.1. Statement by Common Interest Development Association to Secretary of State. To assist with the identification of common interest developments, each Association, whether incorporated or incorporated, shall submit to the Secretary of State, on a form and for a fee not to exceed thirty dollars ($30.00) that the Secretary of State shall prescribe, the following information concerning the Association and the development that it manages:

(1) A statement that the Association is formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.

(2) The name of the Association.

(3) The street address of the business or corporate office of the association, if any.

(4) The street address of the Association's onsite office, or, if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or managing agent of the Association.

(5) The name, address and either the daytime telephone number or e-mail address of the president of the association, other than the address, telephone number, or e-mail address of the association's onsite office or managing agent of the association.

(6) The name, street address, and daytime telephone number of the association's managing agent, if any.

(7) The county, and if in an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.

(8) If the development is in an unincorporated area, the city closest in proximity to the development.

(9) The front street and nearest cross street of the physical location of the development.

(10) The type of common interest development managed by the association.

(11) The number of separate interests in the development.

(b) The association shall submit the information required by this section as follows:

(1) By incorporated associations, within 90 days after the filing of its original articles of incorporation, and thereafter at the time the association files its statement of principal business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.

(2) By unincorporated associations, in July 2003, and in the same month biennially thereafter. Upon changing its status to that of a corporation, the association shall comply with the filing deadlines in paragraph (1).

(c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or managing agent of the Association in the form and for a fee prescribed by the Secretary of State, within 60 days of the change.

ARTICLE XXIII

23. Breach of a Provision of the Declaration.

23.1 Protection of the lien of any Mortgage.
No breach of any provision of this Declaration nor the enforcement of any of its lien provisions, nor the foreclosure of any lien created by or claimed under this Declaration, shall invalidate, affect or impair the lien of any Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through a foreclosure sale, trustee's sale, or otherwise.

ARTICLE XXIV

24. Modification of Separate Interest.
In accordance with Civil Code Section 4760(a), subject to the governing documents and applicable law, a member may do the following:

(1) Make improvement or alteration within the boundaries of the member's separate interest that does not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify the member's separate interest, at the member's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications to the route from the public way to the door of the separate interest for the purposes of this paragraph if the separate interest is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

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

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

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

(D) Any member who intends to modify a separate interest pursuant to this paragraph shall submit plans and specifications to the association for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

ARTICLE XXV

25. Inconsistency between governing documents.

25.1 Control of the Law.
In accordance with Section 4205, to the extent of any inconsistency between the governing documents and the law, the law controls. To the extent of any inconsistency between the articles of incorporation and the declaration, the declaration controls. To the extent of any inconsistency between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control. To the extent of any inconsistency between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation or declaration control.

ARTICLE XXVI

26. Statement of Relevant Information.

26.1 Items to be included in Statement.
In accordance with Section 4210, in order to facilitate the collection of regular assessments, special assessments, transfer fees as authorized by Sections 4530, 4575 and 4580 and similar charges, the board is authorized to record a statement or amended statement identifying relevant information for the association. The statement may include any or all of the following information:

(a) The name of the Association as shown in the declaration or the current name of the association, if different.

(b) the name and address of a managing agent or treasurer of the association or other individual or entity authorized to receive assessments and fees imposed by the association.

(c) A daytime telephone number of the authorized party identified in subdivision (b) if a telephone number is available.

(d) A list of separate interest subject to assessment by the association, showing the assessor's parcel number or legal description, or both, of the separate interests.

(e) The recording information identifying the declaration governing the association.

(f) If an amended statement is being recorded, the recording information identifying the prior statement or statements which the amendment is superceding.

ARTICLE XXVII

27. Easement for Access and Maintenance.

27.1. Rights of Each Owner. Each Owner of a Unit shall have an easement across any other Unit (except for any structure) for access, drainage, and maintenance purposes, and to facilitate utility and drainage line installation, maintenance, and repair within another Unit.

In addition the Owner of Living Unit LU-2, as shown on the recorded Condominium Plan shall have a non-exclusive easement over a portion of Living Unit LU-1 which lies within six (6) feet of the boundary between said Units, for the purpose of permitting the Owner of Living Unit LU-2 to maintain and repair the portion of this Unit which abuts the boundary line of Living Unit LU-1. With the exception of an emergency, the Owner of Living Unit LU-1 shall be provided with twenty-four (24) hours notice by the Owner of Living Unit LU-2 with regard to the exercise of the rights provided for herein. The Owner of Living Unit LU-2 shall be responsible for any damage to the property of the Owner of Living Unit LU-1.

ARTICLE XXVIII

28. Solar Panel Installation.

28.1 Rooftop Panels.
An Owner may install Rooftop Panels for the collection of solar energy on roofs at such locations that maximize the southern exposure for the collection of solar energy. The foregoing shall not require the approval of the Architectural Control Committee.

This Declaration is dated October 2, 2021 for identification purposes.

By: ______________________
Yun-San Huang

By: ______________________
Ricky Likal Kuo,
wife and husband
as community property
with right of survivorship

Owners of Living Unit LU-1

"Declarant"

By: ______________________
Kory Trapp
~~a married man as his sole~~ KT
and separate property

Owner of Living Unit LU-2

By: ______________________
James Russell Williamson

By: ______________________
Cynthia Jean Webb
Trustees of The Williamson
Living Trust,
dated September 15, 2017

Owners of Living Unit LU-3

"Declarant"

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF San Diego)

On 10/3/2021, before me, Elizabeth O Metcalf (Notary Public) (insert name and title of the officer) personally appeared Yun-San Huang & Ricky Likal Koo who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/they executed the same in his/her/their authorized capacity(ies), and that by ~~his~~/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Elizabeth O Metcalf

ELIZABETH O. METCALF
COMM. # 2310213
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
Comm. Exp. NOV. 18, 2023
MGC1

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF San Diego)

On 10/3/2021, before me, Elizabeth O Metcalf (Notary Public) (insert name and title of the officer) personally appeared Rory Trapp who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Elizabeth O Metcalf

ELIZABETH O. METCALF
COMM. # 2310213
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
Comm. Exp. NOV. 16, 20[illegible]

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF San Diego)

On 10/3/2021, before me, Elizabeth O Metcalf (Notary Public) (insert name and title of the officer) personally appeared James Russell Williamson + Cynthia Jean Webb who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/they executed the same in ~~his~~/~~her~~/their authorized capacity(ies), and that by ~~his~~/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Elizabeth O Metcalf

ELIZABETH O. METCALF
COMM. # 2310213
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
Comm. Exp. NOV. 18, 2023