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07-JUL-1995 11:42 AM

RECORDING REQUESTED BY:)

K. Hovnanian at Carmel Del Mar, Inc.)
4180 La Jolla Village Drive, Suite 450)
La Jolla, CA 92037)
Attention: Mr. R. J. Van Daele)

614

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY SMITH, COUNTY RECORDER
RF: 23.00 FEES: 61.00
AF: 37.00
MF: 1.00

AND WHEN RECORDED MAIL TO:)

K. Hovnanian at Carmel Del Mar, Inc.)
4180 La Jolla Village Drive, Suite 450)
La Jolla, CA 92037)
Attention: Mr. R. J. Van Daele)

114114-15

Space Above for Recorder's Use

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

This Declaration of Covenants, Conditions and Restrictions ("Declaration") is made on July 6, 1995 by K. Hovnanian at Carmel Del Mar, Inc., a California corporation ("Declarant") and Acacia Credit Fund III Limited Partnership, a Delaware limited partnership ("Acacia").

A. Acacia and Declarant collectively own all interest in that certain real property situated in the County of San Diego, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein ("Property").

B. Acacia and Declarant are parties to that certain Option Agreement, dated January 26, 1995 (as amended on May 8, 1995, the "Option Agreement"), pursuant to which Declarant has the option to purchase Lots in the Property from Project Owner.

C. Acacia and Declarant desire to establish by means of this Declaration a general plan for the protection, development, and maintenance of the Property and has fixed certain protective covenants, conditions and restrictions, which shall also constitute equitable servitudes and which are for the mutual benefit of all the Property and which shall run with the land and inure to and pass with each and all of such Property, and will apply to and bind the respective successors-in-interest of the Property.

NOW, THEREFORE, in order to establish such plan and effect such desires, the Declarant and Acacia declare as follows:

ARTICLE I

GENERAL PROVISIONS

1.1 Establishment of Covenants, Conditions and Restrictions. Declarant and Acacia declare that the Property, is and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the limitations, restrictions, covenants and conditions herein set forth, all of which are declared and agreed to be in furtherance of a general plan for the improvement, protection, use, maintenance and sale of all of the Property and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of said Property.

1.2 **Description of Property Subject to Declaration.** The real property subject to this Declaration is described in Exhibit "A" attached hereto.

1.3 **Purpose of Declaration.** The purpose of this Declaration is to establish a general plan for the Property in order to ensure the proper development and use of the Property, to provide for the preservation of the values and amenities in the development of said Property, to prevent haphazard and inharmonious Improvements (hereinafter defined) being constructed on the Property, to promote the aesthetic environment of the Property and, in general, to provide adequately for a high quality and standard of Improvements on the Property in accordance with the criteria set forth in this Declaration.

ARTICLE 2

DEFINITIONS

2.1 **Declarant.** The term "Declarant" shall mean K. Hovnanian at Carmel Del Mar, Inc., a California corporation, and its successors and assigns if such successors and assigns acquire any or all of Declarant's interest in the Property for the purpose of development or sale, and Declarant has expressly transferred or assigned to such successors or assigns its rights and duties as Declarant to a portion or all of the Property. For any successor or assignee of Declarant to be deemed a Declarant under the terms hereof, Declarant shall record in the County of San Diego a certificate so designating said successor or assignee as Declarant. A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all or any portion of the Property, which beneficiary has acquired any such Property by foreclosure, power of sale or deed in lieu of such foreclosure or sale.

Notwithstanding anything herein to the contrary, upon termination of the Option Agreement, Acacia shall become an additional Declarant under this Declaration and, along with Declarant, shall become vested with all rights of Declarant under this Declaration with respect to the Lots it then owns. Upon acquisition by Declarant of all Lots from Acacia under the Option Agreement, Acacia's rights and obligations hereunder shall terminate. All Owners, lienholders and third parties shall be entitled to rely upon the recordation of a Notice of Termination and Quit-Claim Deed or similar instrument executed and recorded by Acacia as conclusive evidence of the termination of the Option Agreement.

2.2 **Declaration.** The term "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as said Declaration may from time to time be amended.

2.3 **Improvements.** The term "Improvements" shall mean and include all buildings, landscaping, fences, screening walls, retaining walls, stairs, decks, structures, hedges, windbreaks, planting, planted trees and shrubs, poles, signs or any other physical alteration of the natural terrain of the Property or the alternation of any building or structure on the natural terrain of the Property.

2.4 **Lot.** The term "Lot" shall mean and refer to each of the Lots shown and described with a separate and distinct number on that certain subdivision map (the "Subdivision Map") of Neighborhood 4 Unit 15 filed as Map No. 13173 and Unit 16 filed as Map No. 13174 in the Office of the County Recorder of San Diego County on December 9, 1994.

2.5 **Owner.** The term "Owner" shall mean a record owner of fee simple title to any Lot included in the Property whether held by one or more persons or entities, and shall include Declarant. A contract purchaser under a recorded installment land sales contract shall be included as an "Owner," but those merely having an interest in property as security for the performance of an obligation shall not be "Owners."

2.6 Person or Persons. The term "person" or "persons" shall mean and include individuals, partnerships, firms, associations, and corporation or any other form of business entity.

2.7 Occupant. The term "Occupant" shall mean each of the parties and any person or persons from time to time entitled to use and occupancy of the Property.

2.8 Property. The term "Property" shall include all of the real property described in Exhibit "A" of this Declaration.

2.9 Residence. The term "Residence" shall mean and refer to any residential unit constructed on a Lot by Declarant.

ARTICLE 3

USE RESTRICTIONS

3.1 Residential Use. Each Lot within the Property shall be improved and used exclusively for residential purposes. Notwithstanding the foregoing, any residential units owned by Declarant may be used by Declarant or its designees as models, sales offices, and construction offices for the purpose of developing, improving and selling residences in the development of which the Property is a part and any adjacent development owned by Declarant. Nothing in this Declaration shall prevent an owner or Declarant from leasing or renting his Residence. However, any lease or a rental agreement shall be in writing and any tenant shall abide by and be subject to all provisions of this Declaration. Any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement. No Owner may lease his Lot or Residence situated thereon for hotel, motel or transient purposes. Any lease which is either for a period of fewer than thirty (30 days) or pursuant to which the lessor provides any services normally associated with a hotel or motel, shall be deemed to be for transient or hotel purposes.

3.2 Height Limitation. No residence shall contain more than two and one-half stories, with a maximum height of thirty-two (32) feet (measured vertically from the finished grade to the highest point of the structure, but not including extensions such as chimneys or the like).

3.3 Commercial Use. Except as otherwise provided in this Declaration, no Lot shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, to be used for any business, commercial, industrial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

3.4 Maintenance/Alteration of Residences. The exteriors of all Residences shall be maintained in a clean, attractive and well-kept condition and in conformity with the general plan established by this Declaration and the aesthetic appearance of the Property. In the event that the exterior of any Residence or fence needs to be painted, said Residence or fence shall be painted in a color identical or substantially similar to the original color of the Residence at the time that the Residence was conveyed from Declarant to the Owner. In the event that the exterior of any Residence appurtenances, walls, fences, driveways, parking areas, structure needs to be repaired or remodeled, said Residence shall be repaired or remodeled in a manner which is identical or substantially similar to the exterior of the Residence at the time that the Residence was conveyed from Declarant to the original purchaser. Any other Improvements permitted to be constructed on the Property shall conform with the general plan established by this Declaration and the aesthetic appearance of the Property.

3.5 Landscaping. Every Owner shall be responsible for installing landscaping within 180 days of closing escrow and thereafter maintaining his or her Lot in a sightly and well-kept condition and shall maintain landscaping which shall be in conformity and harmony with the external design of the Residences and the general plan established by this Declaration for the Property. All such landscaping shall be in a healthy, trimmed and

fertilized condition. Until such landscaping is installed by the Owner, the Owner shall keep all sidewalks, streets and driveways adjacent to such Lot free from dirt, mud or other debris eroding or originating from such Owner's Lot. In the event Declarant must clean up and remove such dirt, mud or debris, the Lot Owner shall reimburse Declarant for the costs of such clean up. No trees or hedges which substantially impair the view of any other Owner shall be planted or maintained on any Lot.

3.6 Offensive Conduct: Noise. No noxious or offensive activity shall be carried on, in or around any Lot, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to other Lot Owners, other than construction or repair of improvements made at Declarant's or the Architectural Control Committee's instruction. No rubbish or debris of any kind shall be placed or permitted to accumulate within any Lot or elsewhere in the Property, and no odor shall be permitted to arise therefrom. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Lot. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed or off-road motor vehicles, power tools, loud stereos or musical instruments, barking dogs or other items which may unreasonably disturb other Owners shall be located, used or placed on any portion of the Property.

3.7 Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any Residence on the Property except that not more than two (2) domestic dogs, cats, fish and birds inside bird cages may be kept as household pets within any Residence, if they are not a nuisance and are not kept, bred or raised for commercial purposes. Each person bringing or keeping a pet upon any portion of the Property shall be absolutely liable to other Owners, their family members, guests, invitees, tenants, contract purchasers and their respective family members, guests and invitees, for any damage to persons or property caused by the pets of such person or by members of such person's family, other person's guests or invitees. All dogs shall be kept on a leash when outside the Owner's Lot.

3.8 Antennas. No antennae, satellite dishes, or similar or related devices for transmission or reception of television signals, or any form of electromagnetic radiation shall be erected, used or maintained on the exterior of any Lot.

3.9 Screen Doors: Windows. No Owner shall be permitted to install a metal screen door on the front or main entrance door or doors, nor shall such Owner install any aluminum or metal awnings with paint or aluminum foil, however, non-reflective solar film shall be permitted.

3.10 Set-Backs. All set-backs for buildings, swimming pools, patios, fences, walls, or other structures shall conform to the requirements of the City of San Diego.

3.11 Lease. Each owner shall have the right to lease the Owner's Lot provided that such lease (i) is for a term of at least thirty (30) days, (ii) is in writing, and (iii) provides that the tenant shall be bound by and obligated to the provisions of this Declaration, and the failure to comply with the provisions of these documents shall be a default under the lease. Any lease which is either for a period of less than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes, and shall be prohibited.

3.12 Interference of Other Occupants. No Lot or Improvements thereon shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other Lots or annoy them by unreasonable noise or otherwise, nor shall any nuisance be committed or permitted to occur on any Lot. Any improvements approved by the Architectural Control Committee pursuant to Article 3 herein shall be conclusively deemed not to violate this Section 3.12.

3.13 **Motor Vehicle Maintenance.** No motor vehicle overhaul or maintenance (other than emergency work) shall be permitted on a Lot except within the garage and then only with the garage door closed. The foregoing shall not be deemed to prevent the washing or polishing of motor vehicles together with those activities normally incident to such activity.

3.14 **Diligent Construction.** Except for Declarant's construction, the work of construction and erecting any building or other Improvement shall be prosecuted diligently from the commencement thereof and the same shall be completed within a reasonable time in accordance with the requirements herein contained.

3.15 **Exterior Lighting.** Any exterior lighting installed on a Lot shall either be indirect or of such controlled focus and intensity as not to unreasonably disturb the residents of any adjoining Lot(s). Prior to any installation, approval must first be obtained from the Architectural Committee.

3.16 **Drainage.** The Owner of each Lot shall be responsible for reasonably maintaining any slopes, brow ditches, drainage-ways, drainage channels, cuts, swales, berms and other drainage control facilities situated on their Lot and shall otherwise be responsible for effectuating proper drainage controls on their Lot. All Lots shall drain to the front street area except for those bank end slope areas originally established by Declarant. The Owner of a Lot shall permit free access by Declarant or Owners of adjacent or adjoining Lots to slopes, brow ditches, drainage-ways, drainage channels, cuts, swales, berms, or drainage-control facilities on such Owner's property, which affect adjacent or adjoining Lots, when such access is essential for the maintenance of permanent stabilization on said slopes, or maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slopes or drainage facilities are located. No Owner shall interfere in any way with the established drainage pattern over such Owner's Lot from or to adjacent or adjoining Lots. Despite the approval of the Architectural Control Committee for any improvements to be made to an Owner's Lot, Owner is responsible to ensure that such improvements do not alter or over-encumber the established drainage for such Lot, or such owner shall make adequate provision for proper drainage (including obtaining complete approval by the Architectural Control Committee) in the event it is necessary to change the established drainage over such Owner's Lot.

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

3.18 **Fences.** Except for any fencing originally provided by Declarant, all fences installed, erected or maintained by an Owner shall be consistent with Declarant's originally installed fence or the Fence Specifications referred to in Section 4.13 herein. Any Owner or occupant of a Lot who desires to install a fence shall secure the written consent of the Architectural Control Committee prior to the installation thereof. The Architectural Control Committee shall consider the topography of the Lot and adjoining Lots and the maintenance of views before granting such approval. No fence, hedge, wall, or other dividing structure higher than three and one-half (3-1/2) feet shall be permitted within any front and rear setback area, which setback area is defined and currently required by the City. No fence, hedge, wall or other dividing structure on the side yard of a Lot shall be higher than six (6) feet. Notwithstanding anything to the contrary contained herein, no chain link fences, other than black vinyl chain link connected to redwood posts, shall be permitted.

3.19 **Fence Location.** The grading of the Lots may result in the Lot boundary line not being located at either the top or at the bottom of a slope. Lot boundary lines are determined by the recorded Subdivision Maps for the Property, not by the grading or the topography of the Lot. Any perimeter, rear, side or front fences installed by Declarant are located according to the grading of the slope or to protect proper drainage, and may not necessarily be located on the Lot boundary line. Additionally, certain decorative iron fencing may be installed at the center of stucco pilasters and may not be located on the property line. Any Owner who desires to move any fences on such

Owner's Lot to the actual Lot boundary line must first obtain the approval of their neighbor and then the Architectural Control Committee, and all such work must be performed pursuant to Section 3.18 above and Article below in 4.13. Neither Declarant nor the Architectural Control Committee shall be responsible for any such relocation or any subsequent damages resulting from the moving of such fences.

3.20 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No Owner shall permit or cause refuse to be kept on any portion of the Property other than in receptacles customarily used for the disposal of refuse. Except on regular trash collection dates, trash receptacles shall be stored in a location which is not visible from the front of the Residence. No building material(s) of any kind or character shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements or unless such material can be completely enclosed so as not to be visible from any adjoining Lot(s).

3.21 View Protection: Structures. No Owner shall construct, erect or place upon any Lot, any building, fence, wall, structure or other Improvement which unreasonably interferes with the view from any Lot. If an Owner constructs, erects or places any such Improvement, the Owner shall alter or remove the same so that it does not unreasonably interfere with the view from any Lot; however, an Owner shall not be required to alter or remove any Improvement which was originally constructed by Declarant. Notwithstanding the foregoing, Declarant shall not be responsible or liable for the interference with the view from any Lot as the result of any Improvement made by any Owner, nor shall Declarant have any obligation to remedy or attempt to remedy such situation. Except for such fences as may be installed by Declarant, all fences constructed, erected or placed upon any Lot shall not unreasonably interfere with the view from any Lot.

3.22 View Protection: Plants. Except for such trees, bushes or plants originally installed by Declarant, no Owner shall plant or place any tree, bush or plant which, at maturity and without clipping or pruning thereof, would unreasonably interfere with the view from any Lot. If any tree, bush or plant unreasonably interferes with the view from any Lot, the Owner of the Lot upon which the tree, bush or plant is located shall prune or remove the same so that it does not unreasonably interfere with the view from any Lot. Notwithstanding the foregoing, Declarant shall not be responsible or liable for the interference with the view from any Lot as the result of any tree, bush or plant placed or planted by any Owner, nor shall Declarant have any obligation to remedy or attempt to remedy such situation.

3.23 Garages. No Owner shall convert, either temporarily or permanently, its garage to any primary use other than the storage of automobiles. Garages shall be used primarily for the parking and maintenance of vehicles so that the Streets will be available for guest parking. Garages may be used for storage purposes; provided, however, such storage purposes shall be limited so that each garage maintains the available space to hold the same number of cars as it was intended to hold when constructed. Garage doors shall remain closed except when necessary for access or use and upon entering or exiting.

3.24 Temporary Structures. No structure of temporary character, basement, tent, shack, garage, barn or other out-building shall be placed or used on any Lot, either temporarily or permanently; nor shall any prefabricated, reconstructed or used building be set or moved upon any Lot. Nothing contained in the foregoing shall be construed to preclude the use of a trailer, out-building or other temporary structure, if used by Declarant (i) to facilitate construction, or the convenience of persons engaged in construction, during the period of construction of any single-family residence on any Lot (provided that any such trailer, out-building or structure shall be removed promptly upon the completion of any such single-family residence), or (ii) for sales activities by Declarant.

3.25 Restricted Use of Easement Area. The Owners shall be prohibited from constructing or positioning any permanent Improvements, other than fences, gates and landscaping on any easement area referred to in the grant deed conveying the Lot from Declarant to the original purchaser.

3.26 Clothes Drying Facilities. No outside clotheslines, clothes drying or airing facilities shall **620** maintained on any Lot.

3.27 Fires. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designed for such purpose.

3.28 Balconies. No Owner shall use any balcony, if any, attached to the Residence included within his/her Lot for storage purposes.

3.29 Building Additions. No building additions, including patio covers, shall be permitted unless approved by the Architectural Control Committee and Owner has obtained a building permit from the City of San Diego.

3.30 Machinery and Equipment. No heavy machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Residence, a swimming pool, spa or landscaping on a Lot. Notwithstanding the foregoing, machinery or equipment which is used for home-hobby purposes may be used on a Lot provided such machinery or equipment does not constitute a nuisance and provided further that such machinery or equipment is not used between the hours of 9:00 p.m. and 7:00 a.m.

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

3.32 Trailers, Boats and Motor Vehicles. No boat, golf cart, mobile home, recreational motor home, recreational vehicle, trailer of any kind, truck camper larger than one ton pick-up truck, or commercial vehicle shall be parked on any portion of the Property overnight.

3.33 Temporary Occupancy. No boat, truck, trailer, camper, recreational vehicle, incomplete building, temporary building, tent or structure of any kind shall be used at any time as a Residence, either temporarily or permanently; provided, however, such trailers or temporary structures for use incidental by the Declarant to the construction of Residences or the sales of Residences may be maintained within the Property, but shall be promptly removed on diligent completion of all construction and all sales.

3.34 Signs. No signs whatsoever (including, without limitation, commercial, political or similar signs) which are visible from neighboring Lots shall be erected or maintained on any Lot except: (a) such signs as may be required by legal proceedings; (b) signs erected by the Declarant; (c) job identification signs during the time of construction of any Residence or other Improvements by Declarant; and (d) not more than one "for sale" or "for rent" sign per Lot of reasonable dimensions, and as are customarily used within the County of San Diego.

3.35 Remedies. The failure of any Owner to comply with any provision of this Declaration shall give rise to a cause of action by any aggrieved Owner for the recovery of damages or for injunctive relief, or both, and for attorneys' fees incurred thereby.

3.36 Development Rights. Notwithstanding any other provisions of this Declaration, Declarant shall have the right to (i) perform any action reasonably necessary or appropriate in connection with the completion or construction of residential dwelling units and related improvements; (ii) construct residential dwelling units and related improvements without obtaining approval of the Architectural Control Committee; and (iii) construct signs and model units and to conduct sales and marketing activities. The rights of Declarant set forth in this Paragraph

shall inure to the benefit of Declarant and its successors and assigns until all Lots have been sold by Declarant." Notwithstanding the provisions of Article 9 herein, this Section 3.36 shall not be amended without the written consent of Declarant, recorded in the Official Records of San Diego County, California.

3.37 Restrictions on Further Subdivision. No Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof.

3.38 Compliance with Laws, etc. No Owner shall permit anything to be done or kept in, on or about his or her Residence that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

ARTICLE 4

ARCHITECTURAL CONTROL

4.1 Architectural Control Committee. Except as provided in Section 4.1.1 below, an Architectural Control Committee consisting of three (3) persons is hereby formed to exercise all of the rights and powers which have been granted to it in this Declaration, notwithstanding anything to the contrary in Article 2.1. Members of the Architectural Control Committee shall be appointed as follows:

4.1.1 Until the first anniversary of the close of escrow for Declarant's sale of the last remaining unsold Lot in the Property, or such earlier date as Declarant may elect, Declarant may either; (i) perform the functions of the Architectural Control Committee as set forth in this Declaration, or (ii) appoint all of the original members of the Architectural Control Committee and all replacements. The initial members of the Architectural Control Committee shall be Ron Van Daele, Jay Wertin and Rhonda Goodall Mitchell; said individuals shall remain as members until the earlier to occur of the following: (i) the replacement by Declarant of said members, or (ii) one (1) year from the date of the close of Escrow for Declarant's sale of the last remaining unsold Lot in the Property.

4.1.2 Commencing one (1) year from the date of the close of escrow for Declarant's sale of the last remaining unsold Lot in the Property, the Owners shall have the power to appoint all of the members of the Architectural Control Committee. The appointment of a member to the Architectural Control Committee shall require the written consent of 51% of the Owners.

4.1.3 Any vacancy on the Architectural Control Committee by reason of death, resignation or removal shall be filled promptly by the entity or group which had elected or appointed such member, in accordance with Section 4.1.1 herein or by the written consent of 51% of the Owners thereafter in accordance with Section 4.1.2 above, as the case may be, within thirty (30) days after such vacancy first occurs.

4.2 Resignation. A member of the Architectural Control Committee may resign by written notice given to each Owner which shall be delivered by regular United States mail to the street address of each Owner.

4.3 Designation of Agent. Notwithstanding anything contained herein to the contrary, the members of the Architectural Control Committee shall have the right to designate one (1) individual to act on behalf of the Committee, provided the Architectural Control Committee notifies the Owners of such action in writing.

4.4 Approval of Improvement Plan. Except as to the construction of improvements by Declarant, no building, dwelling, fence, wall, pool, spa, trellis, carport, patio, patio cover, balcony, screen, structure or other Improvement of any type shall be constructed, erected, maintained, placed, refurbished, expended or altered, nor shall any tree, bush or plant be planted or placed upon a Lot, until the plans, specifications and location plat thereof have been approved by the Architectural Control Committee.

4.5 **Guidelines.** The Architectural Control Committee may adopt guidelines for the preparation, submission and review of plans, specifications and plats, which guidelines may be amended by the Architectural Control Committee from time to time. In preparing these guidelines and reviewing any such plans, specifications and plats, the Architectural Control Committee may take into account (i) the quality of workmanship and materials to be used, (ii) harmony of external design with existing structures in the Property, (iii) the interference, or potential for interference, with the view from any Lot, and (iv) compliance with this Declaration.

4.6 **Conditions of Approval.** The Architectural Control Committee, in reviewing any such plans, specifications and plats, may require that the Owner requesting an approval from the Architectural Control Committee obtain the written approval of the neighboring Owner(s) with respect to any detail(s) shown on such plans, specifications and plats. The Architectural Control Committee also may condition its approval upon the Owner making specific changes or satisfying specific conditions.

4.7 **Failure to Approve.** In the event the Architectural Control Committee fails to approve or disapprove any such plans, specifications and plats on or before thirty (30) days after all documents and information requested by the Architectural Control Committee have been received by it, said plans, specifications and plats shall be deemed to be approved.

4.8 **Failure to Obtain Approval.** If an Owner fails to obtain the prior approval of plans, specifications and plats as described in Section 4.4 above, or if any Owner fails to comply with any of the provisions set forth in this Article, the Architectural Control Committee, at its option, may (i) order the removal of the non-complying Improvement, (ii) otherwise remedy the noncompliance, or (iii) demand that the Owner remove or remedy the noncompliance. Any such Owner shall reimburse the Architectural Control Committee, upon demand, for any and all expenses incurred by the Architectural Control Committee in connection with removing or remedying the non-complying Improvement. Such rights of the Architectural Control Committee shall be in addition to the rights of "enforcing persons" as set forth in Section 5.6 herein.

4.9 **Approval: No Waivers.** The approval of the Architectural Control Committee of any proposals, plans, specifications, drawings or plats for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Control Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent with respect to any similar proposals, plans, specifications, drawings, plats or any other matter subsequently or additionally submitted for approval or consent.

4.10 **No Liability.** Neither Declarant, Acacia nor the Architectural Control Committee, nor any member thereof, shall be liable to any Owner, for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Control Committee's duties hereunder unless such is due to the bad faith disapproval by the Architectural Control Committee of improvement plans required to be reviewed pursuant to this Article. By accepting title to a Lot, each Owner recognizes and agrees that neither Declarant, Acacia nor the Architectural Control Committee, is under any obligation to enforce the provisions of this Declaration and neither shall be liable for the failure to do so, for whatever reason. Neither Declarant, Acacia nor the Architectural Control Committee, shall 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. Neither Declarant, Acacia nor the Architectural Control Committee, shall be responsible for any damages or effects caused by any approved improvements, including, but not limited to, damages resulting from altered drainage.

4.11 **No Presumption.** The approval of the Architectural Control Committee of any proposals, plans, specifications, drawings or plats for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Control Committee, shall not be deemed to constitute a conclusive

presumption that said proposals, plans, specifications, drawings or plats comply with the limitations, restrictions, conditions and covenants set forth in this Declaration.

4.12 **Rules.** The Architectural Control Committee may, from time to time, and at its sole discretion, adopt, amend and repeal, by unanimous vote, rules and regulations to be known as "Architectural Control Committee Rules." The Architectural Control Committee's Rules shall interpret and implement the provisions of this Article 4 by setting forth the standards and procedures for Architectural Control Committee review and guidelines for architectural design, placement of buildings, placement and type of fencing, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Property; provided, however, the Architectural Control Committee's Rules shall not be in derogation of the minimum standards required by this Declaration.

4.13 **Fence Specifications.** Declarant has or may in the future, adopt and submit fence specification (the "Fence Specifications") to the Architectural Control Committee which shall set forth requirements, standards and guidelines for all fences to be erected, constructed or placed upon Lots within the Property, including, but not limited to, criteria for design, materials, color schemes, placement and location of fences. The purpose of the Fence Specifications is to reasonably protect the views from all Lots in the Property and to maintain the continuity and attractiveness of the Property. The Architectural Control Committee may, from time to time, and at its sole discretion, adopt, amend, and repeal, by majority vote, requirements, standards and guidelines within the Fence Specifications. In addition, the Architectural Control Committee may grant variances from the Fence Specifications for plans and specifications for fences submitted by Owners; provided, however, that the Fence Specifications shall not be amended or repealed, nor shall a variance be granted by the Architectural Control Committee which (i) would cause the obstruction or interference with the view from any Lot, or (ii) would allow the use of any chain link fencing other than black vinyl chain link attached to redwood posts.

4.14 **Cessation of Function.** In the event the Architectural Control Committee ceases to function for any reason during the term of this Declaration, each and every Owner still shall be subject to the limitations, restrictions, conditions and covenants set forth herein, and any Owner, its heirs, devisees, executors, administrators, successors or assigns shall be entitled to enforce said limitations, restrictions, conditions or covenants by appropriate legal proceedings. Notwithstanding anything contained herein to the contrary, if the Architectural Control Committee ceases to function during the term of this Declaration, and until such time as the Architectural Control Committee has been re-established, no Owner shall be required to obtain the prior approval of plans, specifications or plats as set forth herein. The Architectural Control Committee shall be deemed to have ceased to function if at any time there is a vacancy of two or more of its members for a period of one year or longer.

4.15 **Enforcement.** In the event of a violation of any of the provisions of this Article 4 by any Owner, including, without limitation, the failure of any Owner to comply with a written directive or order from the Architectural Control Committee, the Architectural Control Committee and any Owner shall have the right, but not the obligation, to enforce the terms of this Article in any manner as provided herein or by law.

4.16 **Governmental Approval.** Prior to commencing any alteration or construction of improvements approved by the Architectural Control Committee, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Architectural Control Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction. An Owner's failure to obtain such governmental approval may subject such Owner to certain penalties imposed by the governmental entity, notwithstanding that the Architectural Control Committee has approved such construction, and such penalties shall be the sole responsibility of the Owner.

ARTICLE 5

ENFORCEMENT

5.1 Abatement and Suit. Violation or breach of any restriction or provision herein contained shall give to Declarant or any Owner the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these restrictions or provisions, to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

5.2 General Scheme. The limitations, restrictions, conditions and covenants set forth in this Declaration constitute a general scheme for (i) the maintenance, protection and enhancement of value of the Property and all Lots, and (ii) the benefit of all Owners. Said limitations, restrictions, conditions and covenants are imposed on each Lot for the benefit of every Lot and the present and future Owners thereof. Said limitations, restrictions, conditions and covenants are and shall be covenants running with the land or equitable servitudes, as the case may be.

5.3 Compliance With Laws. The Declarant and each Owner shall at all times comply with all laws, ordinances and regulations of the City, duly enacted thereby, and any other provision, regulation or requirement of any other governmental body, and nothing in this Declaration is intended to be, nor shall be deemed to be, a waiver of, or promulgation contrary to, any such law, ordinance or regulation. No provision of this Declaration is intended to, nor shall it be deemed to constitute any delegation by the City, or any other governmental body, to the Owners or to the Architectural Control Committee, of any of the City's rights to enforce or impose any ordinances, regulations or policies upon the Architectural Control Committee, any Owner or occupant, or all or any portion of the Property covered by this Declaration.

5.4 Nuisance. The result of every action or admission whereby any restriction or provision herein contained is violated in whole or in part, is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an owner, either public or private, shall be applicable against every such result and may be exercised by Declarant or any Owner.

5.5 Enforcing Persons. Breach by any Owner of any of the limitations, restrictions, conditions or covenants (or the continuation thereof) may be enjoined, abated or remedied by appropriate legal proceedings by (i) Declarant, (ii) the Architectural Control Committee, (iii) any Owner, their heirs, devisees, executors, administrators, successors, and assigns, or (iv) any Mortgagee, all of whom are herein collectively referred to as "enforcing person(s)."

5.6 Remedies. The result of or condition caused by a violation of any of said limitations, restrictions, conditions or covenants is and shall be a nuisance, and every remedy in law or equity now or hereafter available against a public or private nuisance may be exercised by any enforcing person. Damages at law for any such breach are hereby declared to be inadequate.

5.7 Failure to Enforce and Waiver of Rights. The failure of any Owner or of Declarant to enforce any restrictions herein contained shall, in no event, be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restriction.

ARTICLE 6

RESERVATION OF EASEMENTS

6.1 Utility Easements. Declarant hereby reserves unto itself, its successors, and assigns, all easements for installation and maintenance of any utilities, roads and drainage facilities as shown on the Final Subdivision Map(s) identified on Exhibit "A".

6.2 Easements for Maintenance of Encroachments. None of the rights and obligations of the Owners created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause, including errors in engineering or original construction of improvements by Declarant on Common Areas, public easements or adjoining Lots. Each Lot and its Owner shall have valid easements for the maintenance of such encroachments over the Common Area or contiguous Lot upon which the encroachment exists so long as such encroachment exists and each such Owner shall reasonably cooperate with Declarant, the Association, if any, or another Owner to remedy such situation; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners. In the event a structure on a Lot is partially or totally destroyed and then rebuilt or repaired, the Owners of such Lots agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for maintenance of such encroachment so long as it shall exist. In the event that such Lot Owner shall cooperate with Declarant and/or the Board to remedy the encroachment, or such Owner, at Declarant's or the Board's request, shall grant Declarant or the Association an easement for such encroachment, as long as such encroachment easement does not unreasonably interfere with Owner's use of the Lot. In any such event, Declarant shall not be held responsible for any damages, consequential or otherwise, except to remedy the encroachment or to provide the legal descriptions and easement grant deeds necessary to grant the easement.

ARTICLE 7

EXTINGUISHMENT AND MODIFICATION

7.1 Term of Declaration. This Declaration, and every provision hereof, and every covenant, condition or restriction contained herein, shall continue in full force and effect until thirty (30) years from the date this Declaration is recorded in the Office of the County Recorder of San Diego County, California; provided, however, that this Declaration, or any provision hereof, may be terminated as to all of the Lots with the written consent of each of the Owners of the Lot; and, provided further, however, that so long as the Declarant and Acacia own any portion of the Property, no such termination shall be effective without the written approval of Declarant thereto. No such termination shall be effective until the proper instrument in writing has been approved by and executed, acknowledged and recorded in the Office of the County Recorder of San Diego County, California.

ARTICLE 8

TRANSFER OF DECLARANT'S RIGHTS

8.1 Successor Declarant. Declarant may assign, transfer or convey any or all of its rights, powers and reservations herein contained, by a written instrument (i) signed and acknowledged by Declarant, (ii) bearing, or to which is attached, the acknowledged written acceptance of such assignee, and (iii) filed for record in the Office of the County Recorder of San Diego County, California. Each such assignment shall effect a complete release of the assignor from all further liability which may arise in connection with said rights, powers or reservations which are assigned. The term "Declarant," as used herein, shall include all such assignees and their heirs, successors and assigns. Nothing contained in this Declaration shall be deemed to impose any duty or obligation upon Declarant to exercise any of its rights, powers or reservations.

C26

8.2 Rights of First Lenders. Notwithstanding anything in Section 7.1 above to the contrary, if any construction lender holding a lien secured by a first deed of trust on all or part of the Property ("First Lender") or such First Lender's nominee acquires title to all or part of the Property (the "Acquired Property") by foreclosure, deed-in-lieu or any other means relating to a lien held by such First Lender, the First Lender or its nominee shall have the option to become the Declarant hereunder with respect to the Acquired property by written declaration signed by such First Lender or its nominee.

ARTICLE 9

AMENDMENT

9.1 Amendment Requirements. This Declaration may be amended only by written instrument (or counterparts thereof) (i) signed and acknowledged by the Owners of at least seventy percent (70%) of the Lots, (ii) bearing, or to which is attached, the written consent of (a) the Mortgagees (as of the time of recording such amendment) of a majority of the Lots, (b) Declarant, as long as Declarant or Acacia own a Lot in the Property, (c) any First Lender, so long as such First Lender has a lien on all or any part of the Property, and (iii) filed for record in the Office of the Recorder of San Diego County, California. Notwithstanding any other provisions of this Declaration, at any time prior to the first anniversary of the first close of escrow for the sale of a Lot within the Property, Declarant may unilaterally amend this Declaration by recording a written instrument setting forth the terms of such amendment in the Official Records of San Diego County, provided such amendment does not materially affect the rights and obligations of Owners. Each amendment shall become effective upon such recording, provided the required consents have been obtained.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title, estate or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said property.

10.2 Rights of Lender. Any Owner of a Lot may encumber his land by deed of trust or mortgage. The beneficiary of any bona fide deed of trust or mortgage made in good faith and for value encumbering any portion of the Property is referred to in this paragraph as a "lender." A breach of any of the provisions of this Declaration shall not affect or impair the lien or charge of any bona fide deed of trust or mortgage made in good faith and for value encumbering any portion of the Property. A lender who acquires title by foreclosure or deed in lieu of foreclosure shall not be obligated to cure any breach of this Declaration which is non-curable or of a type which is not practical or feasible to cure but otherwise this Declaration shall be binding upon and effective against any Owner who acquires title by foreclosures, by Trustee's sale or otherwise. It is intended that any loan to facilitate the resale of any portion of the Property after foreclosure or deed in lieu of foreclosure is a loan made in good faith and for value.

10.3 Captions. Captions in this Declaration are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Declaration or any of the terms hereof.

10.4 Construction. This Declaration and every provision hereof shall be construed to facilitate the operation of the Property.

10.5 Exhibits. All exhibits referred to herein and attached hereto are a part hereof.

10.6 **Notices.** Notices required by this Declaration, or desired to be given shall be conclusively deemed served (i) if personally served, at the time of such service, (ii) if mailed, 72 hours after deposit thereof in the United States mail, postage prepaid, addressed to the person(s) to whom such notice is to be given at the last known address of such person(s).

10.7 **Severability.** If any limitation, restriction, condition, covenant or provision contained in this Declaration is held to be invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Declaration shall, nevertheless, be and remain in full force and effect.

10.8 **Extension of Declaration.** Each and all of these covenants, conditions and restrictions shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from the date on which this Declaration is executed and recorded. After that time, this Declaration shall be automatically extended for successive periods of ten (10) years, unless seventy-five percent (75%) or more of the Owners have executed and recorded an instrument revoking this Declaration at any time within the six (6) months immediately prior to the end of any such succeeding ten (10) year period.

10.9 **Litigation.** In the event Declarant or any Owner shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, the prevailing party in such litigation shall be entitled to reimbursement from the losing party of its costs of suit and all such attorneys' fees as the court may adjudge reasonable and proper. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorneys' fees. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover its costs or attorneys' fees.

10.10 **Number; Gender.** All words used herein in the singular number shall include the plural, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, whenever the context so requires.

10.11 **Cumulative Remedies.** Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of such remedy.

10.12 **Easements Reserved and Granted.** All easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in the original deed to any Lot.

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

10.14 **No Discriminatory Restrictions.** No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing, or occupancy of that Owner's Lot on the basis of race, sex, marital status, national ancestry, color, or religion.

10.15 **Mutuality, Reciprocity, Runs With Land.** All restrictions, conditions, covenants and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every part and Lot on the Property; shall create mutual, equitable servitude's and burdens upon each Lot in favor of every other Lot; shall create reciprocal rights and obligations between the respective Owners of all Lots and privity of contract and estate between all grantees of said Lots, their heirs, successors and assigns; and shall, as to the Owner of each Lot, his heirs, successors and assigns, operate as covenants running with the land, for the benefit of all other Lots.

10.16 Exemption and Rights of Declarant. Nothing in this Declaration shall limit the right of Declarant to complete construction of improvements on the Property or to alter the foregoing, or to construct such additional improvements as Declarant deems advisable prior to the completion and the sale by Declarant, of all of the Lots in the Property. Such rights shall include, but shall not be limited to, erecting, constructing, and maintaining on any portion of the Property owned by Declarant, such structures and displays as may be reasonably necessary for the conduct of its business of completing the work and disposing of Lots in the Property by sale, lease, or otherwise. Declarant specifically reserves the right to use any unsold Lots on the Property for model and sales offices for marketing in connection with the Property and further reserves the right to rent any unsold Residences. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title to a Lot by a purchaser from Declarant to establish on a Lot additional easements, reservations, and rights-of-way for itself, utility companies, or others as may from time to time be reasonably necessary for the proper development and disposal of the Property. Declarant reserves the right to alter its construction plans and designs as it deems appropriate. The rights of Declarant hereunder may be assigned by Declarant in whole or in part, to any successor to all or part of Declarant's interest in the Property. Any such assignment must be in writing and recorded.

10.17 Right to Cure Alleged Defects. It is Declarant's intent that each Lot and all Improvements constructed on the Property be built in compliance with all applicable building codes and ordinances and that they be of a quality that is consistent with good construction and development practices for production housing of this type. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and Declarant's responsibility therefor. It is Declarant's intent to resolve all disputes and claims regarding "Alleged Defects" (as defined below) amicably, and without the necessity of time consuming and costly litigation. Accordingly, all Owners shall be bound by the following claim resolution procedure:

10.17.1 Right to Cure. In the event that any Owner or Owners (collectively, "Claimant") claim, contend or allege that any portion of Claimant's Lot and/or any Improvements constructed thereon are defective or that Declarant, its agents, consultants, contractors or subcontractors (collectively, "Agents") were negligent or otherwise responsible for a defect in the planning, design, engineering, grading, construction or other development thereof (collectively, an "Alleged Defect"), Declarant hereby reserves the right for itself and any successor or assign to inspect, repair and/or replace such Alleged Defect as set forth herein.

10.17.2 Notice. In the event that a Claimant discovers any Alleged Defect, Claimant shall, within a reasonable time after discovery, notify Declarant, in writing, within fifteen (15) days of discovery of the Alleged Defect, of the specific nature of such Alleged Defect ("Notice of Alleged Defect").

10.17.3 Right to Enter, Inspect, Repair, and/or Replace. Within a reasonable time after the receipt by Declarant of a Notice of Alleged Defect or the independent discovery of any Alleged Defect by Declarant, as part of Declarant's reservation of right, Declarant shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, any Lot, including any Residence constructed thereon, and/or any Improvements for the purposes of inspecting and, if deemed necessary by Declarant, repairing and/or replacing such Alleged Defect. In conducting such inspection, repairs and/or replacement, Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

10.17.4 Legal Actions. In the event a Claimant initiates any legal action, cause of action, proceeding, reference or arbitration against Declarant alleging damages (1) for the costs of repairing or the replacement of any Alleged Defect, (2) for the diminution in value of any real or personal property resulting from such Alleged Defect, or (3) for any consequential damages resulting from such Alleged Defect, any judgment or award in connection therewith shall first be used to correct and or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect.

10.17.5 No additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section shall be construed to impose any obligation on Declarant to inspect, repair or replace any item or Alleged Defect for which Declarant is not otherwise obligated to do under applicable law or any limited warranty which may have been provided by Declarant in connection with the sale of the Lots and/or the Improvements constructed thereon. The right of Declarant to enter, inspect, repair, and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and recorded by Declarant in the Official Records of San Diego County.

10.18 Alternate Dispute Resolution. Each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to consider that any and all controversies between such Owner and Declarant arising out of such Owner's acquisition of a Lot in the Neighborhood be heard by a reference pursuant to the provisions of the California Code of Civil Procedure, Sections 638-645, inclusive. This covenant runs with the land and is for the mutual benefit of Declarant and each Owner and shall be binding upon the successors and assigns of all Owners and Declarant.

IN WITNESS WHEREOF, this Declaration has been executed as of the date first above written.

DECLARANT:

K. Hovnanian at Carmel Del Mar, Inc.
a California corporation

By: 

R. J. Van Daele
Vice President

ACACIA:

ACACIA CREDIT FUND III LIMITED
PARTNERSHIP,
a Delaware limited partnership

By: AHF Credit Company L.P.,
a Delaware limited partnership
Its General Partner

By: AHF Credit Corporation, an
Arizona corporation
Its General Partner

By: 

Rick Malouf
Vice President

EXHIBIT "A"

DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

LOTS 1 THROUGH 39 OF CARMEL DEL MAR NEIGHBORHOOD 4 UNIT 15, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 13173, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 9, 1994.

PARCEL B:

LOTS 1 THROUGH 39 OF CARMEL DEL MAR NEIGHBORHOOD 4 UNIT 16, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 13174, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 9, 1994.

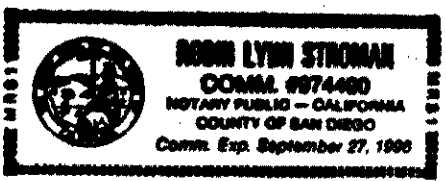
State of California
County of San Diego

On June 29, 1995 before me Robin Lynn Stroman
(DATE) (NAME/TITLE OF OFFICER, I.E. "JANE DOE, NOTARY PUBLIC")
personally appeared R. J. Van Daele
(NAME(S) OF SIGNER(S))

RIGHT THUMBPRINT (Optional)
TOP OF THUMB HERE

CAPACITY CLAIMED BY SIGNER(S)
 INDIVIDUAL(S)
 CORPORATE
OFFICER(S) Vice President
(TITLE(S))
 PARTNER(S) LIMITED
 GENERAL
 ATTORNEY IN FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: _____

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



SIGNER IS REPRESENTING:
(Name of Person(s) or Entity(ies))
K. Horvath at Camel Del Mar, etc

RIGHT THUMBPRINT (Optional)
TOP OF THUMB HERE

CAPACITY CLAIMED BY SIGNER(S)
 INDIVIDUAL(S)
 CORPORATE
OFFICER(S) _____
(TITLE(S))
 PARTNER(S) LIMITED
 GENERAL
 ATTORNEY IN FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: _____

Witness my hand and official seal.

Robin Lynn Stroman
(SIGNATURE OF NOTARY)

(SEAL)

ATTENTION NOTARY

The information requested below and in the column to the right is OPTIONAL. Recording of this document is not required by law and is also optional. It could, however, prevent fraudulent attachment of this certificate to any unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:
Title or Type of Document Declaration of Covenants, Conditions and Restrictions
Number of Pages 17 Date of Document 6/29/95
Signer(s) Other Than Named Above Rick Malouf

SIGNER IS REPRESENTING:
(Name of Person(s) or Entity(ies))



