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4355 Ruffin Road
San Diego, Calif. 92123
ATTN: M. ROLAND



1984 JUN 1 AM 8:00



DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, made this 10th day of May, 1984 by R. L. CALIFORNIA SOUTH INC. hereinafter called "Declarant".

This Declaration is made with reference to the following:

RECITALS:

A. Declarant is the owner of the real property in the City of San Diego, County of San Diego, California, more particularly described in Article I, Section 3 hereof, hereinafter called the "Condominium Property".

B. Declarant has or will hereafter file a Condominium Plan with the Office of the County Recorder of San Diego County, California, covering the entirety of the Condominium Property.

C. Declarant has or intends to improve the Condominium Property by constructing thereon 9 condominium units and intends to establish a condominium project under the provisions of the California Condominium Act providing for separate title to Living Units (as hereinafter defined) appurtenant to which will be an undivided 1/9th fractional interest in the Condominium Property other than the Living Units.

D. The Owners of Condominiums will receive title to the Living Unit plus an undivided 1/9th fractional interest as tenant in common in the Common Area (as hereinafter defined) of Lots 1, 2, and 3, Block 15 of CENTER ADDITION TO THE LA JOLLA PARK. Each Condominium shall have appurtenant to it a Class A membership in VILLA ITALIA OWNERS ASSOCIATION, a non-profit mutual benefit California corporation ("Association"), which will be the management body for the overall condominium project.

E. Before selling or conveying any interests in the Condominium Property Declarant desires to subject the Condominium Property in accordance with a common plan to certain covenants, conditions and restrictions for the benefit of Declarant and any and all present and future owners of the Condominium Property.

NOW, THEREFORE, Declarant hereby certifies and declares and does hereby establish the following general plan for the protection and benefit of all of the real property described above and has fixed and does hereby fix the following protective covenants, conditions and restrictions upon each and every ownership interest in the Condominium Property described above, under which said covenants, conditions and restrictions each ownership interest in the

Condominium Property shall be hereafter held, used, occupied, leased, sold, encumbered, conveyed, and/or transferred. Each and all of said covenants, conditions and restrictions are for the purpose of protecting the value and desirability of and shall inure to the benefit of all of the real property described above and shall run with and be binding upon and pass with the Condominium Property and each and every ownership interest therein and shall inure to the benefit of, apply to, and bind the respective successors in title or interest of Declarant.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to VILLA ITALIA OWNERS ASSOCIATION, a California non profit mutual benefit Corporation and it's successors and assigns.

Section 2. "Board" shall mean and refer to the Board of Directors of the Association.

Section 3. "Condominium Property" shall mean and refer to that certain real property located in the County of San Diego, California, described as follows:

Lots 1, 2, and 3, Block 15 of CENTER ADDITION TO
THE LA-JOLLA PARK, in the City of San Diego, County
of San Diego, State of California, according to Map
thereof No. 915, filed in the Office of the County
Recorder of San Diego County, August 4, 1904.

Section 4. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of fee simple title to any Condominium which is a part of the Condominium Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Condominium Plan" shall mean and refer to the Condominium Plan recorded pursuant to California Civil Code Section 1351 covering the Condominium Property, including such amendments thereto as may from time to time be recorded.

Section 6. "Condominium" shall mean and refer to a fee simple estate in the Condominium Property as defined in Section 783 of the California Civil Code and shall consist of a separate interest in a Living Unit and an undivided fractional interest as tenant in common in the Common Area.

Section 7. "Living Unit" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan; provided, however, that the following are not part of any Living Unit: bearing walls, columns, floors, roofs, foundations, central heating, central refrigeration and central air conditioning equipment, reservoir tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Living Unit.

Section 8. "Patio" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan.

Section 9. "Common Area" shall mean and refer to all portions of the Condominium Property not located within a Living Unit.

Section 10. "Exclusive Use Area" 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 Assigned Parking Spaces, Balconies, Patios, and Assigned Storage Areas.

Section 11. "Declarant" shall mean and refer to R. L. CALIFORNIA SOUTH INC., along with its successors and assigns.

Section 12. "Mortgage" shall mean and refer to a Deed of Trust as well as a mortgage.

Section 13. "Mortgagee" shall mean and refer to a beneficiary under or holder of a Deed of Trust as well as a mortgagee.

Section 14. "Bylaws" shall mean and refer to the Bylaws of the Association as they may from time to time be amended.

Section 15. "Articles" shall mean and refer to the Articles of Incorporation of the Association as they may from time to time be amended.

Section 16. "Boundaries" In interpreting deeds and plans, the then existing physical boundaries of a Living Unit or Exclusive Use Area, whether in its original state or reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed, and those of the building.

Section 17. "Member" shall mean and refer to an Owner as defined in Section 4 herein.

Section 18. "Project" shall mean and refer to the entire Condominium property above described, including all structures and improvements erected or to be erected thereon.

Section 19. "Declaration" shall mean and refer to this enabling Declaration of Restrictions.

Section 20. "Map" shall mean and refer to Map No. 915 filed in the Office of the County Recorder of San Diego, California, on August 4, 1904.

Section 21. "Common Expense" means and includes the actual and estimated expenses for operating the Condominium Property and reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the Condominium Documents.

Section 22. "Condominium Building" shall mean a residential structure containing condominium Living Units.

Section 23. "Condominium Documents" means and includes the Declaration as it may be amended from time to time, the exhibits, if any, attached thereto, the Articles, the Bylaws, and the rules and regulations for the members as established from time to time by the Board and the Condominium Plan.

Section 24. "Mortgagor" shall mean and refer to the trustor of the Deed of Trust as well as the mortgagor.

Section 25. "Assigned Parking Space" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan.

Section 26. "Governing Documents" shall mean and refer collectively to this Declaration, the Bylaws, and the Articles.

Section 27. "Eligible Mortgage Holder" shall mean and refer to the holder of the first mortgage on a Condominium who has requested notice of certain matters by submitting a written request to the Association wherein he indicates the name and address of the holder and the Living Unit number or address of the subject Condominium.

Section 28. "Eligible Insurer or Guarantor" shall mean and refer to an insurer or governmental guarantor of a first mortgage on a Condominium who has requested notice of certain matters by submitting a written request to the Association wherein he indicates the name and address of the insurer or guarantor and the Living Unit number or address of the subject Condominium.

Section 29. "Storage Area" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan.

Section 30. "Balcony" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Every Owner of a Condominium shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Condominium. Each Owner is obligated promptly, fully and faithfully to comply with and conform to the Articles and Bylaws and the rules and regulations adopted thereunder from time to time by the Board and officers of the Association.

Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the Condominium to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such Condominium. Any attempt to make a prohibited transfer is void. In the event the owner of any Condominium should fail or refuse to transfer the membership registered in his name to the purchaser of his Living Unit, the Association shall have the right to record the transfer upon its book and thereupon the old membership outstanding in the name of the seller shall be null and void.

The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners of a Condominium with the exception of Declarant, and shall be entitled to one (1) vote for each Condominium owned. When more than one person holds an interest in any Condominium, all such persons shall be members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium.

Class B. The Class B member (s) shall be the Declarant and shall be entitled to three (3) votes for each Condominium owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) Two (2) years following the date of the original issuance by the California Department of Real Estate of the Final Subdivision Public Report.

Section 2. Except as otherwise provided in Article XIII, Section 7 of this Declaration, any provision calling for membership approval of action to be taken by the Association shall require the assent of the prescribed percentage of each class of members of the Association existing at the time of such action. If the proposed action is favored by a majority of the votes cast at a membership meeting, but such vote is less than the requisite prescribed percentage of each class of members, the written approval of members (resulting in the prescribed percentage) who were not present in person or by proxy must give their assent in writing prior to such action being approved.

Section 3. Except as otherwise provided herein, the Association acting through the Board and Officers shall have the sole and exclusive right and duty to manage, operate, control, replace, or restore all of the Common Area or any portion thereof, together with the improvements, trees, shrubbery, plants, and grass thereon, all as more fully set forth in this Declaration of Restrictions, the Articles and the Bylaws.

Section 4. The Board shall have the right to adopt reasonable rules not inconsistent with the provisions contained in this Declaration, and to amend the same from time to time relating to the use of the Common Area and the recreational and other facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to automobile parking, outside storage of boats, trailers, bicycles, and other objects, disposal of waste materials, drying of laundry, control of pets, and other activities which, if not so regulated, might detract from the appearance of the community or offend or cause inconvenience or danger to persons residing or visiting therein. Such rules may provide that the Owner of a Condominium whose occupant leaves property on the Common Area in violation of the rules may be financially penalized after appropriate notice and an opportunity for a hearing before the Board as delineated below and a two-thirds (2/3) vote of approval by the Board to cover the expense incurred by the Association in removing such property and storing or disposing thereof. Said penalty cannot become a lien

enforceable by a sale of the Condominium pursuant to Sections 2924, 2924(b), and 2924(c) of the California Civil Code. The Board may suspend the voting rights and the right to use the recreational facilities located on the Common Area of a member who is in default in the payment of any assessment for any period during which the assessment remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations. Prior to any decision to find an alleged violation to have occurred, and prior to any decision to impose a penalty, the alleged violator shall be given reasonable written notice and an opportunity for a hearing before the Board which satisfy the minimum requirements of Section 7341 of the California Corporation Code as provided for in the Bylaws.

Section 5. In discharging their duties and responsibilities, the Board acts on behalf of and as representative of the Association which acts on behalf of and as representative of the Owners, and no member thereof shall be individually or personally liable or obligated for the performance or failure of performance of such duties or responsibilities unless he fails to act in good faith.

ARTICLE III

COVENANT FOR MAINTENANCE TO ASSOCIATION

Section 1. The Declarant, for each Condominium owned within the project, hereby covenants, and each Owner of any Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) regular assessments, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The regular assessments shall be for the purpose of and must contain provisions for the operating, maintaining, and repairing the Common Area, paying the necessary expenditures of the Association as provided in the Bylaws and this Declaration, and establishing an operating reserve fund for maintenance, repairs, and replacement of those common elements that must be replaced on a periodic basis. The regular and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such assessment is made, the lien to become effective upon recordation of a notice of assessment. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's bona fide and for value successors in title unless expressly assumed by them. No Owner of a Condominium may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Condominium.

Section 2. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of all of the residents in the entire project and for the improvement and maintenance of the Common Area for the common good of the project.

Section 3. Until January 1st of the year immediately following conveyance of the first condominium to an owner, the maximum annual regular assessment shall

be \$ _____ per condominium. From and after January 1st of the year immediately following the conveyance of the first Condominium to an owner, the maximum annual regular assessment may be increased more than twenty percent (20%) above the maximum annual regular assessment for the previous year by the vote or written assent of a majority or more of each class of members of the Association; provided, however, that following the conversion of the Class B membership to Class A membership, the maximum annual regular assessment may be increased more than twenty percent (20%) above the maximum annual regular assessment for the previous year by the vote or written assent of (1) fifty-one percent (51%) of the total voting power of the Association, and (2) fifty-one percent (51%) of the total voting power of the members other than the Declarant.

Section 4. In addition to the annual regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year shall have the vote or written assent of a majority or more of each class of members of the Association; provided, however, that following the conversion of the Class B membership to Class A membership, any such excess assessment shall have the vote or written assent of (i) fifty-one percent (51%) of the total voting power of the Association and (ii) fifty-one percent (51%) of the total voting power of the members other than the Declarant. The Association may also levy a special assessment against any member to reimburse the Association for cost incurred in bringing the member and its Condominium into compliance with the provisions of the Condominium documents, which special assessment may be levied upon the vote of the Board after notice and an opportunity for a hearing which satisfy the requirements of Section 7341 of the California Corporations Code as provided for in the Bylaws.

Section 5. Any action authorized under Sections 3 or 4 above shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than ninety (90) days in advance of the meeting. A quorum for such meeting shall be fifty-one percent (51%) of members of the Association. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum for the preceeding meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%), members who were not present in person or by proxy may give their assent in writing; provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 6. Except as otherwise provided herein, both regular assessments and special assessments shall be fixed at a uniform rate for all Condominiums and may be collected on a monthly basis or otherwise as determined by the Board. A special assessment against members to raise funds for the rebuilding or major repair of a portion of the structural Common Area shall be levied upon the basis of the ratio of the square footage of the floor area of the Living Unit to the Condominium to be assessed to the total square footage of the

aggregate floor area of Living Units in all Condominiums to be assessed. A special assessment against a member to reimburse the Association for costs incurred in bringing the member and his Condominium into compliance with the provisions of the Condominium documents shall be assessed only against that member and his Condominium. Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest at the rate of twenty percent (20%) per annum, from the due date until paid.

Section 7. The regular assessments provided for herein shall commence as to all Condominiums covered by this Declaration on the first day of the month following the conveyance of the first Condominium to an individual Owner. The Board shall determine and fix the amount of the annual regular assessment against each Condominium at least thirty (30) days in advance of each annual assessment. Written notice of the the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Condominium have been paid. A properly executed certificate of the Association as to the status of assessments on a Condominium is binding upon the Association as of the date of its issuance.

Section 8. At any time after any assessments levied by the Association (except those levied pursuant to Article II, Section 4, herein) affecting any Condominium have become delinquent, the Board may file for recording in the Office of the San Diego County Recorder a notice of delinquency as to such Condominium, which notice shall state all amounts which have become delinquent with respect to such Condominium and the costs (including attorney's fees) and interest which have accrued thereon, the amount of any assessments relating to such Condominium which are due and payable although not delinquent, a description of the Condominium with respect to which the delinquent assessments are owed, and the name of the record or reputed record Owner of such Condominium. Such notice shall be signed by the President or Vice President and Secretary or Assistant Secretary of the Association. In the event the delinquent assessments and all other assessments which have become due and payable with respect to the same Condominium together with all costs (including attorney's fees) and interest which have accrued on such amounts are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien. Immediately upon recording of any notice of delinquency pursuant to the foregoing provisions of this section, the amounts delinquent, as set forth in such notice, together with the costs (including attorney's fees) and interest accruing thereon, shall become a lien upon the Condominium described therein, which lien also shall secure all other payments and/or assessments which shall become due and payable with respect to said Condominium following such recording, and all costs (including attorney's fees) and interest accruing thereon. Said lien shall continue for a period of one (1) year unless extended for a period of an additional year by the recording of a written extension by the Association. When a notice of assessment has been recorded, such assessment shall constitute a lien on each respective Condominium prior and superior to all other liens, except (i) all taxes, bonds, assessments, and other levies which by law, would be superior thereto, and (ii) the lien or charge of any first mortgage of record.

Section 9. Each assessment lien may be foreclosed as and in the same manner

as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to Sections 2924, 2924(b), 2924(c), and 1356 of the California Civil Code, and to that end a power of sale is hereby conferred upon the Association. The Association, acting on behalf of the Condominium Owners, shall have the power to bid for the Condominium at a foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Suit to recover a money judgment for unpaid assessments, rent, and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 10. The lien provided for herein shall be subordinate to the lien of any first mortgage made in good faith and for value upon any Condominium. Sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first mortgage made in good faith and for value shall extinguish the lien of such assessments as to payments which became due prior to sale or transfer. No sale or transfer shall relieve such Condominium from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first mortgage of record obtains title to the same as a result of foreclosure, such acquirer of title, 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 acquisitions of title to such Condominium by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectable from all of the Condominiums excluding such acquirer, his successors, and assigns.

Section 11. Upon acquisition of record title to a condominium from Declarant, each owner shall contribute to the capital of the Association an amount equal to one-twelfth (1/12th) the amount of the then annual assessment as determined by the Board. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed from the escrow to the Association. Prior to the expiration of two (2) months after close of the first sales escrow of a condominium by Declarant as seller, the Declarant shall deposit into an escrow an amount equal to one-twelfth (1/12th) of the then annual assessment for any and all units not yet sold. Escrow shall remit these funds to the Association. Upon the close of escrow if any unit for which the capitalization fund was prepaid by Declarant, escrow shall remit the capitalization fee collected from the buyer to the Declarant. Said capital contribution shall be limited to the first sales of Condominiums by Declarant and shall not apply to any resale of the Condominiums.

Section 12. In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than against individual Condominiums, said taxes shall be added to the annual assessments and, if necessary, a special assessment may be levied against the Condominiums in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE IV

USE OF LIVING UNITS, AND COMMON AREA AS DESCRIBED IN CONDOMINIUM PLAN

Section 1. Each Living Unit shall be improved, used, and occupied for

residential purposes only, and no portion thereof nor of the Common Area shall be used for any commercial purpose whatsoever; provided, however, Declarant may use any of the Living Units owned by Declarant as model homes and sales offices during that period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums are sold and conveyed by Declarant to separate owners thereof, or five (5) years from the date of sale of the first Condominium in the project, whichever shall first occur.

Section 2. Each Owner shall have the right to lease his Living Unit together with its appurtenant exclusive use areas provided that such lease is in writing and provides that tenant shall be bound by and obligated to the provisions of this Declaration, the Bylaws, and the rules and regulations of the Board; provided, however, no Owner shall be permitted to lease his Condominium for transient or hotel purposes. Any such 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. No Owner may lease less than his entire Living Unit.

Section 3. No Living Unit, Exclusive Use Areas, or improvements situated therein shall be occupied or used for any purpose or in any manner which shall cause improvements to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Policy form, or cause any such policy or policies representing such insurance to be cancelled or suspended, or the company issuing the same to refuse renewal thereof.

Section 4. Not exceeding one (1) usual and ordinary household pets (exclusive of caged birds) may be kept in any Living Unit without the prior written consent of the Board. Pets shall not be allowed on the Common Area except as may be permitted by the rules made by the Board. Except as provided hereinabove, no animals, livestock, birds, or poultry shall be brought within the Condominium Property or kept in any Living Unit, or on any portion of the Common Area.

Section 5. No Living Unit nor exclusive use area shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of such other areas or annoy them by unreasonable noise or otherwise, nor shall any nuisance be committed or permitted to occur in any Living Unit nor on the Common Area.

Section 6. No signs other than one (1) sign of customary and reasonable dimensions advertising a Condominium for sale or lease shall be erected or displayed in any Living Unit so that it is visible from without such area without the prior written permission of the Board, and all signs must conform with applicable governmental ordinances. No signs shall be erected or displayed on the Common Area except signs placed by authority of the Board. Anything contained in this Declaration to the contrary notwithstanding, Declarant shall have the right to install and maintain during the sales period set forth in Section 1 above such signs, poles, and advertisements as it deems appropriate in connection with its sales program for the sale to the public of Condominiums. Declarant in exercising his rights hereunder will not unreasonably interfere with the use of the Common Area by any purchaser.

Section 7. There shall be no outside television or radio antennae, poles,

or flag poles constructed, installed, or maintained on the Condominium Property for any purpose whatsoever without the prior written consent of the Board.

Section 8. Except as otherwise specifically provided herein, nothing herein contained shall give the Owner the right to paint, decorate, remodel, landscape, or adorn any part or parcel of the Common Area without the written consent of the Board.

Section 9. No noxious or offensive activity shall be carried on in any Living Unit, or on the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners other than the construction or repair of improvements made at the Board's instruction or at Declarant's instruction. Nothing shall be done in any Living Unit, or in, on, or to the Common Area which will impair the structural integrity of any building, or which would structurally change any building located therein. Except as otherwise provided herein, nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Board or an architectural committee appointed by the Board. All equipment, garbage cans, wood piles or storage piles shall be kept screened and concealed from the view of neighboring Living Units, streets, and Common Area. All rubbish, trash, or garbage shall be regularly removed from each Living Unit and shall not be allowed to accumulate thereon or on the adjacent Common Area. No fences, hedges, or walls shall be erected or maintained upon the Condominium Property except such as are installed in accordance with the initial construction of the buildings located on the Condominium Property or as provided by the Board. No exterior clothes lines shall be erected or maintained, and there shall be no outside drying or laundering of clothes on the Common Area.

Section 10. Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

(i) affording vehicular passage and pedestrian movement within the Condominium Property, including access to Living Units;

(ii) recreational use by the Owners and occupants of the Living Units in the Condominium Property and their guests, subject to rules established by the Board;

(iii) beautification of the Common Area and providing privacy to the residents of the Condominium Property through landscaping and such other means as the Board shall deem appropriate;

(iv) parking of automotive passenger vehicles in areas provided therefor as may be designated and approved by the Board by such persons, upon such terms and conditions and for such fees as may time to time be determined by the Board;

(v) as Exclusive Use Areas to be used in the manner hereinafter described. Nothing herein contained shall be deemed to allow persons other than the Owner of a Living Unit to which an Exclusive Use Area is appurtenant (or his tenants and licensees) to enjoy the use thereof.

No part of the Common area shall be obstructed so as to interfere with its use for the purposes hereinabove permitted, nor shall any part of the non-exclusive

use Common Area be used for storage purposes (except as incidental to one of such permitted uses, or for storage of maintenance equipment used exclusively to maintain the Common Area), nor in any manner which shall increase the rate of which insurance loss by fire, or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or bodily injury, or property damage liability insurance covering the Common Area and improvements situated thereon may be obtained, or cause such premises to be uninsurable against such risks or any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse renewal thereof.

Section 11. Except as otherwise provided herein, no Owner shall make any alteration or improvement to the Common Area or remove any planting, structure, furnishing, or other object therefrom except with the prior written consent of the Board.

Section 12. Each Owner shall be legally liable to the Association for all damages to the Common Area or to any improvements thereto or thereof, including but not limited to the buildings, recreation facilities, and landscaping caused by such Owner, his licensee(s), or any occupant of such Owner's Living Unit as such liability may be determined under California law.

Section 13. Each Owner shall have the right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile, and finish the interior surfaces of the ceilings, floors, window frames, door frames, tile, perimeter walls of the Living Unit and the surfaces of the bearing walls and partitions located within the Living Unit. Said Owners shall have the right to substitute new finished surfaces in place of those existing on said ceiling, floors, walls, and interior doors of said Living Unit.

Section 14. Each Exclusive Use Area shall be (i) appurtenant to the Condominium and Living Unit as set forth on the Condominium Plan, and (ii) used only for the purposes set forth in this Declaration. The right to so use an Exclusive Use Area shall be exercisable only by the Owner(s) of the Condominium appurtenant thereto and/or said Owner's tenants and licensee(s). Conveyance of a Condominium shall effect conveyance of Exclusive Use Areas appurtenant thereto and transfer of all rights thereto to the vested Owner of the Condominium. Any license(s) thereto shall be terminated upon such conveyance. No Exclusive Use Area or any rights thereto (other than said revokable licenses) shall be transferred or conveyed apart from conveyance of the Condominium to which it is appurtenant. Each Exclusive Use Area shall be deemed to be Common Area for all those purposes set forth in this Declaration which are not inconsistent with this Article IV or Article V.

Section 15. Each Owner shall have the following rights with regard to the areas shown on the Condominium Plan which he has the exclusive right to use.

(i) To place furniture and plants upon the appurtenant Patio (if any) or Balcony (if any) in a manner which does not unreasonably interfere with the enjoyment of adjacent Living Units and Exclusive Use Area.

(ii) To park one (1) automotive vehicle in the appurtenant Assigned Parking Space(s). Recreation Vehicles shall not be parked in the Common Area.

(iii) To store non-combustible items in the appurtenant Assigned Storage

Area. To door to each Assigned Storage Area shall remain closed except upon accessing items therein.

Except as provided in this Section 15 and Section 13, nothing contained herein shall give any Owner the right to paint, decorate, remodel, or alter said Exclusive Use Area without the prior written consent of the Board.

Section 16. No power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the Condominium Property except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

Section 17. Anything contained in this Declaration to the contrary notwithstanding, no building, fence, wall, or other structure or improvement shall be commenced, erected, placed or altered upon the Common Area until the location and the complete plans and specifications showing the nature, kind, shape, height, and materials, including the color scheme, have been submitted to and approved in writing as to harmony of external design, color, and location to surrounding structures and topography by the Board or by an architectural committee composed of three (3) or more, but not to exceed five (5) representatives appointed by the Board from the membership of the Association. The grade, level, or drainage characteristics of the Condominium Property or any portion thereof shall not be altered without prior consent of the Board or its designated committee. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The provisions of this Section 17 shall not apply to the initial construction by Declarant of dwellings or other improvements on the Condominium Property, and neither the Board nor any committee appointed by the Board shall have any authority or right to approve or disapprove thereof.

Section 18. Each owner shall have the right to bring suit against the Association or any other owner for failure to comply with the provisions of this Declaration, the Articles, the Bylaws, or with the decisions of the Association which are made pursuant to authority granted the Association by these documents.

ARTICLE V

RESPONSIBILITIES OF MAINTENANCE

Section 1. Owner Maintenance of Living Unit. Each owner of a Condominium shall be responsible for the maintenance and repair of the glass doors and windows enclosing his Living Unit and the interior of his Living Unit and all appliances whether "built-in" or freestanding within the Living Unit, the interior surfaces of the Living Unit and shall also be responsible for the maintenance and repair of the plumbing, electrical and heating systems servicing his Living Unit and located within the outside perimeter of the exterior bearing walls thereof, including television cable equipment and connections and all appliances and equipment located in said Living Unit. Each

Owner shall be responsible for the maintenance and repair of the Patio (if any) or Balcony (if any) which he has the exclusive right to use, and shall make such repairs as the Board deems necessary to preserve the attractive appearance and protect the value thereof. Each Owner shall be responsible for the maintenance of the interior of his Assigned Storage Area.

Section 2. Owner's Grant of Easements. Each Owner hereby grants easements to other Owners to enter into each Condominium and to have utility companies enter into Condominiums to repair the plumbing, heating, and electrical systems located thereon, subject to the following limitations. Entry into a Living Unit for emergency purposes may be immediate; provided, however, such entry shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party. Entry into a Living Unit for other than emergency repairs shall be made only after three (3) days notice has been given to the Owner and shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party.

Section 3. Association Maintenance of Common Area. Except as otherwise provided herein, the Association acting through the Board and its officers shall have the sole and exclusive right and duty to manage, operate, control, repair, replace or restore all of the Common Area or any portion thereof, together with the improvements, trees, shrubbery, plants and grass thereon, all as more fully set forth in this Declaration of Restriction, the Articles and the Bylaws. The Association shall maintain and repair all parking areas which are Exclusive Use areas.

Section 4. Association Right of entry. For the purpose of performing the maintenance of the Common Area or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association agents or employees shall have the right to enter any Living Unit or upon any portion of the Common Area to effect emergency repairs. For other than emergency repairs, the Association's agents or employees shall have the right to enter any Living Unit or any portion of the Common Area to effect repairs, improvements, replacements or maintenance which the Association, after approval by two-thirds (2/3) vote of the Board, reasonably deems necessary. Such entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by the Association. Further, such entry for other than emergency repairs shall be made only after not less than three (3) days notice has been given to Owner, and such entry shall be made between 8:00 a.m. and 5:30 p.m. on a weekday.

ARTICLE VI

PARTITION PROHIBITED

Section 1. Separation of Interest. No Owner may sell, assign, lease or convey (i) his interest in the Common Area separate and apart from his Living Unit nor (ii) his interest in any exclusive Use Area separate and apart from his interest in Common Area and his Living Unit.

Section 2. Prohibition of Partition. Each of the Owners of a Condominium, whether such ownership is in fee simple or as a tenant in-common, is hereby prohibited from partitioning or in any other way severing or separating such

ownership from any of the other ownerships in the Condominium Property, except upon the showing that: (i) more than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part thereof was unfit for its use and the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or (ii) that three-fourths (3/4) or more of the Project has been destroyed or substantially damaged, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project, or (iii) that the Project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; provided, however, that if any Condominium shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing herein shall be deemed to prevent a judicial partition as between such cotenants, and no Condominium may be partitioned or subdivided without the prior written approval of the Mortgagee holding the first Mortgage on that Condominium.

ARTICLE VII

POWER OF ATTORNEY

The Association is hereby granted an irrevocable power of attorney to sell the Condominium Property for the benefit of all the Owners thereof when partition of the Owner's interest in the Condominium Property may be had pursuant to Article VI above. The power of attorney herein granted may be exercised upon the vote or written consent of Owners holding in the aggregate at least two-thirds (2/3) of the interest in the Common Area by any two (2) members of the Board who are hereby authorized to record a certificate of exercise in the Office of the County Recorder, San Diego County, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith, provided, however, that said power of attorney shall not apply to the Administrator of Veterans Affairs, an Officer of the United States of America.

ARTICLE VIII

SPECIAL RESTRICTIONS

When professional management has been previously required by any Eligible Mortgage Holder or Eligible Insurer or Guarantor, whether such entity became an Eligible Mortgage Holder or Eligible Insurer or Guarantor at that time or later, any decision to establish self management by the Association shall require the prior consent of Owners to which at least sixty-seven percent (67%) of the votes of each class of the Association are allocated and the approval of Eligible Holders holding mortgages on condominiums which have at least fifty-one (51%) percent of the votes of condominiums subject to Eligible Holder Mortgages.

ARTICLE IX

DESTRUCTION OF COMMON AREA OR LIVING UNITS

Section 1. Casualty Destruction of Common Area. If any portion of the Common Area is damaged or destroyed by fire or other casualty then:

(a) If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, the Board shall contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefor. Any action to rebuild to a plan that is not substantially the same as the original plans must have the approval by Eligible Mortgage Holders holding mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Mortgages.

(b) If the cost of repairing or rebuilding exceeds the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, and if the owners holding in aggregate more than fifty percent (50%) interest in the Common Area agree to the repair or restoration of the project, then the Board shall contract as provided in (a) above.

(c) If the owners do not so agree to the repair or rebuilding of the Common Area as provided in (b) above, then each owner (and his mortgagee(s)) as their respective interests shall then appear shall be entitled to receive that portion of the insurance proceeds equal to the proportion of the decrease in fair market value of his Condominium as compared to the aggregate decrease in the fair market values of all the Condominiums caused by such damage or destruction. For purposes hereof, fair market value shall be determined by a Member of the American Institute of Real Estate Appraisers selected by the Board and hired by and at the expense of the Association. Should dispute arise as to the distribution of insurance proceeds, the dispute shall be decided by arbitration by the American Arbitration Association pursuant to its Commercial Rules of Arbitration.

(d) If a bid to repair or rebuild is accepted, the Board shall levy a special assessment against each Condominium pursuant to Section 6 of Article III of this Declaration for purposes of raising funds for the rebuilding or major repair of a portion of the structural Common Area, to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of mortgagees shall be paid to the account of the Association to be used for such rebuilding.

Section 2. Taking of Common Area. If any portion of the Common Area is taken by condemnation, eminent domain or any proceeding in lieu thereof, and the award therefor is not apportioned among the owners and their mortgagees as their respective interests then appear by court judgment or by agreement between the condemning authority and each of the affected owners, then the owners of the Common Area, and their mortgagees as their respective interest then appear, shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds will be distributed pursuant to subsection (c) of Section 1 above, provided, however, that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in Section 1 of this Article IX for repairing damaged or destroyed

portions of the Common Area. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in Section 1 of this Article IX for determining whether to rebuild or repair following damage or destruction.

Section 3. Casualty Destruction of Living Unit. In the event of damage or destruction to any Living Unit, the Owner thereof shall reconstruct the same as soon as reasonably practicable and substantially in accord with the original plans and specifications therefor; provided, however, that any such Owner may, with the written consent of the Board and the written consent of Eligible Holders holding mortgages on condominiums which have at least fifty-one percent (51%) of the votes of condominiums subject to Eligible Holder Mortgages, reconstruct or repair the same pursuant to new or changed plans and specifications. In the event the Board or Eligible Mortgage Holders fail to approve or disapprove such changed plans and specifications within sixty (60) days of the receipt thereof, they shall be deemed to have been approved.

Section 4. Taking of Living Unit. In the event of any taking of a Living Unit, the owner (and its mortgagees as their interests may appear) of the Living Unit shall be entitled to receive the award for such taking and after acceptance thereof the owner and his mortgagee shall be divested of any further interests in the Condominium Property if such owner shall vacate his Living Unit as the result of such taking. In such event said owner shall grant his remaining interests in the Common Area appurtenant to the Living Unit so taken, if any, to the other owners owning a fractional interest in the same Common Area, such grant to be in proportion to the fractional interest in the Common Area then owned by each.

Section 5. Termination of Legal Status. Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the Condominium Property must require the approval of Eligible Holders holding mortgages on condominiums which have at least fifty-one percent (51%) of the votes of condominiums subject to Eligible Holder Mortgages.

ARTICLE X

ASSOCIATION INSURANCE

The Association shall obtain and continue in effect the following insurance:

(a) A master fire insurance policy with glass coverage and extended coverage endorsement for the full insurable value of all of the improvements within the project. "Improvements" means and refers to the Common Area together with those appliances and improvements located within the Living Units provided by the Declarant to the initial owners of Condominiums and does not include items not provided by Declarant. The form and content of such policy must be satisfactory to all institutional first trust deed lenders and shall meet the maximum standards of the various institutional first trust deed lenders whose loan(s) encumber any of the Condominiums.

(b) A public liability and property damage insurance policy with cross liability endorsement, if available, insuring the Association, any manager, the

Declarant and the owners against liability incident to ownership or use of the Common Area. The limits of such insurance shall not be less than \$1,000,000.00 covering all claims for death, personal injury and property damage arising out of a single occurrence.

(c) A fidelity bond covering members of the Board, officers and employees of the Association and employees of any manager or managing agent, whether or not such persons are compensated for their services, naming the Association as obligee and written in an amount equal to at least one hundred-fifty percent (150%) of the estimate annual operating expenses of the Association, including reserves.

(d) Workman's Compensation Insurance covering any employees of the Association.

Insurance premiums for the master policy shall be a common expense to be included in the monthly assessments levied by the Association. Each owner shall be responsible to pay any deductible amount for any loss to his Condominium. Each owner may separately insure the improvements not covered by the master fire insurance policy and personal property within his Condominium. No owner shall insure his Condominium in any manner which would cause any diminution in insurance proceeds from the master policy. Should any owner violate this provision he shall be responsible to the Association for any such diminution.

ARTICLE XI

ENFORCEMENT

Section 1. The Association, Declarant, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration.

Section 2. Failure by the Association, Declarant, or any Owner to enforce any provision of the Declaration shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XII

POWERS AND DUTIES OF ASSOCIATION

Subject to other provisions of the Declaration and Bylaws and to the limitations of the Articles of Incorporation, the Bylaws and the California Corporation Code as to action to be authorized or approved by the members, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the Association shall be controlled by the Board. Without prejudice to such general powers but subject to the same limitations, it is hereby expressly declared that the directors shall have the following powers and duties:

Section 1. To select and remove all officers, agents and employees of the Association, prescribe such powers and duties for them as may not be

inconsistent with the law, the Articles of Incorporation, the Bylaws or the Declaration, and, subject to the provisions of Section 14 of Article VII of the Bylaws, to fix their compensation.

Section 2. To conduct, manage, and control the affairs and business of the Association, and to make such rules and regulations therefor not inconsistent with the law, and the Articles of Incorporation, the Bylaws or the Declaration as they deem best, including rules and regulations for the operation of the Common Area and facilities owned or controlled by the Association.

Section 3. To change the principal office for the transaction of the business of the Association from one location to another in the same County; to designate any place within the City of San Diego, County of San Diego, State of California, for the holding of any membership meeting or meetings and to adopt, make and use a corporate seal, and to alter the form of such seal, from time to time as in their judgment they may deem best, provided such seal shall, at all times, comply with the provisions of law.

Section 4. To borrow money and incur indebtedness for the purposes of the Association and to cause to be executed and delivered therefor, in the corporate name, promissory notes or other evidences of debt and with the vote or written assent of two-thirds (2/3) of the voting power of each class of members of the Association, to mortgage, pledge, deed in trust or hypothecate any or all of the real or personal property owned by the Association as security for money borrowed or debts incurred. After conversion of the Class B membership to Class A membership, the action herein requiring membership approval shall require the vote or written consent of (i) two-thirds (2/3) of the total voting power of the Association, and (ii) two-thirds (2/3) of the total voting power of the members other than Declarant.

Section 5. To contract and pay for fire, casualty, liability, fidelity and other insurance adequately insuring the Association and the Owners with respect to the Common Area and the affairs of the Association, which shall include bonding of the members of any management body. Notwithstanding any provisions to the contrary herein, so long as the Federal National Mortgage Association (FNMA) holds a mortgage on a Condominium in the project, or owns a Condominium, the Association shall continuously maintain in effect such casualty and liability insurance and fidelity bond, meeting all requirements and containing such coverage and endorsements as may be required from time to time by FNMA. Such casualty insurance shall include, but not be limited to, a condominium master or blanket policy with full replacement cost coverage and agreed value endorsement.

Section 6. To pay all water, electricity, gas, cable television, and other utility services for the Common Area and, to the extent not separately metered and charged, for each Living Unit.

Section 7. To manage, operate, maintain and repair the Common Area and all improvements located thereon, including the restoration and replacement of any and all buildings, structures or improvements which are part of the Common Area at any time and from time to time as the Board may determine desirable or necessary; and to make capital expenditures for and on behalf of the Association with the vote or written assent of a majority of the voting power of each class of members of the Association; provided, however, that after conversion of the Class B membership to Class A membership, capital

expenditures shall require the vote or written assent of (i) fifty-one percent (51%) of the total voting power of the Association, and, (ii) fifty-one percent (51%) of the total voting power of the members other than the Declarant.

Section 8. To enter onto any Exclusive Use Area subject to the limitations set forth in the Declaration.

Section 9. To enforce the provisions of the Declaration, the Articles of Incorporation and the Bylaws of the Association, or any agreement to which the Association is a party.

Section 10. To contract and pay for goods and services relating to the Common Area, and to employ personnel necessary for the operation and maintenance of the same, including legal and accounting services; provided, however, that the term of any contract with a third person for supplying goods or services to the Common Area or for the Association shall not exceed a term of one (1) year unless a longer term is approved by a majority of the voting power of each class of members of the Association, or, after conversion of Class B membership to Class A membership, unless such longer term is approved by (i) fifty-one percent (51%) of the total voting power of the Association, and, (ii) fifty-one percent (51%) of the total voting power of the members other than the Declarant; except that a contract with a public utility company for materials or services the rates for which are regulated by the Public Utilities Commission may exceed a term of one (1) year so long as it does not exceed the shortest term for which the public utility will contract at the regulated rate, a contract for prepaid casualty and/or liability insurance policies may be for a term of not to exceed three (3) years, provided that the policy permits short rate cancellation by the Association, and a management contract, the terms of which have been approved by the Veterans Administration may exceed a term of one (1) year. Anything contained herein to the contrary notwithstanding, any agreement for management of the Condominium Property and any other contract providing for services by the Declarant, shall be terminable for cause upon thirty (30) days written notice, and without cause or payment of a termination fee upon ninety (90) days, or fewer, written notice and shall have a term of not more than three (3) years, renewable with the consent of the Association and the management agent. No contract with the Association negotiated by Declarant shall exceed a term of one (1) year.

Section 11. To pay any taxes and governmental special assessments which are or could become a lien on the Common Area or any portion thereof.

Section 12. To initiate and execute disciplinary proceedings against members of the Association for violation of the provisions of the Articles of Incorporation and Bylaws of the Association, the Declaration, and the rules and regulations adopted by the Board.

Section 13. To prepare budgets and financial statements for the Association as provided in the Bylaws.

Section 14. To notify Eligible Mortgage Holders and Eligible Insurers or Guarantors of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the project or any Condominium on which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, as applicable;

- (b) any delinquency in the payment of assessments or charges owed by an Owner of a condominium subject to a first mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Insurer or Guarantor, which remains uncured for a period of sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified in the Governing Documents.

Section 15. To give notice in writing to the Federal Home Loan Mortgage Corporation ("FHLMC") in care of the servicers of FHLMC loans on condominiums provided such servicers have informed the Association in writing of their addresses, of any loss to or taking of the Common Area if such loss or taking exceeds \$10,000 and of any damage to a Living Unit if such damage to a Living Unit if such damage exceeds \$1,000.00.

Section 16. To prosecute or defend, in the name of the Association, any action affecting or relating to the Common Area or the property owned by the Association, and any action in which all or substantially all the Owners have an interest.

Section 17. To delegate any of its powers hereunder to others, including committees, officers, and employees.

Section 18. To make available to any prospective purchaser of a unit, any owner of a unit, any first mortgagee, and the holders, insurers and guarantors of a first mortgage on any unit, current copies of the declaration, the Articles, the Bylaws, the rules governing the condominium and all other books, records and financial statements of the Association.

Section 19. To grant utility easements under, through and over the Common Area which are reasonably necessary to the ongoing development and operation of the project.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Severability. Should any provision in this Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions hereof shall remain in full force and effect.

Section 2. Amendments. This Declaration may be amended at any time and from time to time by an instrument in writing signed by seventy-five (75%) of the voting power of each class of members existing at that time and by members representing at least a majority of the votes of members other than Declarant, any which amendment shall become effective upon the recording thereof with the Office of the County Recorder of San Diego County, California; provided, however, that the approval of Eligible Mortgage Holders holding mortgages on condominiums which have at least fifty-one percent (51%) of the votes of condominiums subject to Eligible Holder Mortgages shall be required to add or amend any material provisions of the Declaration which establish, provide for, govern or regulate any of the following:

- (a) voting;
- (b) assessments, assessment liens or subordination of such liens;
- (c) reserves for maintenance, repair and replacement of the Common Area (or Living Units if applicable);
- (d) insurance or Fidelity Bonds;
- (e) rights to use of the Common Area;
- (f) responsibility for maintenance and repair of the several portions of the project;
- (g) expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;
- (h) boundaries of any Living Unit;
- (i) the interest in the general Common Area or Exclusive Use Areas;
- (j) convertibility of Living Units into common areas or of common areas into Living Units;
- (k) leasing of condominiums;
- (l) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her condominium;
- (m) any provisions which are for the express benefit of mortgage holders, Eligible Mortgage Holders or Eligible Insurers or Guarantors of first mortgages on condominiums;

The percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes perscribed for action to be taken under that clause.

Section 3. Extension of Declaration. Each and all of these covenants, conditions and restrictions shall terminate on December 31, 2029, after which date they may be extended for successive periods of ten (10) years upon the vote or written assent of a majority of the members.

Section 4. Annexation. Upon the approval in writing of the Association, pursuant to a two-thirds (2/3) majority of the voting power of its members, and a two-thirds (2/3) majority of the voting power of the members other than the Declarant, or the written assent of such members, and the approval of the Veterans Administration, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file or record a Declaration of Annexation. No phasing or add-ons are currently planned or proposed for this project.

Section 5. Litigation. In the event the Association, 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 the costs of the suit and such attorney's fees as the Court may adjudge reasonable and proper. The "prevailing party" shall be the party in whose favor a final judgment is entered.

Section 6. Encroachment Easements. The Owner of each Condominium is hereby granted an easment over all adjoining Living Units, and the Common Area for the purposes of accomodating any minor encroachments due to engineering errors, errors in original construction, settlement or shifting of buildings, or any other cause. There shall be easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement or shifting; provided, however, that in no event shall an easement for

encroachment be created in favor of an Owner if said encroachment occurred due to the willful misconduct of any Owner. In the event any portion of a structure on the Condominium Property is partially or totally destroyed and then repaired or rebuilt, each Owner agrees that minor encroachments over adjoining Living Units, or Common Area shall be easements for the maintenance of said encroachments so long as they shall exist.

Section 7. Special Responsibilities of Association. In the event that the improvements to be installed by Declarant to the Common Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the Condominium Property, and in the further event that the Association is the obligee under a bond to secure performance by Declarant to complete such improvements, then if such improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce obligations under the bond. If the Association has given an extension in writing for the completion of any such improvement then the Board shall consider and vote on said question if such improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event that the Board determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then, in either such event, upon petition signed by the members representing at least five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of the members of the Association to consider the question of overriding the decision of the Board of requiring the Board to take action on the question of enforcing the obligations secured by the bond. Said meeting of members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following the receipt of the petition. At said meeting a vote of the majority of the voting power of the members of the Association, excluding the vote of the Declarant, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

Section 8. Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of residential Condominium dwellings and incidental improvements upon the Condominium Property. The completion of that work, and the sale, rental, and other disposal of said Condominium dwellings is essential to the establishment and welfare of said Condominium Property as a residential community. In order that said work may be completed and said Condominium property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors, or subcontractors from doing on the Condominium Property or any Living Unit, whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing, and maintaining on any part or parts of the Condominium Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Condominium Property as a residential community and disposing of the same in parcels by sale, lease, or

otherwise; or

(c) Prevent Declarant from conducting on any part of the Condominium Property its business of completing said work, and of establishing a plan of Condominium ownership and of disposing of said Condominium Property in Condominium dwellings by sale, lease, or otherwise; or

(d) Prevent Declarant from maintaining such sign or signs on any of the Condominium Property as may be necessary for the sale, lease or disposition thereof; provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of his Living Unit, or the Common Area.

The rights of Declarant provided in subparagraphs (a) through (d) above may be exercised during the period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums in the project are sold and conveyed by Declarant to separate owners, or five (5) years from the date of the sale of the first condominium in the project, whichever shall first occur. Declarant in exercising his rights herein shall not unreasonably interfere with the use of the Common Area by any purchaser.


Section 9. Owners' Compliance. Each owner, tenant or occupant of a Condominium shall comply with the provisions of this Declaration, the Bylaws, decisions and resolutions of the Association or its duly authorized representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

Section 10. Abandonment. The consent of Owners holding sixty-seven percent (67%) of the voting power of each class of members of the Association existing at that time and by members representing at least a majority of the votes of members other than Declarant and the approval of Eligible Holders holding mortgages on condominiums which have at least sixty-seven percent (67%) of the votes of condominiums subject to eligible holder mortgages, shall be required to terminate the legal status of the project as a condominium.

So long as Declarant, its successors and assigns owns one or more of the Condominiums established and described herein, Declarant, its successors and assigns shall be subject to the provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has executed this instrument the day and year first hereinabove written.

R. L. CALIFORNIA SOUTH INC.,
a California corporation

BY: 
Roberto Mariniello - President

RECORDING REQUESTED BY:
Transamerica Title Ins. Co.

WHEN RECORDED RETURN TO:
Transamerica Title Ins. Co.
4355 Ruffin Road
San Diego, Calif. 92123
ATTN: M. ROLAND

SUBORDINATION AGREEMENT

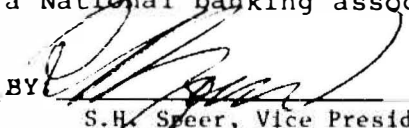
BANK OF AMERICA, a National Banking Association, holder of the beneficial interest in that certain Note secured by Deed of Trust dated February 15, 1984 and recorded February 28, 1984 as File/Page No. 84-070289 of Official Records of San Diego County, California, affecting that certain property known as:

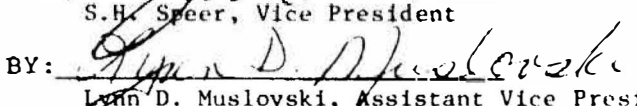
Lots 1, 2 and 3 in Block 15 of CENTER ADDITION TO LA JOLLA PARK, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 915, filed in the Office of the County Recorder of San Diego County, August 4, 1904.

does hereby subordinate its interest in said Note and Deed of Trust to that certain Declaration of Restrictions executed by R. L. CALIFORNIA SOUTH, INC., a California corporation, affecting said property, which Declaration of Restrictions are recorded concurrently herewith.

DATED this 10th day of May, 1984.

BANK OF AMERICA,
a National banking association

BY 
S.H. Speer, Vice President

BY: 
Lynn D. Muslovski, Assistant Vice President

STATE OF CALIFORNIA
COUNTY OF

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ON MAY 10, 1984, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Roberto Mariniello proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the President, and Secretary of the Corporation therein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its By-laws or a Resolution of its Board of Directors.

CORPORATION ACKNOWLEDGMENT
Form No. 14 Rev. 7-82

Notary's Signature

Patricia C. Ellis



STATE OF CALIFORNIA
COUNTY OF

}SS

ON MAY 10, 1984, before me, the undersigned, a Notary Public in and for said County and State, personally appeared S.H. Speer and Lynn D. Muslovski proved to me on the basis of satisfactory evidence to be the persons who executed the within instrument as Vice President, and Assistant Vice President of the Corporation therein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its By-laws or a Resolution of its Board of Directors.

CORPORATION ACKNOWLEDGMENT
Form No. 14 Rev. 7-82

Notary's Signature

Patricia C. Ellis

