

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Recorded on April 8, 1981, in Book 14012, Page 1587
et seq., Official Records of Orange County, California

SIGNAL LANDMARK, INC.
RUTAN & TUCKER (M WI)
P.O. Box.
1976 Santa Ann, California 92702

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
LANDMARK YORKTOWN

RECORDUNG REQUESTED BY
AND WHEN RECORDED MAIL TO:

Recorded on April8, 1981 in Book 14012 Page
1567, et seq., Official Records of Orange County,
California.

Signal Landmark, Inc.
RUTAN & TUCKER (MWI)
P.O. BOX 1976
Santa Ana, California 92702

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
LANDMARK YORKTOWN

INDEX

DESCRIPTION	PAGE
Article	
ARTICLE I – DEFINITIONS	A2
ARTICLE II – GENERAL USE RESTRCTIONS.....	A6
Section 2.01 Unit Use.....	A6
Section 2.02 Common Use	A6

Section 2.08 Compliance with Laws Insurance RatesA6

Section 2.04 Signs A6

Section 2.05 Animals A6

Section 2.06 Nuisances A6

Section 2.07 No Construction.....A6

Section 2.08 No Material Changes Permitted A7

Section 2.09 Vehicle RestrictionsA7

Section ComplianceA7

Section 2.11 Cloths Lines and AntennaeA7

Section 2.12 TrashA7

Section 2.13 GaragesA7

Section 2.14 Window Covers A7

Section 2.15 Liability of Owners for Damages to Common AreasA8

Section 2.16 No Violation of RulesA8

Section 2.17 Maintenance of Units and Certain Provisions Pertaining to
Restricted Common Areas A8

Section 2.18 Drainage A8

Section 2.19 No Commercial ActivityA8

Section 2.20 Rights Reserved by Developer A8

ARTICLE III – DESCRIPTION OF PROJECT, DIVISIONS OF PROPERTY AND CREATION OF PROPERTY
RIGHTSA9

Section 3.01 Description of Project A9

Section 3.02 Division of PropertyA9

ARTICLE IV – ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS. A9

Section 4.01 Association to Manage and Operate Common AreasA9

Section 4.02 Membership A10

Section 4.03 Joint Ownership DisputesA10

Section 4.04 Transfer of MembershipA10

Section 4.05 Membership Classes and Voting RightsA10

Section 4.06 Voting Requirement During Which There are Two Outstanding Classes of Membership. A10

ARTICLE V – DUTIES AND POWERS OF THE ASSOCIATIONA11

Section 5.01 General Statement and LimitationsA11

Section 5.02 Duties and Powers A12

Section 5.03 Delegation of Duties by Association..... A15

Section 5.04 Right of EntryA15

Section 5.05 Budget and Financial Statements.....A15

Section 5.06 Utility EasementsA16

Section 5.07 Performance of Owner’s Obligation by Association A16

Section 5.08 Liability of Board Members, Managers and Architectural Committee Members A16

Section 5.09 Commencement of the Association’s Management Responsibility A17

ARTICLE VI – COVENANT FOR ASSESSMENT	A17
Section 6.01 Creation of the Lien and Personal Liability	A17
Section 6.02 Purpose of Assessments – General	A18
Section 6.03 Regular Assessment	A18
Section 6.04 Special Assessment	A19
Section 6.05 Uniform Rate of Assessment	A19
Section 6.06 Date of Commencement of Regular Assessments: Due Dates.....	A19
Section 6.07 Duties of Board of Directors as to Assessments.....	A19
Section 6.08 Effect of Nonpayment of Assessments: Delinquency and Remedies of the Association.....	A20
Section 6.09 Assessment of Condominiums Owned by Developer.....	A22
Section 6.10 Nonuse and Abandonment.....	A22
Section 6.11 Waiver and Exemption.....	A22
 ARTICLE VII – ARCHITECTURAL COMMITTEE AND ARCHITECTURAL CONTROL.....	A22
Section 7.01 Architectural Control.....	A22
Section 7.02 Architectural Committee.....	A23
Section 7.03 Certain Procedures of Architectural Committee.....	A23
Section 7.04 Entry.....	A24
Section 7.05 Enforcement by Owners.....	A24
Section 7.06 No Waiver.....	A24
Section 7.07 No Liability, Basis for Review.....	A24
Section 7.08 Rules and Regulations.....	A25
Section 7.09 Compensation o Members.....	A25
 ARTICLE VIII – Mortgage Protection.....	A25
Section 8.01 Breach of Declaration Not to Affect Mortgage.....	A25
Section 8.02 Subordination of Assessments to Deeds of Trust.....	A25
Section 8.03 Amendments Not Binding on Non-Consulting Holders of Prior Mortgages.....	A25
Section 8.04 Effect of Breach of Declaration.....	A25
Section 8.05 Notification of Breach.....	A26
Section 8.06 Exemption From Right of First Refusal.....	A26
Section 8.07 Actions Requiring Consent of Holders of First Mortgage.....	A26
Section 8.06 Inspection of Association Books and Records.....	A26
Section 8.09 Condemnation Awards and Insurance Proceeds.....	A26
Section 8.10 Mortgage’s Right to Attend Meetings.....	A26
Section 8.11 Loss Payable Endorsement.....	A26
Section 8.12 Notification of Damage of Taxing.....	A27
Section 8.13 Establishment of Adequate Reserve.....	A27
Section 8.14 Agreements for Professional Management and/or Service Declarant.....	A27
Section 8.15 Amenities.....	A27
Section 8.16 Filing of Notice; Notices and Approvals.....	A27
 ARTICLE IX – DESTRUCTION OF IMPROVEMENTS.....	A27
Section 9.01 Automatic Reconstruction.....	A27
Section 9.02 Reconstruction Pursuant to Meeting.....	A28
Section 9.03 Decision to Reconstruct: Procedure After Meeting.....	A28
Section 9.04 Decision Not to Reconstruct: Procedure After Meeting.....	A30
Section 9.05 Certificate of Intention to Reconstruct.....	A31
Section 9.06 Partition.....	A31
Section 9.07 Compliance with Condominium Plan.....	A31
Section 9.08 Negotiations with Insurer.....	A31

Section 9.09 Repairs of Unit..... A31

Section 9.10 Amendment to Condominium Plan..... A31

Section 9.11 Reconstruction of Common Area.....A31

Section 9.12 Availability of Labor and Material..... A32

Section 9.13 Contracting for Reconstruction.....A32

Section 9.14 Seventy Five Percent (75%) Vote Required.....A32

Section 9.15 Costs of Collecting Insurance Proceeds.....A32

ARTICLE X – AMENDMENT.....A32

ARTICLE XI – ENROACHMENT ASEMENTS.....A33

Section 11.1 Encroachment Easements for Condominiums.....A33

Section 11.2 Encroachment of Common Areas on to Unit.....A33

ARTICLE XII – ENFORCEMENT.....A34

ARTICLE XIII – NOTICES.....A34

ARTICLE XIV – TERMS OF DECLORATION.....A34

ARTICLE XV – NO RIGHTS GIVEN TO PUBLIC.....A34

ARTICLE XVI – COMMON AREA OWNERSHIP AND OBLIGATIONS.....A35

ARTICLE XVII – EMINENT DOMAIN.....A35

Section 17.1 Definition of Taking.....A35

Section 17.02 Representation by Board in Condemnation Proceeding.....A35

Section 17.03 Award of Condominium.....A35

Section 17.04 Inverse Condemnation.....A35

DECLARATION OF COVENANTS
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR LADMARK YORKTOWN

THIS DECLARATION is made this 11th day of March 1991, by SIGNAL LANDMARK INC. a California Corporation (hereafter sometimes referred to as "Signal"), and TITLE INSURANCE AND TRUST COMPANY a California corporation, as Trustee under Declaration of Trust, dated February 4, 1966, as amended and restated under that certain Amended and Restated Trust Agreement dated February 1, 1972 (hereafter sometimes referred to as "Trustee") (hereafter sometimes collectively referred to "Declarants").

RECITALS:

A. This Declaration is made by the Declarants as their respective interests now or may hereafter appearing in that certain real property in the City of Huntington Beach, county of Orange, State of California described as follows:
Lot 1 of Tract No. 7742 in said City County and State as per map recorded in Book 459, Page 48 thru 50 of Miscellaneous Maps in the Office of the County Recorder of said County.

Which real property so described is referred to herein as the "Property".

B. On February 1, 1972, Signal as Lessor and Developer as Lessee executed and delivered an instrument designated "Amendment and Restatement of Ground Lease" for the purpose of amending and restating that certain Ground Lease dated as of September 30, 1969, by and between such parties a memorandum of which Lease was recorded on December 12, 1989, in Book 9162 at Pages 920 through 923, inclusive, Official Records of Orange County California, and re-recorded on May 5, 1970, in Book 9282, Pages 384 through 399, of such Official records. A memorandum of the Amendment and Restatement of Ground Lease was recorded on March 23, 1972, in Book 10372, Page 131 et seq., Official Records of Orange County, California. The Amendment and Restatement of Ground Lease was further amended by instrument dated September 29, 1972, and designated "Memorandum of Amendment to Amendment and Restatement of Ground Lease"; which was recorded October 13, 1972, in Book 10372, Page 1331, et seq., Official Records of Orange County California; and by instrument dated September 2 (Illegible on original), 1972, and Designated "Memorandum of Amendment to Amendment and Restatement of Ground Lease", which was recorded October 7, 1972, in Book 10378 Page 483, et seq., Official Records of Orange County California; and by instrument a memorandum of which was recorded October 8, 1973 in Book 10935, Page 616, et seq., Official Records of Orange County, California. Said Lease as from time to time now or hereafter amended is referred to as "Ground Lease". The Ground Lease covers Property together with other real property.

C. As reflected above, Developer is the owner in leasehold of the Property, with rights to cause the fee to be purchased for the benefit of Developer and for the benefit of its successors and assigns, and all interested parties. Developer intends to develop the Property into a statutory condominium project under the provisions of California Civil Code §1350, et seq., by constructing thereon sixty-eight (68) Condominiums together with customary appurtenances and Amenities.

D. Declarants intended by this document to impose upon the Property naturally beneficial restrictions under a general plan of improvements for the benefit of all the condominiums and the owners thereof.

E. Declarants hereby establish by this Declaration with respect the Property, a plan for the individual ownership of the real property estates, referred to herein as Units, as well as the co-ownership as tenants in common of the Common Areas of the Property by the Owners of the Units located within the Property.

NOW THEREFORE. Declarants hereby declare that the Property shall be held, Conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved, subject to the following declarations, imitations, covenants, conditions, restrictions, liens, charges and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of such real property, and every part thereof, in accordance with the plan for the improvement of such real property and division thereof into condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarants and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of such real property.

ARTICLE I DEFINITIONS

Unless the content otherwise requires:

- 1.01 “Approval” of the Association or the Architectural Committee shall mean prior written approval.
- 1.02 “Architectural Committee” shall mean the committee formed pursuant to the provisions of Article VII below.
- 1.03 “Articles” shall mean the Articles of Incorporation of Landmark Yorktown Community Association, a California nonprofit mutual benefit corporation, as such Articles may be amended from time to time.
- 1.04 “Assessments” shall mean assessments of the Association levied against Owners of Condominiums located within the Property and includes all types of assessments.
- 1.05 “Association” shall mean and refer to the Landmark Yorktown Community Association, a California nonprofit mutual benefit corporation, the members of which shall be the Owners of Condominiums located within the Property.
- 1.06 “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.
- 1.07 “Bylaws” shall mean and refer to the bylaws of the Association as amended from time to time.
- 1.08 “Community Area” shall mean and refer to all land and real property included within the boundary lines of the Property, (Illegible on original), all of the Units described and/or shown in this Declaration and in the Condominium Plan Title to the Common Area is held in common by all of the Owners of Units located within the Property.
- 1.09 “Common Expense” means and includes the actual and estimated expenses of operating the Property, and any reasonable reserves for such purposes as found and determined appropriate by the Board, and all sums designated as Common Expense by or pursuant to the Condominium Documents.
- 1.10 “Common Interest” means 1/68th, which is the proportionate undivided interest in the Common Area of the Property appurtenant to each Unit located within the Property.
- 1.11 “Condominium” shall mean a condominium as defined in Section 783 of the California Civil Code, and shall be an estate in real property consisting of (a) a separate fee or leasehold estate in the air

Space encompassed by the boundaries of a Unit and in the other elements constituting a Unit and (b) an undivided interest as a tenant in common, in fee of leasehold, in the Common Area, subject to all matters of record. Additionally (although not within the formal definition of Condominium), each owner of a Condominium will receive a regular membership in the Association, with all of its attendant rights, privileges, obligations, and responsibilities.

1.12 “Condominium Building” shall mean and refer to a building or structure containing any portion of any Condominium Unit of Units.

1.13 “Condominium Documents” shall mean and include this Declaration, the exhibits, if any, attached hereto the Articles, the By Laws, the Condominium Plan, and the Rules as such items may be established from time to time and/or amended from time to time in accordance with their terms.

1.14 “Condominium Plan” shall mean and refer to the recorded diagrammatic floor plan of the Units built of to be built on the Property which identifies each Unit and shows its dimensions pursuant to California Civil Code § 1351; the Condominium Plan is attached hereto as Exhibit “B” and is by this reference is incorporated herein and is to be recorded concurrently with the recordation of this Declaration.

1.15 “Conveyance” as such term is used herein shall mean, if appropriate, the subleasing of a Condominium or other interest in real property located within the Property to a third-party purchaser/sub-lessee by Developer. The term “conveyance” and “sale” may be used interchangeably herein.

1.16 “Declarants” shall mean and refer to Declarants as defined in the introductory paragraph of this Declaration and their successors and assigns, if such are specifically granted the rights and powers and burdened with the duties (if any) of Declarants hereunder by instrument of conveyance or other instrument recorded in the Office of the County Recorder for the County in which the Property is located.

1.17 “Declaration” means this Declaration of Covenants, Conditions, Restrictions and Easements as from time to time amended,

1.18 “Developer” shall mean and refer to Signal Landmark, Inc., a California corporation and its successors and assigns, if such successors and assigns are specifically granted the rights and powers enburdened by the duties (if any) of the Developer hereunder by instrument of conveyance or other instrument recorded in the Office of the County Recorder for the County in which the Property is located.

1.19 “Institutional Lender” shall mean any bank, savings and loan association, insurance company, real estate investment trust, retirement fund trust, or other financial institution holding a recorded first mortgage on any Condominium.

1.20 “Manager” or “Managing Agent” shall mean the persons, firm or corporation engaged by the Association of the Declarant by contract and charged with the maintenance and upkeep of the Project.

1.21 “Member” shall mean and refer to a person entitled to membership in the Association as herein provided. The term “Member” and “Regular Member” may be used interchangeably herein.

1.22 “Mortgage” shall include a deed of trust as well as a mortgage.

1.23 “Mortgage” shall include a beneficiary of holder of a deed of trust as well as a mortgagee.

1.24 “Mortgagor” shall include a trustor of a deed of trust as well as a mortgagor.

1.25 “Notice and a Hearing” shall mean notice and an opportunity for a hearing as provided for in Article X of the Bylaws.

1.26 “Owner” or “Owners” shall mean and refer to the person or persons holding a leasehold interest in a Condominium within the Project pursuant to a sublease from Developer or from its successors and assigns under the Ground Lease, with the right of such person(s) under such leasehold interest to purchase the fee simple estate in such Condominium and any persons being the grantee of the fee simple estate in a Condominium upon determination of such leasehold interest and their successors and assigns. This shall exclude persons or entities having any interest merely as security for the performance of an obligation. If a Condominium is sold under a recorded contract of sale to a purchaser who resides in the Condominium the resident purchaser rather than the leasehold or fee owner, shall be considered the Owner as long as he resides in the Unit as a contract purchaser.

1.27 “Person” shall mean a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.28 “Project” shall mean and refer to the Condominium Project developed or to be developed on the Property.

1.29 “Property” shall mean and refer to that certain real property located in the City of Huntington Beach County of Orange; State of California more particularly described as follows:

Lot 1 of Tract No. 7442 as shown on a map filed in Book 459, Page 48 through 50 of maps in the Office of the County Recorder of said County.
together with improvements now or hereafter construed thereon.

1.30 “Restricted Common Area” shall mean any portion of the Common Areas which have been designated and set aside herein or on the Condominium n for the exclusive use and/or restricted use of the nature described in Article III hereof, and the term “Common Area” shall include the “Restricted Common Area” unless otherwise specified herein.

1.31 “Restrictions” shall mean all of the terms, provisions and restriction set forth in this Declaration , as said Declaration may be amended from time to time, and the rules of the Association and/or Architectural Committee promulgated in accordance with the provisions of this Declaration as such rules may be from time to time in effect and the terms, provisions and restrictions of the Articles and Bylaws as such instruments may be from time to time in effect.

1.32 “Rules” shall mean and refer to the rules from time to time promulgated and adopted by the Board herein provided.

1.33 “Sale” shall mean, if appropriate, the subleasing of a Condominium located within the Project said subleasing to include without limitation the right and obligation to purchase the free dimple interest; together with improvements thereon in accordance with the terms of the sublease.

1.34 “Special Common Areas” shall have the definition given to it in Section 23.01 of this Declaration.

1.35 “Tract No. 7742” means Tract No. 7742 as shown on the recorded Map described in Paragraph A of the Recitals above.

1.36 (a) “Unit” shall mean as a unit defined on Section 1350(2) of the California Civil Code,

i.e., the elements of a Condominium which are not owned in common with other Owners on the Project. Each Unit is designated as a Unit in the Condominium Plan for the Project and is identified by a separate number. The Units of the Project located or to be located on the Property are numbered 1 to 68, inclusive. A Unit consists of all those elements and areas shown and identified on the Condominium Plan as being a part of such Unit. Whenever reference is made in the Condominium Plan or in this Declaration to any of Units 1 to 68, inclusive, shall be constituted that the reference is made to the Unit as a whole and each of its component parts.

(b) The boundaries of the Units are the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors thereof and the interior surfaces of the fireplace fire box located within the Unit. Each Unit includes said surfaces, the portions of the building lying within said boundaries, the air space so encompassed, and all portions of all windows (including but not limited to the interior and exterior surfaces thereof), the interior surfaces of which constitute any portion of a lateral boundary of the Unit, except as stated in Section 1.36 (c) below.

(c) Each Unit includes the following items, if any of which may be located within the boundaries of the Unit to wit: The forced air heating and air conditioning equipment, hot water heaters, dishwashers, ranges, ovens, utility installations and/or outlets and garbage disposal units, but the following are not part of the Unit bearing walls, columns, vertical supports, landings, slabs, floors (except as otherwise provided with respect to the interior surfaces thereof), and an area above any ceiling which is constructed lower than the ceiling elevation of the Units shown on the Condominium Plan (except the interior surfaces thereof), roofs, foundations, balconies, decks, patios, patio walls, fences, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires, heating coils and other utility installations wherever located (except the outlets thereof when located within the Units). It is understood that flues, whether or not shown on the Condominium Plan, are part of the Common Area even if located within the boundaries of the Unit.

(d) All air space boundary lines intersect at right angles, unless otherwise indicated on the Condominium Plan.

(e) All ties to project boundaries from building corners are measured along the prolongation of the building line.

Each Unit is subject to such encroachments as are contained in the building, whether the same now exists or may be later caused or created in any manner referred to herein. In interpreting deeds and plans, the existing physical boundaries of the Unit constructed or reconstructed in substantial accordance with the original plans shall be conclusively presumed to be its boundaries, rather than the metes and bounds, or other descriptions of elevations, expressed in the deed or Condominium Plan regardless of the settling or lateral movement of the buildings and regardless of minor variances between the boundaries shown on the Condominium Plan of in the deed and those of a building structure. However, if at any time when any Condominium in the Project is conveyed, one or more building structures in which Units or elements thereof shown on the Condominium Plan are to be located have not yet been built, (illegible on original) such Unit shall be deemed to have the boundaries shown on the Condominium Plan.

1.37 "Vote" means the vote of the Members entitled to exercise the voting powers of the Association at any duly held regular or special meeting of the Members of the Association.

ARTICLE II GENERAL USE RESTRICTIONS

2.01 Unit Use. Each Unit within the Property shall be used solely as a private single family dwelling and for purposes customarily associated therewith and for no other purposes, except such temporary uses by Declarants as shall be permitted hereunder while the Project is being developed and the Condominiums therein are being sold by Developer.

2.02 Common Area Use. The use of the Common Areas within the Property shall be in accordance with and subject to such additional limitations as may be determined from time to time by the Association: provided, however, that any such limitation shall not be unreasonable and shall not be generally inconsistent with the provisions of this Declaration. Use of the Restricted Common Area shall be subject to the limitations set forth in this Declaration and in the Rules.

2.03 Compliance with Laws; Insurance Rates. Nothing shall be done or kept in a Unit or in any Common Area which will increase the rate of insurance on any Unit or on any Common Area within the Property, without the approval of the Association. No Owner shall permit anything to be done or kept in how Unit or in any Common Area which will result in the cancellation of insurance on any Unit, or on any Common Area, or which would be in violation of any law. If by reason of the occupancy or use of said premises by any Owner, the rate of insurance on any building shall be increased, such Owner shall become personally liable for the additional insurance premiums.

2.04 Signs. Except for one sign per Condominium advertising such Condominium for sale or lease, having standard format previously approved by the Board with a maximum face area of not to exceed six (6) square feet, which single sign per Condominium shall be placed in a location approved by the Board, on a reasonable basis, no sign or other advertising device of any character shall be erected, maintained or displayed upon any portion of the Property, without the prior written consent of the Board; provided, however, that Developer and its successors and assigns, as they are defined in Section 1.18 Above, may for a period not to exceed three (3) years from the date of recordation of this Declaration erect and maintain any signs and other advertising devices or structures as they may deem necessary or proper in connection with the conduct of their operations for the development, improvement, sale and/or leasing of the Property or any portion thereof.

2.05 Animals. No animals or birds of any kind shall be raised, bred or kept in any Condominium, or in any portion of the Property, except that no more than two (2) usual and ordinary household pets such as dogs, cats, birds, etc., may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and they are kept under reasonable control at all times. Notwithstanding the foregoing, no pets may be kept on the Property which result in an annoyance or are obnoxious to other Condominium Owners. No pets shall be allowed in the Common Area except as may be permitted by the Board. No dog shall enter the Common Area except while on a leash which is held by a person capable of controlling it. No dogs whose barking disturbs other Owners shall be permitted to remain on the Property. Owners shall prevent their pets from soiling any portion of the Common Area.

2.06 Nuisances. No obnoxious illegal, or offensive activities shall be carried on upon any Condominium, or in any part of the Property, nor shall anything be done therein which may be or may become an annoyance or nuisance to or which may in any way interfere with the quiet enjoyment by each of the Owners of his respective Unit, or which will impair the structural integrity of any building.

2.07 No Construction. No building, fence, wall, obstruction, screed, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any alteration or improvement of any kind be made

thereto, until the same has been approved by the Architectural Committee provided for in Article VII hereof. No landscaping of Common Areas or of patios or yards visible from the or front the Common Area shall be undertaken by any Owner without the approval the Architectural Committee, except no approval shall be required for landscaping any patio natural plants. grass. trees and/or shrubs that grow low to the ground.

2.08 No Material Changes Permitted. Nothing shall be done in any Unit or in, on or to any building in any Common Area which would change or modify any such building or to any material extent, except as otherwise provided herein, or except with the prior written approval or the Architectural Committee. The Architectural Committee shall determine, in its sale discretion, whether any proposed change or modification constitutes a material change.

2.09 Vehicle Restrictions. No vehicles other than golf carts. passenger automobiles, station wagons and other vehicles customarily used for means of general transportation shall be parked or stored in any Common Are, including Restricted Common Area, within the Property; provided, however, that temporary parking or boats, trailers, campers or other vehicles not customarily used for means of general transportation in area designed for parking for a period of short duration, but not to exceed two (2) hours in any twenty-four (24) hour period as an incident to loading or unloading therefrom, shall not be deemed in violation hereof. No boat or vehicle shall be repaired or rebuilt in any Common Area, including Restricted Common Areas, within the Property. The term "vehicles customarily used for means of general transportation" as used herein may be defined and interpreted from time to time by the Board in any Rules it may promulgate. Without limiting the effect of the foregoing restrictions, no vehicles or boats of any kind shall be parked within the Property, except in garages and in areas from time to time improved for parking purposes, and specifically designated pursuant to the provisions of this Declaration and/or by Developer and/or by the Board for such purpose. Parking Breas within the Common Area of the Property at any time designated by Developer and/or the Board as being exclusively for guest parking, shall be used so long as they are so designated for paking of vehicles of guests only and shall not be used for the parking of vehicles of occupants Of any of the Condominiums located within the Property during such period.

2.10 Compliance. Each Owner, tenant or occupant of a Condominium shall comply with the provisions of the Condominium Documents and Restrictions as lawfully amended from time to time, and failure to comply with any such provisions 6hÄll be grounds for an action to recover sums due, for damage, or for injunctive relief.

2.11 Clothes Lines and Antennae. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on patios or other areas which are exposed to view from outside of an Owner's Unit or Restricted Common Area. No Owner, resident or lessee shall install wiring for electrical or telephone installation, television antennae, radio antenna, machines or air conditioning units, etc., on the exterior of the buildings of the Property or that protrude through the walls or the roof of the building except as authorized by the Board approved by the City of Huntington Beach.

2.12 Trash. No unconcealed garbage or rubbish containers or similar items visible from any Common Area and/or Other Units shall be kept or maintained within the Property. Garbage or rubbish containers may be temporarily placed for pick-up subject to the Rules from time to time promulgated and in effect.

2.13 Garages. Except as permitted by the Board, the garage elements of Units shall be used only for reasonable and customary purposes and for the parking of vehicles customarily used for means of general transportation as such terms as defined in Section 2.09 above. Garage doors shall be kept closed except when in actual us

2.14 Window Covers. Curtains, drapes, shutters, or blinds may be installed as window

coverings, however, any such covering visible from the street or Common Area shall be in color and patterns which are approved by the Board or its authorized Committee. No newspaper or aluminum foil shall be used as coverings.

2.15 Liability of Owners for Damage to Common Areas. The Owners of each Unit shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such Owner or by any occupant of his Unit or guest, except for that portion of said damage, if any, fully covered by insurance.

2.16 No Violation of Rules. There shall be no violation of the Restrictions. If any Owner, his family, servants, guests, licensee, lessee, or invitee violates the Restrictions, or any of them, disciplinary action may be taken pursuant to Article X of the Bylaws.

2.17 Maintenance of Units and Certain Provision Pertaining to Restricted Common Areas. Each Unit (including without limitation, all elements constituting portion thereof) shall be maintained in good and clean condition and repair by the respective Owner(s) thereof (at their own expense). Any portion of a Unit visible to the public from the Common Areas and/or other Units shall be painted a color which harmonizes with the color scheme of the building and which has been approved by the Architectural Committee. Nothing to the contrary herein withstanding, the fencing and exterior surfaces of the perimeter walls of the Condominium Buildings that bound the patios and/or decks appurtenant to the Units within the Property are not a part of the Units, but rather are a part of the Common Area, and the following shall apply with respect thereto:

- a. (a) Such Restricted Common Areas, fences and exterior surfaces of perimeter walls shall be kept clean by the Owner(s) of the Units whose patios and/or decks are adjoining and appurtenant thereto; and
- b. (b) Such fences and exterior surfaces of perimeter walls shall be maintained and painted by the Association as a common expense, as contemplated in Section 5.02 (g) hereof.

2.18 Drainage. There shall be no interference with the established drainage pattern over any property within the Property unless adequate provision is made for proper drainage and is approved by the Architectural Committee. For purposes hereof, "established drainage" is defined as the drainage which exists at the time the overall grading of the Property is completed or the drainage which is shown on any plans is approved by the Architectural Committee.

2.19 No Commercial Activity. No professional, commercial or industrial operations or any kind shall be conducted in or upon any Unit or the Common Areas, except such temporary uses by Developer as may be permitted hereunder while the Property or any portion thereof is being developed and the Condominiums therein are being sold by Developer.

2.20 Rights Reserved by Developer. Nothing in this Declaration or in the Condominium Documents shall limit the right of Developer to complete excavation, grading and construction of the improvements within the Property owned in whole or in part by Developer, to alter the foregoing or to such additional improvements as Developer from time to time deems advisable in the course of development of the Property or any portion thereof for so long as any Condominium within the Property remains unleased or unsold (but not to exceed three (3) years from the date of recordation of this Declaration), or to use any Unit within the Property as a model home, or a construction, real estate sales, leasing or decorator office, For the shorter period of three (3) years from the date of recordation hereof or until Developer no longer has an ownership interest in the Property, Developer and its agents and invitees shall have the right to make reasonable use of any and all of the Common Areas within the Property (or ingress, egress, development, sales and construction purposes.

ARTICLE III
DESCRIPTION OF PROJECT, DIVISION OF
PROPERTY AND CREATION OF PROPERTY RIGHTS

3.01 Description of Project. The Project consists of the Property with Condominium Units and all other improvements located thereon. Reference is made to the Condominium Plan to supply further details concerning the Project.

3.02 Division of Property. The Property hereby divided into the following separate real property estates:

(a) Units: Each of the Units is separately shown, numbered, and designated in the Condominium Plan and is defined therein and in Article I Above.

(b) Common Areas: The remaining portion of the Property after excepting units numbered 1 through 68 inclusive, is the Common Area. Each unit Owner shall have, as appurtenant to his Unit, a one/sixty-eighth (1/68th) undivided interest in the Common Areas of the Property.

(c) Restricted Common Areas: Portions of the Common Area referred to as "Restricted Common Areas" are hereby set aside and allocated for the exclusive use of the owners of each Unit to which such Restricted Common Areas are appurtenant. Said Restricted Common Areas shall consist of the private patio areas as identified by the letter on the Condominium the private deck areas as identified by the letter "D" on the Condominium Plan each Unit shall have appurtenant thereto those Restricted Common Areas shown on the Condominium Plan as being immediately adjacent to and designated to service such Unit. Developer hereby expressly reserves for the benefit of each Condominium Owner an exclusive easement for use of those Restricted Common Areas on the Condominium Plan as being appurtenant to the unit owned by him. Additional provisions pertaining to and identifying the boundaries of, the Restricted Common Areas Are set forth on Exhibit "A" attached hereto and by this reference made a part hereof.

The following shall be applicable with respect to the Restricted Common Areas:

(i) The Patios and Decks within the Project shall be used for such purposes as may be customary for patio use and deck use, respectively, subject to reasonable rules as may be from time to time promulgated by the Association.

(ii) The Restricted Common Areas may not be added to, modified, or altered without the approval of the Architectural Committee. The Restricted Common Areas within the Project shall be kept neat and clean and shall be maintained by the Owners of the Condominium to which such Restricted Common Areas are appurtenant. The exterior surfaces of perimeter walls, floors, windows and doors of buildings adjoining the Restricted Common Areas constitute a portion of the boundaries of such Restricted Common Areas (but do not constitute a part of the Restricted Common Areas themselves) and shall be repaired, maintained and painted by the Association (except for the windows which shall be repaired, maintained and kept clean by the Owners whose Units are bounded by such windows, respectively).

ARTICLE IV
ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

4.01 Association to Manage and Operate Common Areas. The management, operation, maintenance and administration of the Common Areas of the Property shall be vested in the Association in accordance with the provisions of this Declaration, the Articles and the Bylaws, as all such instruments may be from time to time amended.

4.02 Membership. The Owner of a Unit shall automatically, upon becoming the owner of same, be a member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and Bylaws of the Association.

4.03 Joint Owner Disputes. The vote of each Condominium shall be, if at all, cast as a unit and fractional votes shall not be allowed. In the event the joint Owners of a Condominium are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any joint owner casts a vote representing a certain Condominium, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other joint Owners of the same Condominium.

4.04 Transfer of Membership. 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 and not be reflected upon the books and records of the Association.

4.05 Membership Classes and Voting Rights. The Association shall have two (2) classes of voting membership as follows:

(a) Class A: Class A Members shall be all Owners the exception of the Developer. Each Unit shall be entitled to one (1) vote. When more than one person holds an ownership interest in any Unit, all such persons shall be Members of the Association but in no event shall more than one (1) vote be cast with respect to any one Unit.

(b) Class B: The Class B Member(s) shall be the Developer and shall be entitled to vote as follows: Voting shall be the same as for Class A memberships, except that B Member may triple its votes for each unit owned. The Class B membership shall cease and be converted to Class A Memberships on the happening of any of the following events, whichever occurs earlier.

(i) When the total votes outstanding in the Class A membership equal the total votes (tripled AS stated above) outstanding in the Class B membership: or

(ii) Upon the second (2nd) anniversary of the original issuance the subdivision public report for the Property.

(c) Voting rights shall vest respect to each Unit located within the Property upon consummation of the first sale of a Unit located within the Property.

4.06 Voting Requirement During Which There Are Two Outstanding Classes of Membership.

(a) Any provision in this Declaration or in any of the other Condominium Documents calling for membership approval of actions to be taken by the Association shall require the vote or written assent of the percentage of each class of membership, prescribed herein for such approval during the time that there are two (2) outstanding classes of membership, except with respect to the approval required under the provisions of the Article below captioned "Special Provisions Relating to Enforcement of Developer's Obligations to Complete Common Area Improvements", which shall be voted upon by the Class A membership only.

(b) Nothing to the contrary herein withstanding, under the circumstances where the Restrictions and/or the Regulations promulgated by the Real Estate Commissioner of the State of

California require the vote or written assent of each class of Members for the initiation of action by or in the name of the Association and provide that the vote of the Developer shall be excluded in determining whether such requirements have been met, the exclusion of Developer's vote shall be applicable only if there has been a conversion of Class B to Class A shares; and only for so long as Developer holds or directly controls twenty-five percent (25%) or more of the voting of the Association. This Section 4.06(b) shall apply to provisions relating to amendments to the Restrictions or to the special provisions relating to enforcement of Developer's obligations to complete Common Area Improvements.

ARTICLE V.

DUTIES AND POWERS OF THE ASSOCIATION

5.01 General Statement and Limitations. The Association shall have the right and power to do all things reasonably necessary and/or desirable for the management, operation, maintenance and administration of the Property the extent provided for herein; provided, however, that nothing to the contrary herein or in any or the other Condominium Documents withstanding, the Association shall not take any of the following actions, except with the vote or written assent of a majority or the voting power of the membership of the Association held by Members other than Developer, such exception being subject, however, to the provisions of Section 4.06 of this Declaration:

(a) Enter into a contract with a third person when the third person furnish goods or services for the Common Area or the Association for a term longer than one (1) year with the following exceptions:

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

(ii) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the policy provides for short-rate cancellation by the insured.

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

(b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the A fiscal year.

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

(d) Paying compensation to members of the Board, the Architectural Committee and/or the officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Member of the Board and/or of the Architectural Committee and/or an officer of the Association to be reimbursed for expenses incurred in carrying on the activities of the Association.

Subject to the provisions of the Condominium Documents, the powers of the Association shall include, but not necessarily be limited to, the specific acts hereinafter enumerated or as set forth in the California Civil Code, Section 1355(b), Subsections I through 8.

5.02 Duties and Powers. In addition to the duties and powers enumerated in its Bylaws or elsewhere in this Declaration or in the other Condominium Documents and without limiting the generality thereof, the Association shall:

(a) Have the authority to obtain for the benefit of the Condominiums, water, electrical, gas and Other utility services as well as refuse collection and janitorial services, and to pay out of the assessments levied and collected in accordance herewith the charges and fees for the foregoing services.

(b) (i) Obtain and maintain a master or blanket policy of fire insurance for one hundred percent (100%) of the full replacement value, without deduction for depreciation, of all improvements within the Property, such policy shall contain extended coverage, vandalism malicious mischief, replacement costs endorsements and if available, shall also contain the special extended coverage endorsement commonly known as "All Risk" coverage, stipulated amount clause and determinable cash adjustment clause, or a similar clause to permit cash settlement covering full value of the improvements on the Property in the event of destruction of improvements and the decision not to rebuild pursuant to the provisions of Article IX hereof. Such policy shall be in such amounts as shall be determined from time to time by the Board, shall name the insured the Association, the Owners and Developer, so long as Developer is the Owner of any of the Condominiums and all Mortgagees as their respective interests may appear, and shall contain a loss-payable endorsement in favor of the Trustee hereinafter described. Except provided in this Section below, all insurance proceeds payable under the fire insurance policy carried pursuant to the provisions of this Section be paid to Trustee. The Trustee shall hold distribute and expend such proceeds for the benefit of the Owners, Mortgagees, Developer, and others, as their respective Interests shall appear, pursuant to the provisions Article IX hereof. The Trustee shall be appointed by the Board and shall be a commercial bank or branch thereof, or a trust company in Orange County which has agreed in Ten Thousand (\$10,000) Dollars, such proceeds shall be paid to the Association in Trust, to be used as provided in Article IX hereof. The said fire insurance policy may, in the discretion of the Board, provide for a deductible of not exceed Two Thousand (\$2,000) Dollars per building per occurrence, with an aggregate deductible of Eight Thousand (\$8,000) Dollars per loss, provided that any such deductible feature is acceptable the First Mortgagees named as insureds under such fire insurance policy.

(ii) Obtain and maintain a policy or policies insuring the Association, the Board the Declarants, the Managing Agent, and the Owners, and agents and employees of each of the foregoing, against any liability incident to the ownership and/or use of the Common Areas within Project as normally by comprehensive general liability insurance, and if obtainable, a cross liability to each other insured. Said policy or policies shall have a minimum liability limit of ONE MILLION DOLLARS (\$1,000,000) per occurrence for physical injury, death and/or property damage; such policy or policies shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of Owner because of the negligent act of the Association or other Owners.

(iii) If there is a steam boiler in operation in connection with the Property, then obtain and maintain boiler insurance evidenced by standard of boiler and machinery insurance policy and providing as a minimum of FIFTY THOUSAND DOLLARS (\$50,000) per accident per accident per location, payable to the named insureds, except with respect to the interests of Owners in such proceeds, which shall be payable to the Association as trustee for their benefit provided below; policy shall name as insureds the Owners, and their respective Mortgagees named in endorsements and Declarants, as their respective interest may appear.

(iv) If the Property located in an area identified by the Secretary of Housing and Urban Development or any successor agency as an area having special flood hazards, then obtain and maintain a "blanket" policy of flood insurance on the Property in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Condominiums constituting the Project or

the maximum limit of coverage available under the National Flood Insurance Act of 1968 as amended, whichever is less; the proceeds of which insurance shall be payable to the named insureds, except for the interests of the Owners in such proceeds, which shall be payable to the Association as trustee for their benefit, as provided for below which policy or policies shall insure the Owners, and their respective Mortgagees named in endorsements, and Declarants, as their respective interests may appear.

(v) Obtain and maintain fidelity coverage insurance against dishonest acts on the part of directors, officers, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association, which insurance shall name the Association as the named insured and be written in an amount sufficient provide protection which is in no event less than one and one-half (1 ½) times the Association's estimated annual operating expenses and reserves; and in connection with such coverage, an appropriate endorsement to the policy shall be obtained and maintained to cover any persons serve without compensation if the policy would not otherwise cover volunteers.

(vi) Deal With any such Insurance referred to in this Section 5.02 as herein provided and the provisions of this Declaration shall control the rights and responsibilities of the Association, the Board, and the Owners.

A. Except with respect to fire insurance proceeds payable to the Trustee as provided for in Section 5.02 (b) (i) above, the Association is hereby appointed and deemed and shall be deemed trustee of the interests of all Owners in any insurance proceeds paid to it under such policies or under any policy or policies carried by the Owners in lieu of policies called for above, and shall have full power to receive and to receipt for their interests in such proceeds and to deal therewith and adjust same as provided for herein.

B. It shall be the duty of the Association to obtain and keep in full force and effect all times the policy or policies of insurance referred to in these Sections 5.02(b) and (c) hereof; provided such insurance coverage is available and can be obtained and maintained at reasonable cost to the Association as determined in the sole discretion of the Board of the Association. If It is determined that such insurance coverage is not available at reasonable cost, then all Owners shall Immediately be notified in writing and advised as to any change in coverage and/or to obtain and maintain coverage on their behalf as provided for above.

C. So long as the Declarants. their successors and assigns retain any interest in the Project, the Association shall, from to time, immediately upon receipt of same, cause to be deposited with Declarants true copies of all insurance policies obtained by the Association referred to in this Section 5.02.

D. Each and every policy of insurance described herein shall contain a provision that said policy or policies shall not be materially modified, cancelled, terminated or permitted to expire by their own terms without thirty (30) days prior written notice from insurer to the Association, Declarants, and their respective Mortgagees, as well as to every other person in interest who shall have requested in writing such notice from the insurer.

E. It should be understood that the Association is obligated, subject to the limitations herein provided, to provide only the insurance coverages specified on Section 5.02 (b) and (c) herein, and that such coverages do not necessarily include intra-unit public liability insurance not protection against many of the risks customarily covered under insurance policies designated as "homeowners" or "broad from homeowners" policies, which risks must be insured against by the Owners individually in order for the Owners to receive insurance protection against the risks.

F. The policies of insurance obtained by the Association as provided for in this Section 5.02 shall contain as appropriate the following provisions:

- (1) Statements that such policies are primary and noncontributing;
- (2) Statements that conduct of an Owner shall not constitute grounds for avoiding liability under such policy or policies;
- (3) An express waiver of the carrier's right of subrogation against any Owner, member of the family of any Owner, the Association, the Board, the Manager, the Architectural Control Committee, the Declarants, and agents and employees of each of the foregoing.

G. Each hazard insurance policy to be obtained and maintained pursuant to the provisions of this Declaration must be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better or from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policy holder's rating of at least A.

H. It is intended that when available, the Association shall obtain and maintain such types and coverages of insurance, evidenced by policies of insurance (and endorsements, when applicable) in such form and issued by such carriers as shall from time to time meet the requirements of the Federal Home Loan Mortgage Corporation applicable to the Property.

I. All policies of hazard insurance required to be obtained and maintained pursuant to the provisions of this Declaration must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located

(c) Obtain and maintain workers' compensation insurance to the extent necessary to comply any applicable laws.

(d) Obtain and maintain such other policies of insurance as the Association may deem appropriate.

(e) Subject to the provisions of Section 5.01 above, have the to obtain the services of a person or firm to manage the Common Areas and perform or cause to be performed all or any part of the duties and responsibilities of the Association (the "Manager") to the extent deemed by the Association as well as such other personnel as the Association shall determine shall be necessary or proper for the operation of the Common Areas, whether such are employed directly by the Association or furnished by the Manager.

(f) Have the authority to establish and maintain working reserve and/or contingency funds in reasonable amounts to be determined by the Board

(g) Subject to the provisions of Sections 2.17 and 3.02(c) above and the provisions of Article IX below, paint maintain and repair the Common Areas within the Property, and the furnishings, equipment and landscaped areas, if any, located within such Common Areas, and the fencing and exterior surfaces of perimeter walls surrounding any patio and/or deck and keep same in good and clean condition, except for those areas which are to be kept clean and/or maintained by the Owners pursuant to the provisions Sections 2.17 and 3.02(c)

hereof. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacement arising out of or caused by the willful or negligent act or neglect of an Owner, or his guests, tenants, or invitees, the cost of which is not covered by insurance; the uninsured cost of which shall be borne by the person causing the damage.

(h) The Association shall have no responsibility to perform the functions referred to above in Section 5.02 (g) until the first Condominium in the Project has been conveyed by Developer.

(i) Discharge by payment, if necessary, any lien against the Common Area within the Property (including without limitation any general and/or special real property taxes and assessments which are or could become liens upon such area) and assess such costs and fees. to the Member or Members responsible for the existence of said lien. Any such general and special real property tax and/or assessment may be contested or compromised by the Association: provided, however, that they are paid or a bond insuring the payment is posted prior to the conveyance or other disposition of any property to satisfy the payment of such taxes.

----- (j) Have the authority to adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area and all facilities thereon, for the conduct of Owners and their tenants and guests with respect to the Property and other Owners. A copy of the Rules, as they may be from time to time adopted, amended, or repealed, may but need not be mailed or otherwise delivered to each Owner, or recorded. Upon such mailing delivery or recordation, the Rules shall have the same force and effect as if they were set forth in and made a part of this Declaration. In addition, as to any Owner having actual knowledge of any given properly adopted Rules, such Rules shall have the same force and effect and may be enforced against such Owner.

(k) With the approval of the Architectural Committee, construct new improvements or additions to the Common Areas within the Property or demolish existing improvements thereon; provided that, in the case of any improvements, addition or demolition (other than maintenance or repairs to existing improvements) requiring a special assessment, the Association shall first comply with all other provisions of this Declaration. including but not limited to the provisions for levying such special assessment.

5.03 Delegation or Duties by Association. The Association may delegate any of its duties, powers or functions to any persons, corporation, or firm to act as Manager. Neither the Association nor the Members of its Board shall be liable for any omission or improper exercise of the Manager any such duty, power, or function so delegated.

5.04 Right of Entry. For the purpose of performing the maintenance authorizes in this Declaration, or for construction or emergency repairs for the benefit of the Common Area or the Owners in common, or for any other purpose reasonably related to the performance by the Association of its responsibilities under this Declaration, the Association's agent or employee shall have the right, after reasonable notice to Owner, to enter any Unit or upon any portion of the Common Area (including without limitation the Restricted Common Area) at reasonable hours.

5.05 Budget and Financial Statements. The Board shall cause budgets and financial statement' for the Association to be regularly prepared and copies shall be distributed to each Member of the Association as follows:

(a) A pro-forma operating statement (budget) for each Association fiscal year shall be not less than sixty (60) days before the beginning of the fiscal year.

(b) A balance sheet, as of an accounting date which is the last day of the month closet in time to six (6) months from the date of closing of the first sale of a Condominium within the Project, and an operating statement for the period from the date of the first closing to said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include schedule of assessments received and receivable identified by Unit number and the name of the person assessed.

(c) An annual report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year:

(i) A balance sheet as of the end of the fiscal year;

(ii) An operating (income) statement for the fiscal year;

(iii) A statement of changes in financial position (or the fiscal year; and

(iv) Any information required to be reported under Section 8322 of the California Corporations Code concerning indemnification end transactions with interested persons.

(d) The annual report referred to in Section above shall be prepared by independent accountant for any fiscal year in which the gross income to the Association exceeds SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

(e) If the report referred to in Section 5.05(c) above is prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

5.06 Utility Easements. The Association is authorized and to grant such licenses, easements and rights of way for sewer lines, water lines, underground cable television lines, storm drains and other utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Units and/or Common Areas and/or for the preservation of the health, safety, convenience and welfare of the Owners, over, under, across and through those portions the Common Areas of the Property upon which no building or other structure has been erected. Such licenses, easements and rights of way may be granted at any time prior to twenty-one (21) years after the death of the individuals who have signed these restrictions and their issue who are in being as of the date hereof, and the right to grant such licenses, easements and rights of way is hereby expressly reserved in favor of Developer with the right to grant same to the Association and/or to the others as herein contemplated; and Developer and Owners, upon request of the Association, shall take such actions (without being required to expend monies in connection therewith) and execute such instruments as may be reasonably necessary to implement and perfect the purposes of this Section 5.06.

5.07 Performance of Owner's Obligations by Association. If any Owner shall fail to perform any maintenance type of obligation for which he is responsible hereunder or under the Restrictions or if any Owner shall fail to make the repairs or replacements which are his responsibility hereunder or under the Restrictions, then upon a vote of a majority of the Board, and after not less than thirty (30) days' notice to the Owner, the Association shall have the right (but not the obligation) to enter the Condominium such Owner and/or the Restricted Common Area appurtenant thereto and undertake any such maintenance work and/or make such repairs or replacements, and the costs thereof shall be added to the assessments chargeable to such Condominium, and shall be payable to the Association by the Owner of such Condominium.

5.08 Liability of Board Members, Manager and Architectural Committee Members. No member of the Board nor of Architectural nor the Manager nor Developer nor any officer of the Association shall be personally liable to any Owner, or any other party, for damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, the Architectural Committee, the Manager, Developer, or any of the representatives or employees of any of the foregoing, provided that such Board members, Architectural Committee members, the Manager or Developer has upon the basis of such information as may be possessed by him, acted in good faith.

5.09 Commencement of the Association's Management Responsibility. The Association's obligation to maintain, operate, manage and/or administer areas within the Property to be maintained, operated, managed and/or administered by the Association as called for in this Declaration, shall commence as to all such areas on the date of the consummation of the first conveyance to a third party of a Condominium within the Property.

ARTICLE VI COVENANT FOR ASSESSMENT

6.01 Creation of the Lien and Personal Liability. The Declarants, for each Con. dominium owned by them within the Property hereby covenant and agree to pay, and each Owner of any Condominium within the Property by acceptance of leasehold interest in or a deed to or recorded contract of sale therefor, whether or not it shall be so expressed in such instrument, is deemed to covenant and agree to pay to the Association:

(a) Regular Assessments or charges:

(b) (i) Special Assessments for the purpose of defraying, in whole or in part, the cost of capital improvements to be made on the Property by the Association as herein provided, and/or for the purpose of defraying special common expenses other than for capital improvements and/or for the purpose of defraying the costs of any other action or undertaking on behalf of the Association, the funding for which is not otherwise provided for herein and/or for the purposes set forth in Section 6.01 (b) (ii) below, all subject to the provisions of Section 6.04 of this

(ii) In the event the Board shall determine that the estimate of total regular assessments for the current year is or will become inadequate to meet all Common Expenses for such current year for any reason, it shall then immediately determine the approximate amount of such inadequacy and shall issue a supplemental estimate of the Common Expenses and shall determine the amount of additional assessment revenue required for the current year, and shall thereupon levy a special (supplemental) assessment against each Condominium and the Owners thereof, which special (supplemental) assessments shall set forth the date or dates when due; provided that the levy of any such special (supplemental) assessment shall be subject to the provisions of Section 6.04 below.

(c) Individual extraordinary assessments ("Extraordinary Assessments" herein) levied against individual Condominium Owners by the Board in accordance with Sections 2.16 and/or 5.07 hereof, and to the extent appropriate, Section 5.02(i) hereof, or to pay for or reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual Owner, his or her family, guests, tenants, lessees and/or invitees, and not caused by ordinary wear and tear, and/or as a remedy utilized by the Board to pay for or reimburse the Association for costs incurred in bringing any Owner and/or his Condominium into compliance with the provisions of the Restrictions; and

(d) Reconstruction Assessments levied against, each Owner and his Condominium by the Board in accordance with the provisions of Article IX (Destruction of Improvements) hereof, for the of defraying the expenses of the Association of reconstructing all or any portion of damaged or destroyed improvements located within the Common Areas of the Property.

All such assessments to be fixed, established, and collected from time to time as herein provided.

AM assessments, together with interest thereon, costs of collection thereof, and reasonable attorneys' fees shall be a charge on the land and shall be a continuing lien, with power of sale, upon the real property estate against which each such assessment is made. The lien shall become effective upon recordation of a Notice of Claim of Lien in accordance with Section 6.08 of this Declaration. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due, and shall bind his heirs, devisees, personal representatives, successors and assigns; provided, however, that the personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them (it being understood that subject to the provisions of Article VIII below, the lien effected against a Condominium by recordation of a Notice of Claim of Lien shall remain in full force and effect following any conveyance or transfer of the said Condominium).

6.02 Purpose of Assessments—Generally, The assessments levied by the Association shall be collected, accumulated and used exclusively to promote the recreation, health, safety, and welfare of the Members of the Association, including without limitation, use for the improvement and maintenance of the Common Area and the common facilities and the administration of the Property for the common good of the Owners.

6.03 Regular Assessment.

(a) The regular assessments levied by the Association shall be collected, accumulated and used generally for the maintenance and operation of the Common Area and facilities, the administration of the Property and the Association, the establishment of reserves as contemplated in Section 8.13 hereof, and for such other purposes as may be from time to time reasonably determined by the Board, subject to such limitations as may be set forth in the Condominium Documents.

(b) Until January 1 of the year immediately following the year in which the first sale to a purchaser of a Condominium located within the Property is consummated, the regular assessment shall be that dollar amount per month per Condominium then subject to assessment as was provided for in the Association budget that was approved by the California Department of Real Estate in connection with the issuance of the Public Report for the Project.

(c) From and after January 1 of the year immediately following such consummation of the first sale to a purchaser of a Condominium located the Property, the amount of Regular Assessments shall be as determined by the Board annually in accordance with the provisions of Section 6.07 hereof on a calendar year basis after giving due consideration to All relevant facts, including but not limited to current maintenance and operating costs, anticipated future needs of the Association, and the need for contingency and maintenance reserves.

(d) Notwithstanding the foregoing provisions of this Section 6.03, the Board may not without the vote or written assent of a majority of the voting power of each class impose a regular annual assessment, per Condominium which is more than twenty percent (20%) greater than the regular annual assessment per Condominium for the immediately preceding fiscal year. Notwithstanding the provisions of the immediately preceding sentence, and subject to the provisions of Section 4.06(b) of this Declaration, once there is only one class of membership, the Board must obtain the vote or written assent of a majority of the voting power of the Association residing in Owners, other than Developer, to impose the type of increase in assessments referred to in the immediately preceding sentence. The monthly assessments per Condominium for the partial year referred to in 6.03(b) above shall be annualized for the purpose of determining whether the proposed assessments per Condominium for the Association's

first full calendar year are more or less than twenty percent (20%) greater than the Regular Assessments per Condominium for such partial period.

6.04 Special Assessments. In addition to the Regular Assessments authorized above, the Board may levy, in any assessment year, Special Assessments for any of the purposes contemplated in Section 6.01(b) above; provided that, subject to the provisions of Section 4.06(b) of this Declaration, any such assessments exceeding five percent (5%) in the aggregate of the budgeted gross expenses of the Association for the assessment year in question shall require the approval by vote or written assent of Members entitled to exercise not less than a majority of the voting power of each class of Association membership, or, if there is only one class of membership, then the approval by vote or written assent of Members, other than Declarant, entitled to exercise a majority of the voting power of the Association. Written notice of the amount of any Special Assessment shall be sent to every Owner, the due date for payment of same shall be set forth in such notice, and to the extent reasonably appropriate, each Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments. The provisions with respect to Special Assessments do not apply in the case where individual Extraordinary Assessments are levied against an Owner for any of the purposes described in Section 6.01 (c) above (including without limitation where the individual Extraordinary Assessment against an Owner is used by the Board as a remedy to reimburse the Association for the costs incurred in bringing the Member and/or his Condominium into compliance with the provisions of the Restrictions).

6.05 Uniform Rate of Assessment. Except as otherwise provided in Section 6.04 above, Regular Assessments and Special Assessments must be fixed at a uniform rate for all Condominiums then subject to assessment by the Association; thus each Condominium (and the Owners thereof) subject to assessment by the Association at the time any of the foregoing types of assess. are levied shall be liable to the extent herein provided for that proportion of the overall assessment levied as the number one (1) bears to the total number of Condominiums then subject to assessment by the Association.

6.06 Date of Commencement of Regular Assessments: Due Dates of Assessments.

(a) The Regular Assessments provided for herein shall commence as to all Condominiums located within the Property on the date of closing of the first conveyance of a Condominium within the Property to a purchaser thereof.

(b) Except for the partial first year which is dealt with in Section 6.03(b) above, Regular Assessments shall be levied on a calendar year basis. All Regular Assessments shall be due and payable in monthly installments, in advance, on the first day of each and every month, or in such other manner and at such other times as the Board of the Association may from time to time establish.

(c) The due date of any Individual Extraordinary Assessment referred to in Section fixed in the authorizing such assessment and shall be set forth in the Notice of Assessment given to the Member liable therefor.

6.07 If the Board of Directors as to Assessments. The Board Of Directors of the Association shall fix the amount of the Regular Assessment against each Condominium on an annual basis for each calendar year at least thirty (30) days in advance of the commencement of such period and shall, at that time, prepare a roster of the Condominiums within the Property and all types of assessments applicable thereto, which shall be kept in such place as may be from time to time designated by the Board of the Association, provided that same shall be open to inspection by any Owner during normal business hours.

Written notice of the Regular Assessments shall be sent to every Owner on an annual basis at least thirty (30) days in advance of the commencement of the applicable calendar year, and such notice shall specify when installment payments shall be due and payable. Nothing to the contrary herein withstanding, if the Regular Assessment is not made as required for any calendar year, then the Regular Assessment for the last prior calendar year shall be deemed automatically assessed against the Owners of each Condominium then subject to assessment, and installment payments based on such amount shall be payable on the regular payment dates until changed by new or supplementary assessment.

Upon demand, the Association shall furnish to any Owner and/or Mortgagee whose Condominium is liable for any Regular, Special, Reconstruction and/or Extraordinary Assessments, a certificate in writing signed by an officer of the Association setting forth the nature and extent of such assessments, the due dates thereof, and whether or not any delinquency exists. Such certificates shall be conclusive evidence of payment of any assessments or portion thereof therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of any such certificate.

6.08 Effect of Nonpayment of Assessments: Delinquency and Remedies of the Association.

(a) If any 'assessment, Regular, Special, Reconstruction or Extraordinary or any portion thereof, is not paid on the date when due, then such assessment or portion thereof not paid when due shall be deemed delinquent and shall, together with interest and costs of collection, including but not limited to reasonable attorneys' fees as provided for below, become a continuing lien on the Condominium against which such assessment was made when such lien is perfected by the recordation of a "Notice of Claim of Lien" against the Owner's fee interest in such Condominium in the manner provided for in Section 6.08(b) below.

Upon recordation of a Notice of Claim of Lien against a Condominium, such lien shall constitute a lien on the Condominium prior and superior to all other monetary liens on the Owner's fee interest except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any mortgage of record made in faith and for value.

With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the Owner to pay a "late charge" in a sum to be determined by the Association, but exceed five percent(5%) of the amount of the delinquent assessment.

If the assessment or any portion thereof is not paid within thirty (30) days after the delinquency date, it shall bear interest from the date of delinquency at the highest rate then allowed by law under the circumstances and, in addition all other legal and equitable rights or remedies, the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same (and such action may be brought without foreclosing or waiving any lien securing such amount); or, upon compliance with the notice provisions set forth in Section 6.08(b) below, the Association may the lien against the and there shall be added to the amount of such assessment or any portion thereof, the interest thereon, all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting the delinquent assessment. In lieu of judicially foreclosing the lien, the Association, at its option, may foreclose such lien by proceeding under a power of sale as provided for in Section 6.08(c) below, such a power of sale being given to the Association to each and every Condominium for the purpose of collecting delinquent assessments. Each

Owner vests in the Association, its successors or assigns, the right and power to bring all actions at law or of lien foreclosure against such Owner or other Owners for purposes of collecting delinquent assessments,

(b) No action shall be brought to foreclose the lien, or to proceed under the power of sale, until at least thirty (80) days after a Notice of Claim of Lien, executed by a duly authorized representative of the Association, has been recorded with the County Recorder for the county in which the Property is located, said Notice setting forth the amount claimed (which may include interest as provided for above, expenses of collection, including reasonable attorneys' fees, and accrued late payment charges), a good and sufficient legal description of the Condominium being assessed, the name of the record owner or reputed owner thereof, and the name and address of the Association as claimant. A copy of said Notice of Claim of Lien shall be deposited in the United States mail, certified or registered, and postage prepaid, addressed to the Owner of the Condominium using the address of the said Condominium or using such other address as may have been previously given in writing to the Association by such Owner.

(c) Any such provided for above shall be conducted in accordance with the provisions of Sections 292-2924h of the Civil Code of the State of California, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Condominium at foreclosure and to acquire and, hold, lease, mortgage and convey the same.

(d) Upon the timely curing of any default for which a Notice of Claim of Lien was recorded by the Association, the officers of the Association are hereby authorized to file or record, as the case may be an appropriate release of such notice, upon payment by the defaulting Owner of a reasonable fee to be determined by the Association to cover the cost of preparing and filing or recording such release together with the payment of such other costs, interests or fees as shall have been incurred (including but not limited to reasonable attorneys' fees).

(e) The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder or by law.

(f) Unless sooner satisfied or release, or the enforcement thereof initiated, any lien arising as herein provided shall expire and be of no further force and effect one (1) year from the date of recordation of the aforementioned Notice of Claim of Lien; provided, however, that said one (1) year period may be extended by the Association for a period of not to exceed one (1) additional year by recording a written Notice of Extension thereof.

(g) Sale or transfer of any Condominium shall not affect any assessment lien perfected against such Condominium, and except as hereinafter provided with respect to the acquirer of any such Condominium by reason of the foreclosure (judicially or under power of sale), of a recorded first mortgage, and to the successors and assigns of such acquirer, the Seller/ Transferor and Buyer/Transferee shall, following the sale or transfer of any Condominium, be jointly and severally liable for all previously unpaid assessments applicable to periods preceding the sale or transfer; provide, however, the- sale or transfer of any Condominium pursuant to foreclosure (judicially or under power of sale) of recorded first mortgage in favor of an Institutional Lander, shall, except as otherwise noted in this Section 6.08(g) below, extinguish any assessment lien securing payment Of assessments applicable 10 periods prior to such sale or transfer. No sale or transfer shall relieve such Condominium from liability for any assessments thereafter becoming due or from the lien thereof.

Where the mortgagee of a first mortgage of record in favor an Institutional Lender or other purchaser of the Condominium obtains title to the same as a result of such foreclosure any such mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the assessments by the Association chargeable to such Condominium which pertain to periods prior to the acquisition of title to such Condominium by such acquirer, Such unpaid share of assessments shall be deemed to be common expenses collectible from all of the Condominiums then subject to assessments, including the Condominium owned by such acquirer, his successors and assigns.

6.09 Assessment of Condominiums Owned by Developer. Except as otherwise specifically provided in the Declaration, each Condominium owned by Developer within the Property then subject to assessment by the Association shall be assessed to the same extent and in the same manner as any Condominium owned by any individual Owner.

6.10 Nonuse and Abandonment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Condominium.

6.11 Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created for assessments pursuant to this Article VI, the benefit of any homestead or exemption laws of California in effect at the time any assessment or installment becomes delinquent or any lien is imposed.

ARTICLE VII ARCHITECTURAL COMMITTEE AND ARCHITECTURAL CONTROL

7.01 Architectural Control

(a) Except as provided in Section 7.01(c) below, no person shall install, erect, attach, apply, paste, hinge, screw, nail, build or construct lighting devices, shades, screens, awnings, patio covers, decorations, fences, aerials, antennae, radio or television broadcasting or receiving devices, or paint or make any changes or otherwise alter whatsoever the structural aspects or the exterior of any building or structure containing the Units or the Restricted Common Areas or to be constructed within the Property, or install any landscaping (other than plants, bushes and/or flowers that grow low to the ground) on the Property or any portion thereof. For the purpose of this Section 7.01(a), the term "exterior" shall mean any outside walls, outward surfaces, roofs, outside doors, or other outside structures of said building improvements.

(b) Except as provided in Section 7.01 (c) below, no person shall commence, erect, install, alter, paint or maintain any buildings, fences, obstructions, patios, patio covers, tents, carports, carport covers, improvements, walkways, slabs, sidewalks, curbs, gutters, porches, driveways, lighting, decorations, aerials, antennae, radio or television broadcasting or receiving devices, or other structures of tiny kind within the Common Areas of the Property.

(c) No person shall any of the prohibited acts specifically described in Section 7.01(a) and (b) above until the complete Plans and Specifications showing the nature, type, shape, color, size, materials and locations of such improvements, alterations, etc., shall have been submitted to and approved in writing by the Architectural Committee; in making its determination, the Architectural Committee shall consider, inter alia, the factors described in

Section 7.07 Nothing contained herein shall be deemed to require Declarants or Developer and/or their successors and assigns described in Sections 1.16 and 1.18 above, respectively to obtain Architectural Committee approval in connection with the original construction of the improvements on the Property or any portion thereof.

7.02 Architectural Committee. The procedures for appointment and replacement of members of the Architectural Committee shall be as follows:

(a) Developer may appoint all of the original Members of the Architectural Committee and all replacements until the first anniversary of the issuance by the California Department of Real Estate of the initial final public report for the Property. The original Members of the Architectural Committee hereby appointed by Declarant shall be as follows:

(i) ROBERT R. JAMES

(ii) DARLENE FROST

(iii) JAMES STRINGER

The Architectural Committee's initial address is:

Architectural Committee for
LANDMARK YORKTOWN
17890 Sky Park Circle
Irvine, California 92714

Such address may be changed from time to time by recording in the County in which the Property is located an instrument referencing the Property and this Declaration and setting forth the new address, or by giving notice of such new address to all Owners within the Property.

(b) The Developer hereby reserves to himself the power to appoint two (2) members of the Architectural Committee until ninety percent (90%) of all of the Condominiums in the Property have been sold or until the fifth (5th) anniversary of the issuance by the California Department of Real Estate of the initial final public report for the Property, whichever first

(c) After one (1) year from the date of the issuance by the California Department of Real Estate of the initial final public report for the Property, the Board of the Association shall have the power to appoint one member to the Architectural Committee until ninety percent (90%) of all of the Condominiums within the Property have been sold or until the fifth (5th) anniversary date of the initial issuance by the California Department of Real Estate of the final public report for the Property, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Committee.

(d) Members to the Architectural Committee by the Board shall be from the membership of the Association. Members appointed to the Architectural Committee by Developer need not be members of the Association.

7.03 Certain Procedures of Architectural Committee. In the event any member is unable to or unwilling to serve on said Architectural Committee, the remaining member or members shall have full authority to approve or disapprove such proposed alteration, modification, addition,

deletion, or other proposed form of change. The membership of said committee or any representative appointed thereby if other than as stated in this Declaration, shall be evidenced by a certificate of identity, which shall be executed by at least one member of said committee or by Developer or by an authorized officer of the Association, as appropriate; which certificate shall then be conclusive evidence thereof in favor of any person relying thereon in good faith. In the event the Architectural Committee or the representative appointed by the committee fails to approve or disapprove such proposed alteration, modification, addition, deletion or other proposed form of change within thirty (30) days after said complete plans and specifications have been submitted to it, such approval will be deemed to have been given and the provisions of this Declaration requiring any such approval shall be deemed to have been complied with. Such complete plans and specifications shall be personally delivered to any member of the Architectural Committee or mailed to the committee via certified mail, return receipt requested, postage prepaid. The plans and specifications shall be deemed submitted to the Architectural Committee upon the date of receipt by the committee of such plans and specifications.

7.04 Entry. In addition other rights of entry provided for elsewhere herein, the Association and the Architectural Committee, or any person authorized by either, shall be further empowered with the right and duty to periodically inspect all Units and all Restricted Common Areas in order to insure that each Condominium Owner is completely and adequately fulfilling all of those duties and obligations on his part to be performed as provided for herein. In each instance, the Condominium Owner shall be given reasonable advance notice of the entry to be undertaken.

7.05 Enforcement by Owners. Any Owner within the Project may by legal action enforce remedies for violations of this Article VII in the event that the Association fails take remedial action within a reasonable period of time after knowledge by the Association of the particular violation.

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

7.07 No Liability; Basis for Review.

(a) Neither the Architectural Committee nor any member thereof shall be liable the Association or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due the willful misconduct or bad faith of the Architectural Committee and/or any individual member thereof.

(b) The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the benefit or detriment would result the Property in the immediate area surrounding the Property. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials, harmony of external design with existing structures, location in relation to surrounding structures, topography and finished grade elevation, and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the-standpoint of structural safety or conformance with building or other codes. Notwithstanding the foregoing, the Architectural

Committee's approval of the installation of solar heating units shall not be unreasonably withheld.

7.08 Rules and Regulations. The Architectural Committee may from time to time, in its sole discretion, adopt, amend, and repeal Rules and Regulations interpreting and implementing the provisions hereof.

7.09 Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder, unless any such compensation arrangement has been approved by vote or written assent a majority of the voting power of each class of membership of the Association.

ARTICLE MORTGAGE PROTECTION

Notwithstanding any other provisions of this Declaration:

8.01 Breach of Declaration Not to Affect Mortgage. A breach of any of the provisions of this Declaration shall not affect or impair the lien or charge of any bona fide mortgage made in good faith and for value encumbering any of the condominiums within the Property, but all of the provisions of this Declaration shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale or otherwise.

8.02 Subordination of Assessments to Deeds of Trust. The lien of the assessments provided for herein shall be subordinate and subject to the lien of any first mortgage in favor of an institutional lender now or hereafter placed of record upon any of the Condominiums subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Condominium pursuant to a decree of foreclosure, or sale under the power of sale provisions contained in such mortgage instrument (but in no event shall such subordination apply in the case of a deed given in lieu of foreclosure), and any such mortgagee who acquires title to a Condominium by such foreclosure and/or power of sale proceedings shall not be liable for such Condominium's unpaid dues, or assessments which accrue prior to the acquisition of title to such Condominium by such mortgagee or other such acquirer by such means except to the limited extent provided for in the last sentence of Section 6.08(g) hereof. Such sale or transfer shall not relieve such Condominium from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

8.03 Amendments Not Binding on Non-Consenting Holders of Prior Mortgages. Only those properly effected amendments of this Declaration which have been approved in writing by the holders of first mortgages then of record covering two-thirds (2/3) of the Units within the Property shall affect the rights of any first mortgagee holding a first mortgage then of record who does not join in the execution thereof.

8.04 Effect of Breach of Declaration. No breach of any of the covenants, restrictions or provisions contained in this Declaration shall cause any forfeiture of title or reversion or bestow any right of re-entry whatsoever, nor shall any such breach defeat or render invalid the lien of any mortgage made in good faith and for value as to the Property or any part thereof, but said covenants, restrictions and provisions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale or otherwise.

8.05 Notification of Breach. The holder of a first mortgage on a Condominium located within the Property, upon written request, shall be entitled to written notification from the Association of any default by the mortgagor of such Condominium in the performance of such mortgagor's obligations under the Declaration, the Association Bylaws, and/or respect to any rule promulgated by the Association pursuant to the provisions of this which default is not cured within sixty (60) days.

8.06 Exemption From Right of First Refusal. Any holder of a first mortgage or deed of trust who obtains title to a Condominium pursuant to the remedies provided in the mortgage or by foreclosure of the mortgage through judicial or trustee sale proceedings or by acceptance of a deed in lieu of foreclosure shall be exempt from any "right of. refusal" which might at any time or from time to time be provided for in this Declaration, the Association's Bylaws or by any of the documents referred to herein.

8.07 Actions Requiring Consent of Holders of First Mortgages. Unless at least two-thirds (2/3) of the holders of first mortgages (based upon one vote for each first mortgage) and Owners (other than Developer) of Condominiums located within the Property have given their prior written approval, the Association shall not be entitled to:

- (i) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area or any portion thereof. Nothing to the contrary herein withstanding, the granting of easements for public utilities, or for other purposes consistent with the intended use of such property and consistent with the easements referred to and/or provided for in this Declaration shall not be deemed a transfer within the meaning of this subsection.

- (ii) Change the pro rata interest or obligations of any individual Condominium for the purpose of: (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (b) determining the pro rata share of ownership of each Unit in the Common Area.

- (iii) Partition or subdivide any Condominium.

- (iv) By act or omission seek to abandon the Condominium Project.

- (v) Use hazard insurance proceeds for losses to any Condominium within the Property (whether to Units or to Common Area) for other than the repair, replacement or reconstruction of such Condominium, except as provided by statute in case of substantial loss to the Units and/or Common Area within the Property.

8.08 Inspection of Association Books and Records. The holder of any mortgage on a Condominium shall have the right to examine the books and records of the Association,

8.09 Condemnation Awards and Insurance Proceeds. Nothing contained in this Declaration or in any of the Condominium Documents shall be construed as giving any Condominium Owner or any other party priority over any rights of first mortgagees of Condominiums pursuant to their mortgages in the case of distribution to Condominium Owners of insurance or condemnation awards for losses to or taking of Condominium Units or Common Area.

8.10 Mortgagee's Right to Attend Meetings. Because of its financial interest in the project, a mortgagee may appear (but may not vote) at meetings of the Owners and the Board.

8.11 Loss Payable Endorsement. All applicable fire and all physical loss or extended

coverage insurance policies shall contain loss payable clauses naming the mortgagees who encumber Condominiums by mortgage. as their interests may appear.

8.12 Notification of Damage or Taking. If the servicer of any mortgage on any Condominium within the Property which has been purchased by the Federal Home Loan Mortgage Corporation (FHLMC) has notified the Association in writing of its address, then the Association shall give written notice to FRLMC (in care of the servicer at the servicer's address) of any loss to, or taking of, the Common Area of the Property, if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00) in amount, or damage to a Condominium covered by a mortgage so purchased in or in part by FHLMC exceeds ONE THOUSAND DOLLARS (\$1,000.00).

8.13 Establishment of Adequate Reserve Fund. Regular Assessments shall include an adequate amount to create a reserve fund for maintenance, repairs, and replacement of those portions of the Common Areas located within the Property that must be replaced on a periodic basis.

8.14 Agreements for Professional Management and/or for Services of Declarant. Nothing to the contrary in the Condominium Documents withstanding, no agreement for professional management of the Property or any portion thereof, nor any other contract providing for services of the Declarant, shall exceed three (3) years in length, and any such agreement shall provide for termination by either party without cause and without payment of a termination fee on not more than ninety (90) days' written notice.

8.15 Amenities. Unless otherwise herein specifically provided, all amenities (such as guest parking, recreational areas and facilities, and service areas) shall be available for use by Owners, and all such amenities with respect to which regular or special assessments for maintenance or other uses may be levied shall constitute Common Area. All such amenities shall be covered on an undivided interest basis as part of the Common Areas by any first mortgage on a Unit [i.e., a one/sixty-eighth (1/68th) undivided interest for each Unit] free of encumbrances except for covenants, conditions, restrictions, reservations, rights and easements which are consistent with the intended use of such amenities by the Association and the Owners (including without limitation, any easements granted for public utilities or for other public purposes).

8.16 Filing Notice; Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of Mortgage encumbering a Unit within the Property. Such notice shall state which Unit or Units are encumbered by such Mortgage and shall further state whether such Mortgagee is a First Mortgagee. Except as provided in this Section 8.16, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or requests remain substantially unchanged.

ARTICLE IX DESTRUCTION OF IMPROVEMENTS

9.01 Automatic Reconstruction. In the event of partial or total destruction of any Condominium building, the Board shall promptly take the following action:

(a) Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain a performance bond, if the Board deems the same to be necessary or appropriate, and obtaining one or more independent appraisals if the Board deems such appraisal -or appraisals to be necessary or desirable.

(b) The Board shall determine the amount of insurance if any, payable by contacting the appropriate representative of the insurer of said Condominium Building.

(c) Board shall meet and determine whether the insurance proceeds, if any, will cover eighty-five percent (85%) or more the estimated cost of reconstruction as determined pursuant to Section 9.01 (a) hereof, or whether the portion of the estimated cost not covered by insurance is less than Two Thousand Dollars (\$2,000) per Unit located within the Project. Such percentage covered by insurance or such cost per unit shall hereinafter be referred to as the "Acceptable Range of Reconstruction Cost." If the Board finds that a bid obtained under this Section is within the Acceptable Range of Reconstruction Cost, the Board shall cause a notice to be sent to all Owners of Condominiums in the Project and to the First Mortgagees of Mortgages encumbering Condominiums within the Project setting forth such findings and informing said Owners and said First Mortgagees that the Board intends to commence reconstruction pursuant to this Declaration. In the event that at least twenty percent (20%) of the Owners, based on one (1) vote for each Unit, object in writing to such reconstruction by the date indicated therefor on such notice, which in no event shall be sooner than ten (10) days or later than thirty (30) days after the date on which the Board sends such notice to the Members, the Board shall call a meeting of the Owners pursuant to Section 9.02 below. In the event the foregoing requirements are satisfied and the requisite number of Owners do not object in writing by such date, the Board shall cause reconstruction to take place as promptly as practicable and shall levy a Reconstruction Assessment against each Condominium within the Project and against the Owners thereof, at such time and in such amount as the Board shall determine is necessary to cover the aggregate costs of reconstruction in excess of insurance proceeds. Such Reconstruction Assessment shall be levied upon the basis of the ratio of the square footage of the floor area of each Unit to the total square footage of the floor area of all Units. If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the Acceptable Range of Reconstruction Costs, the Board shall proceed according to Section 9.02 hereof.

(d) The foregoing determinations shall be made by the Board as soon as possible. However, if such determinations cannot be made within sixty (60) days of the date of destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected pursuant to the entitled "Reconstruction Pursuant to Meeting" of this Article.

(e) If the Board determines that any Unit has become uninhabitable by reason of its total or partial destruction, Regular Assessments shall abate against the Owner thereof until the Board determines that the reconstruction of the Unit has restored its habitability. However, if the Board determines that such abatement will adversely and substantially affect the management, maintenance, and operation of the Property, it may in its sole and absolute discretion elect to disallow such abatement.

9.02 Reconstruction Pursuant to Meeting. If the Board determines that the requirements of Acceptable of Reconstruction Cost have not been met, or if the requisite number of Owners object in writing to a decision by the Board to reconstruct pursuant Section hereof, the Board shall call a meeting of the Owners by mailing notice of such determination and of the meeting to such Owner at his address as shown on the records of the Association. Such meeting

shall be held not less than fourteen (14) days and not more than twenty one (21) days after (i) the meeting at which the Board makes its determination that the cost of reconstruction was not within the Acceptable Range of Reconstruction Cost, or (the date indicated on the notice of the Board sent to Members pursuant to Section 9.01(c) hereof, as the case may be. The Owners may, by a vote at such meeting or by the written consent of not less than seventy-five percent (75%) of the Owners based on one (1) vote for each Unit determine to proceed with the reconstruction. If the Owners so determine to reconstruct the partially or totally destroyed Condominium Building, the Board shall levy a Reconstruction Assessment against each Condominium in the Project and against the Owners thereof, at such time and in such aggregate amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds. Each Condominium's pro rata share of such aggregate amount shall be determined on the same sharing basis as is provided for in Section 9.01 (c) hereof.

9.03 Decision to Reconstruct: Procedure After Meeting. In the event that the Association undertakes reconstruction pursuant Section 9.02 hereof, the following shall apply:

(a) Immediately after such meeting, the Board shall notify by first-class mail, registered or all First Mortgagees of Condominiums within the Project of the Association's decision to undertake reconstruction. The Board shall also send a true copy of all such notices to the Trustee who shall have been engaged.

(b) In the event that any such First Mortgagee desires to apply insurance proceeds allocable to the Condominium encumbered by its Mortgage to the reduction or elimination of the indebtedness secured by such Mortgage, such First Mortgagee shall notify the Trustee and the Association in writing of such election within thirty (30) days of the date the notice of the Board sent pursuant to Subsection 9.03(a) above is deposited in the United States mail. Upon receipt of timely notice from any such First Mortgagee, the Trustee shall promptly pay to such First Mortgagee the insurance proceeds allocable to the Condominium encumbered by the Mortgage of such First Mortgagee for the purpose of the reduction or elimination of the obligation secured by such Mortgage; provided, however, in no event shall the Trustee pay to such First Mortgagee an amount greater than (i) the outstanding indebtedness secured by said Mortgage, or (ii) the insurance proceeds allocated to such Condominium, whichever of (i) or (ii) is the lesser. Simultaneously with such payment, the Trustee shall notify the Board of the amount of such payment. The Trustee shall not make any payments to First Mortgagees pursuant to this Section 9.03(b) unless such First Mortgagee notifies the Trustee of its election prior to the expiration of the thirty (30) day period following the deposit in the United States mail of the Board's notice to such First Mortgagee pursuant to this Section 9.03(b).

(c) As to each Condominium for which insurance proceeds have been paid to the Trustee and for which a First Mortgagee has not timely notified the Trustee of its election to apply such proceeds to the reduction or elimination of the obligation owing to such First Mortgagee, the Trustee promptly upon the expiration of the appropriate time period shall pay all insurance proceeds allocable to such Condominium to the Board to be applied to reconstruction undertaken by the Association pursuant to Section 9.02 hereof. In the event Trustee has paid a portion of the insurance proceeds allocable to a Condominium to a First Mortgagee after timely request therefor, simultaneously with such payment the Trustee shall pay all remaining proceeds, if any, allocable to such Condominium to the Board to be applied to reconstruction undertaken by the Association pursuant to Section 9.02 hereof.

(d) For the purposes of this Article, the amount of insurance proceeds "allocated" or "allocable" to a Condominium shall be determined pursuant to this Section 9.03(d). In the event that the insurance carrier allocates casualty insurance proceeds among Condominiums for

which such proceeds are payable, such allocation shall be final and binding on the Owners, the Mortgagees, the Association, and the Trustee. The Board shall make every possible effort to cause such insurance carrier to make such allocation. In the event that such allocation is not made, the Trustee shall allocate such proceeds among such Condominiums in totally or partially destroyed Condominium Buildings based upon the relative value of the Condominiums as established by an independent appraisal conducted by an M.A.I. Appraiser selected by the Trustee and the extent to which the Units involved have been affected by the destruction. Such allocation made by the Trustee shall be final and binding on the Owners, the Mortgagees, and the Association.

(e) In the event that the Trustee pays insurance proceeds to any First Mortgagee pursuant to this Section, the Owner of the Condominium which was encumbered by the Mortgage of such First Mortgagee shall pay to the Association an amount equal the insurance proceeds paid by the Trustee to such First Mortgagee. In the event that such Owner has failed to pay such amount within thirty (30) days of written demand therefor by the Association, the Board may levy a Special Assessment against such Owner and his Condominium for such amount. In the event such Special Assessment is not paid "within thirty (30) days of its due date, the Board may effect the remedies of Section 1356 of the California Civil Code and of Article VI hereof. Such Special Assessment and any Regular Assessment levied subsequent thereto shall not be a personal liability of the Owner against whom such Assessments are levied and shall only be charged against his Condominium.

9.04 Decision Not to Reconstruct: Procedure After Meeting. In the event that the Owners decide not to reconstruct at the meeting called pursuant to Section 9.02 hereof, the Trustee shall apply the insurance proceeds as follows:

(a) The Trustee shall first apply insurance proceeds to the reduction or elimination, as the case may be, of all outstanding Mortgages encumbering Condominiums for which insurance proceeds have been paid by reason of the casualty; provided, however, as to any Condominium, the Trustee shall not pay insurance proceeds to Mortgagees in an amount greater than (i) the outstanding indebtedness secured by Mortgages encumbering said Condominium, or (ii) the insurance proceeds allocable to said Condominium as determined in accordance with the provisions of Section above, whichever of (i) or (ii) is the lesser.

(b) All proceeds allocated to Condominiums and remaining after payments to Mortgagees pursuant to Section 9.04(a) shall be distributed by the Trustee to such Owners whose Units are in the partially or totally destroyed Condominium Building after the deduction of an amount determined pursuant to Section 9.04(c) below.

(c) The Board shall levy Reconstruction Assessments against all Condominiums within the Project and against the Owners thereof, which Reconstruction Assessments shall equal the aggregate of the costs of clearing the debris of the totally or partially destroyed Condominium Buildings and cleaning the area. Each Condominium said Reconstruction Assessment shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the square footage of the floor area of all Units to be assessed. If the Trustee then holds insurance proceeds to the Owners of Units located within the partially or totally destroyed Condominium Building(s), then prior to distributing said insurance proceeds to the Owners otherwise entitled thereto pursuant to the provisions of 9.04(b) above, the Trustee shall pay to the Board all or such portion of said insurance proceeds allocated to each such Owner as may be necessary to fully pay such Owner's aforementioned Reconstruction Assessment. In the event that insurance proceeds allocated to any Owner, and held by Trustee, after deduction of proceeds paid to Mortgagees, if any, is not sufficient to pay

the entire Reconstruction Assessment Levied against such Owner relieved of his obligation to pay any such excess.

9.05 Certificate of Intention to Reconstruct. In the event that the Association undertakes reconstruction pursuant to this Article, the Board shall execute, acknowledge and record in the Office of the County Recorder of the County, a certificate declaring the intention of the Association to rebuild not later than one hundred-fifty (150) days from the date of destruction. If no such certificate of reconstruction is so filed within said one hundred fifty (150) day period, it shall be conclusively presumed that the Association has determined not to undertake reconstruction pursuant to this Article.

9.06 Partition. In the event that a certificate described in Section 9.05 hereof is not recorded within one hundred fifty (150) day period provided therein, the right of any Owner to partition through legal action as described in Article XVIII hereof, shall forthwith revive.

9.07 Compliance with Condominium Plan. Any reconstruction undertaken pursuant to this Article shall substantially conform to the Condominium Plan, as amended pursuant to the Section entitled "Amendment of Condominium Plan" of this Article, or otherwise, if appropriate.

9.08 Negotiations with Insurer.- The Board shall have full authority to negotiate in good faith with representatives of the insurer of the totally or partially destroyed Condominium Building or any other portion of the Common Area, and to make settlement with the insurer for less than full insurance coverage on the damage to the Condominium Building or any other portion of the Common Area. Any settlement made by the Board in good faith shall be binding upon all Owners.

9.09 Repair of Units. Installation of improvements and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit or Units and, in the event of a determination to reconstruct after partial or total destruction, restoration shall be completed as promptly as practical and in a lawful and workmanlike manner.

9.10 Amendment of Condominium Plan. In the event that reconstruction is to take place pursuant to this Article, the Board shall have the power to record an amendment to the Condominium Plan so that the Condominium Plan conforms to the Condominium Buildings as designed to be reconstructed; provided, however, the Board shall not file an amendment to the Condominium Plan without the prior authorization of the Mortgagee of Mortgage encumbering any Condominium, the plan of which shall be altered by such amendment. In the event that the Board, together with said Mortgagees, if appropriate, decide to record such amendment to the Condominium Plan, all Owners within the affected Project and the record holders of all security interests in said Project shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and holders of security interests shall also execute such other documents or take such other actions as required to make such amendment effective.

9.11 Reconstruction of Common Area. If Common Area other than a Condominium Building is totally or partially destroyed, the Board shall cause reconstruction to commence by the earlier of (i) thirty (30) days of the Association's receipt of the insurance proceeds payable by reason of such destruction, or (ii) ninety (90) days after each destruction, and to thereafter be diligently and continuously prosecuted to completion within a reasonable period of time. The Trustee shall pay to the Board all insurance proceeds payable by reason of such destruction and the Board shall apply such proceeds to the costs of reconstruction. In the event that the insurance proceeds are not sufficient to pay the costs of reconstruction of the Common Area other than Condominium Buildings, the Board shall levy Assessments against all of the Condominiums in the

Project (and against all Owners thereof), which assessments shall be in amount equal to such difference between the insurance proceeds and the costs of reconstruction. Each Condominium's said Reconstruction Assessment shall be levied upon the basis of the ratio of the square footage of the floor area of the Unit to be assessed to the total square footage of the floor area of an Units to be assessed. If the insurance proceeds exceed the cost of reconstruction, the Board shall, in the case of totally or partially destroyed Common Area other than Condominium Buildings, distribute the excess in shares to each Owner of a Unit the Project or their Mortgagees as their respective interests shall appear, based upon the relative value of the Condominiums within the Project as established by an independent appraisal conducted by a M.A.I. Appraiser selected by the Trustee.

9.12 Availability of Labor and Material. In determining the plans for a structured Condominium are substantial conformance with the Condominium Plan, the Board may take into consideration the availability and expense of the labor and materials in the original construction of the Project. If such labor or material is not available or is prohibitively expensive at the time of reconstruction the Board may permit the substitution of other labor or material as it deems proper.

9.13 Contracting for Reconstruction. In the event repair or reconstruction is undertaken pursuant to this Article, other than Section 9.09 hereof, the Board or its delegates shall have the sole ability to contract for such work as may be necessary for said repair and reconstruction.

9.14 Seventy-Five Percent (75%) Vote Required. All insurance proceeds available from any total or partial destruction shall be applied to the purposes set forth in this Article, unless otherwise specified pursuant to the vote or written assent of not less than seventy-five percent (75%) of the First Mortgagees based on one (1) vote for each First Mortgage held thereby.

9.15 Costs of Collecting. Insurance Proceeds. If it, should become. necessary in judgment of the Board to incur costs for appraisals, legal fees, court costs and similar expenses in order to determine or collect insurance proceeds, such costs shall be first deducted before distribution or application of insurance proceeds as provided in this Article.

ARTICLE X AMENDMENT

Until the sale of [he first Condominium located within the Property shall have been consummated; Declarants may amend this Declaration unilaterally by recording an instrument of amendment in the Recorder's Office of the county in which the Property is located, therein certifying that no sales of Condominiums within the Property have previously been consummated and setting forth the amendment.

After consummation of the first sale Condominium within the Property, subject to the provisions of Article VIII hereof, this Declaration may only be amended and/or supplemented in either of the following ways:

(a) By an instrument in writing signed by Members or the Association holding not less than sixty-six and two-thirds percent of the voting power of the mentorship of the Association and by Members of the Association, other than Developer, holding sixty-six and two-thirds percent (66 ^{2/3} %) of the voting power of the Association, excluding Developer's voting

Power; provided, however, that so long as the Class B membership within the Association is still in effect, this Declaration may only be amended under this Article X (a) by an instrument in writing signed by Members entitled to exercise not less than sixty-six and two-thirds percent of the voting power of each class of membership,

(b) By an instrument in writing signed by any two officers of the Association certifying that the amendment provided for in such instrument has been approved by the vote or written consent of Members of the Association holding not less than sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the voting power of the membership of the Association and by Members of the Association, other than Developer, holding sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the voting power of the Association, excluding Developer's voting power; provided, however, that so long as the Class B membership within the Association is still in effect, this Declaration may only be amended under this Article X(b) by an instrument in writing signed by any two officers of the Association certifying that the amendment provided for in such instrument has been approved by the vote or written consent of Members entitled to exercise not less than sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the voting power of each class of membership.

Notwithstanding the foregoing provisions of this Article X, the percentage of the voting power of Members of the Association necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision. To be effective, any amendment to this Declaration must properly recorded in the Office of the County Recorder for the county in which the Property is located.

ARTICLE XI ENCROACHMENT EASEMENTS

11.01 Encroachment Easements for Condominiums. Each Condominium within the Property is hereby declared to have an easement over all adjoining Condominiums and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of the Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall valid easements for encroachment be created in favor of the Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Condominium agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist. With respect to Units where air conditioning equipment is installed in the Common Area by any Owner with the approval of the Board and the Architectural Committee, an easement over the Common Area into which the air-conditioning equipment encroaches shall exist for the purpose of access to such equipment and for the purpose of maintenance, replacement and repair of said equipment.

11.02 Encroachment of Common Area on to Unit. If any portion of the Common Area encroaches upon the Units in a minor way, a valid easement for the minor encroachment and for the maintenance of same, so long as it exists, is hereby granted. The Common Areas are and shall always be subject to easements for minor encroachments thereon by any Unit and for maintenance thereof.

ARTICLE XII ENFORCEMENT

The Association, or any shall have the right to enforce, in any proceeding of law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, and in such action shall be entitled to recover reasonable attorneys' fees as ordered by the court. Failure by the Association or by any Owner to enforce any covenants or Restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The exercise of any rights or remedies as herein provided with respect to any default shall not preclude or affect the subsequent exercise of such rights or remedies at different times or for different defaults. The respective rights or remedies, whether provided by the Condominium Documents or by law, or available in equity, shall be cumulative.

ARTICLE XIII NOTICES

Any notice permitted or required to be delivered as provided herein shall in writing and may be delivered either personally or by mail. Except as otherwise herein specifically provided, if delivery is made by certified or registered mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail in the State of California, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Unit: of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

ARTICLE XIV TERM OF DECLARATION

The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Condominium subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the term shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by the then Owners of a majority of the Condominiums within the Property, has been recorded within the year preceding the commencement of each such successive period of ten (10) years, agreeing to change the Declaration in whole or in part, or to terminate the same

ARTICLE XV NO RIGHTS GIVEN TO PUBLIC

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

ARTICLE XVI
COMMON AREA OWNERSHIP AND OBLIGATIONS

The undivided interest in the Common Areas within the Property which shall be conveyed with each Condominium Unit is one/sixty-eighth (1/ 68th). The Owner of record of each Condominium within the Project on the Property shall be liable for one/sixty-eighth (1/68th) of the Common Expenses as such term is herein defined.

ARTICLE XVII
EMINENT DOMAIN

17.01 Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Property.

17.02 Representation by Board in Condemnation Proceeding. In the event of a taking, the Board shall, subject to the right of all Mortgagees who have requested the right to join the Board in the proceedings, represent all of the Members in an action to recover all awards. No Member shall challenge the good faith exercise of the discretion of the Board in fulfilling its duties under this Article. The Board is further empowered, subject to the limitations herein set forth, to serve as the sole representative of the Members, in all aspects of condemnation proceedings not specifically covered herein.

17.03 Award of Condominium. In the event of a taking of Condominiums, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this Section 17.03 after deducting therefrom fees and expenses related to the condemnation proceeding, including, without limitation, fees attorneys and appraisers and court costs. In the event that the taking is by judgment of and said judgment. apportions the award among the Owners and their respective Mortgagees, the Board shall distribute the amount remaining after such deductions among such Owners and Mortgagees on the allocation basis get forth in such judgment. In the event that the taking is by sale under threat of condemnation, or if the judgement of condemnation fails to apportion the award, the Board shall distribute the award among the Owners in the Project and their respective Mortgagees based upon the relative values of the Condominiums effected by such taking as determined by: (i) the fair market value of each such Condominium as determined by an appraisal made by an independent M.A.I. appraiser engaged by the Board for such purpose, and (ii) the degree to which each Condominium has been affected by the taking as determined by the aforementioned appraiser. The determination by such appraiser as to the value and degree each Condominium within the Project has been affected by the taking shall final and binding on all Owners and Mortgagees. Nothing contained herein shall entitle an Owner to priority over a Mortgagee of his Condominium as to the portion of the condemnation award allocated to his Condominium. In no event shall any portion of such award distributed by the Board to an Owner and/or the Mortgagees of his Condominium in a total amount greater than the portion allocated hereunder to such Condominium.

17.04 Inverse Condemnation, The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

17.05 Revival of Right to Partition. Upon a taking which renders more than twenty percent (20%) of the Units in the Project incapable of being restored to at least ninety-five percent (95%) of their floor area and substantially their condition prior to the takings the right of any Owner within the Project to partition through legal action as described in Article XVIII hereof, shall

forthwith revive. The determination as to whether Condominiums partially taken are capable of being so restored shall be made by the Board, whose decision shall be final and binding on all Owners and Mortgagees.

17.06 Awards for Members' Personal Property and Relocation Allowances, Where all or part of the Covered Property is taken, each Member shall have the exclusive right to claim all of the award made for his personal property, and any relocation, moving expense, or other allowance of a similar nature designed to facilitate relocation. Notwithstanding the foregoing provisions, the Board shall represent each Member in an action to recover all awards with respect to such portion, if any, of Members' personal property as is at the time of any taking, as a matter of law, part of the real estate comprising any Condominium, and shall allocate to such Member so much of any awards as is attributable in the taking proceedings, or failing such attribution, attributable by the Board to such portion of Members' personal property.

17.07 Notice to Members. The Board, immediately upon having knowledge of any taking or threat thereof with respect to the Property, or any portion thereof, shall promptly notify all Members and all First Mortgagees who have appropriately requested such notice in writing.

17.08 Change in Condominium Interest. In the event of a taking, subject to the provisions of Article VIII thereof, but notwithstanding the provisions of Article X hereof, the Board may amend the Condominium Plan to reflect the change in the Project. In the event that the Board decides to record such amendment to the Condominium Plan, all Owners with in such Project or Projects and the recorded holders of all security interests in such Project of Projects shall execute and acknowledge said amendments so that it will comply with section 1351 of the California Code or any similar statute then in effect. Said Owners and holders of security interests shall also execute such other documents or take such other act ions as required to make such amendments effective. The Board shall cause a notice to change the Condominium Plan to be sent to each Owner and Mortgagee in such Project or Projects within ten (10) days of the filing of such amendments in the County Records Office of Orange County, California.

ARTICLE XVIII COVENANT AGAINST PARTITION AND RESTRICTION ON SEVERABILITY OF-CONDOMINIUM COMPONENT INTEREST

18.01 No Partition. The right of partition is hereby suspended, except that the right to partition shall revive and the Project may be sold as a whole when the conditions for such action set forth in Articles IX or XVII hereof, have been met; provided, however, notwithstanding the foregoing, any Owner may, upon the prior written approval of the First Mortgagee of his Unit bring an action for partition by sale of the Project, as provided in Section 1354 of the Civil Code of the State of California or any similar statute then in effect upon the occurrence of any of the events therein provided. Provided, further, that if any Unit shall be owned by two (2) or more co-tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants.

18.02 Proceeds of Partition Sale.

(a) Whenever an action is brought for the Partition by sale of the Project, whether upon the occurrence of any of the events provided in Section 1354 of the Civil Code of the State of California (or similar statute then in effect) or upon the revival of the right to partition pursuant to the provisions of Articles IX or XVII hereof, the Owner of Units in the Project

shall share in the proceeds of such sale. in the same proportion as the relative values of their respective Condominiums. As used in the foregoing sentence, relative value of each Condominium shall be determined by comparing (i) the latest assessed valuation of an Owner's Condominium as determined by the tax assessor having authority over such Project, to (ii) the total of such assessed valuation for all Units in such Project.

(b) The Distribution of the Proceeds of any such partition sale shall be adjusted as necessary to reflect any prior distribution of insurance proceeds or condemnation award as may have been made to Owners and their Mortgagees pursuant to Articles IX and/or XVII hereof. In the event of any such partition and sale, the liens and provisions all Mortgages or Assessment liens encumbering Units within the Project or Projects so encumbered shall extend to each applicable Owner's interest in the proceeds of such Partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior. payment of any Mortgage or Assessment lien encumbering such proceeds as aforesaid.

18.03 No Separate Conveyance of Condominium Components. No Owner shall be entitled to sever the component interests respecting his Condominium, including but not limited to, the fact that the Unit may not be severed from the Corn-mon Areas. Component interests respecting a Condominium may not be severally sold, conveyed encumbered, hypothecated, or otherwise dealt with and any such attempt to do so in violation of this provision shall be void as a severance and of no effect as such. The provisions of this Section shall terminate on the date that judicial partition has been decreed or a partition in accordance with the provisions of this Article XVIII has been otherwise properly affected.

ARTICLE XIX

UTILITIES

19.01 Owner's Rights and Duties. The rights and duties of the Owners of Condominiums within the Property with respect to sanitary sewer, water, electricity, gas, cable television, telephone, and other utility lines and facilities, and heating and air-conditioning facilities shall be as follows:

(a) Whenever sanitary sewer, water, electricity, gas, television receiving, telephone and other utility lines or connections, heating or air-conditioning conduits, ducts, or flues are installed within the Property, which connections, or any portion thereof, lie in or upon Condominiums owned by other than the Owner of a Condominium served by said connections, the Owner of any Condominium served by said connection shall have the right and are hereby granted an easement to the full extent necessary therefor, to enter upon the Condominiums or to have the utility companies enter upon the Condominiums in and which said connections, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when necessary.

(b) Whenever sanitary sewer, water, electricity, gas, television receiving, telephone or other utility lines or connections, heating or air-conditioning conduits, ducts or flues are installed within the Property which connections serve more than one Condominium, the Owner of each Condominium served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Condominiums.

19.02 Easements for Utilities and Maintenance. Easements over and under the Property for the installation, repair, and maintenance of electric telephone, water, gas, sanitary sewer and other utility lines and facilities, heating cable or master television antennae lines, drain-

age facilities, walkways and landscaping as may be required or needed to service the Property are hereby reserved by Developer, its successors and assigns, including the Association, together with the right to grant and transfer same; provided, however, that such easements shall not unreasonably interfere with the use and enjoyment of the Units and Common Areas by the Owners of Condominiums within the Property.

19.03 Duties. The Association shall maintain all utility installations located in the Common Areas, except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the Property except those metered or charged separately to the Units, and such charges paid by the Association shall be a part of the Common Expenses.

ARTICLE XX PARTIAL INVALIDITY AND GENDER

20.01. Partial Invalidity. Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this Project is situated, the validity of all other provisions or portions hereof shall remain unaffected and in full force and effect.

20.02 Gender. The use herein of (a) the singular number shall be deemed to mean the plural and vice versa; (b) the masculine gender shall be deemed to mean the feminine and neuter, and (c) the neuter gender shall be deemed to mean the masculine or feminine, whenever the sense of this instrument requires.

ARTICLE XXI TERMINATION OF ANY RESPONSIBILITY OF DECLARANTS

In the event Declarants shall convey all of their right, title and interest and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event Declarants shall be relieved of the performance of any further duty or obligation hereunder, and such partnerships individual or individuals, corporation or corporations shall be obligated to perform all such duties and obligations of the Declarants.

ARTICLE XXII SPECIAL PROVISIONS RELATING TO ENFORCEMENT OF DEVELOPER'S OBLIGATION TO COMPLETE COMMON AREA IMPROVEMENTS

Where a particular condominium project located within the Property includes Common Area improvements which have not been completed prior to the close of escrow on the of the first condominium within such project, and where the Association is oblige under a bond or other arrangement to secure performance of the commitment of Developer to complete said improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvement for which a notice of completion has not. been filed within sixty (60) days after the completion date specified for that improvement in the planned construction statement appended to the bond. If the Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the question of enforcement if a Notice of Completion has not been filed within thirty (30) days after

expiration of the extension. A special meeting of the Members of the Association for the purpose of voting to override a decision of the Board not to initiate action to enforce the obligations under the bond or on the failure of the Board to consider and vote on the question of enforcement shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) or more of the total voting power of the Association. At such special meeting a vote of a majority of the Members of the Association other than Developer shall be required to take action to enforce the obligations under the bond and a vote of a majority of the voting power of the Association, excluding Developer, shall be deemed to be the decision of the Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XXIII RESERVATION AND ESTABLISHMENT OF CERTAIN EASEMENTS

23.01 Definition of Special Common Areas. For purposes of this Article XXIII, the term "Special Common Areas" shall mean all Common Areas within the Property excepting all Restricted Common Areas and areas located within Condominium Buildings therefrom.

23.02 Reservation of Certain Non-Exclusive Easements.

(a) Declarants hereby expressly reserve for the benefit of all Owners in the Property; reciprocal non-exclusive easements of access, ingress, and egress over and through all of the Special Common Areas (as such term is defined herein) within the Property. Such non-exclusive easements may be used by Developer, Declarants, their successors, purchasers and all Condominium Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian access, vehicular access (it being understood that such vehicular access shall be limited to those portions of the Special Common Areas as may be from time to time actually developed as driveways or vehicular access ways), vehicular parking (subject to the restrictions and provisions pertaining to vehicular parking in Section 2.09 hereof), and such other reasonably necessary for the use and enjoyment of a Condominium within the Property. Such non-exclusive easements shall be appurtenant to and shall pass with title to each and every Condominium held and/or conveyed within the Property.

(b) Declarants hereby expressly reserve for the benefit of all Owners of Condominiums within the Property, non-exclusive easements and the right to use any and all of the recreational facilities which may be from time to time developed within the Special Common Areas of the Property. Subject to the Restrictions, such non-exclusive easements may be used by Developer, Declarants, their successors\ purchasers and all Owners of Condominiums located in the Property, their guests, tenants and invitees, residing on or temporarily visiting the Property, and such non-exclusive easements shall be appurtenant to and shall pass with title to each and every Condominium held and/or conveyed within the Property.

23.03 Restricted Common Areas. The Declarants expressly reserve for the benefit of each Condominium Owner an exclusive easement (to the extent provided) for use of those Restricted Common Areas described and/or shown herein and/or on the Condominium Plan for the Project as being appurtenant to the Unit owned by him.

23.04 Matters Affecting Non-Exclusive Easements. Each and every of the non-exclusive easements provided for and described in this Article XXIII shall be subject to:

- (a) All covenants, conditions, restrictions, reservations, rights, rights-of-way and easements of record.
- (b) Any and all reasonable rules and regulations pertaining to any of the Common Areas as such rules and regulations may from time to time be established and promulgated by the Association as herein provided.
- (c) The right of Developer so long as Developer owns any Condominiums in the Project and thereafter the Association, to modify, change, remove and/or otherwise alter at any time and from time to time, the Special Common Area driveways, vehicle access ways, vehicle parking spaces and/or recreation facilities described in this Article XXIII.

23.05 Granting by Reference. The easements provided for in Section 23.02 and 23.03 shall be deemed reserved and may be granted by specific reference hereto in any appropriate conveyance by Developer, or its successors and assigns, as defined in Section 1.16 above.

IN WITNESS WHEREOF, the undersigned, being the Declarants, have executed this Declaration on the day and year first above written.

SIGNAL LANDMARK, INC.,
a California Corporation

By S/S R.R. JAMES
Its VICE PRESIDENT

By S/S DARLENE A. FROST
Its ASST. SECRETARY

“Developer”

THE SIGNAL COMPANIES, INC., a corporation
formerly known as Signal Oil and Gas Company

By S/S JOHN R. SPENCER

Its VICE PRESIDENT

By S/S MICHAEL P. KELLY

Its ASST. SECRETARY

"Signal"

TITLE INSURANCE AND TRUST COMPANY, a California corporation as Trustee under Declaration of
Trust, dated February 4, 1966, as amended, and restated under that certain Amended and Restated Trust
Agreement dated February 1972

By S/S RICHARD G. SLEIGHT

Its VICE PRESIDENT

By S/S JOHN ROSSON

Its ASST. SECRETARY

"Trustee"

"DECLARANTS"