

Section 4.10 Effect of Transfer of Condominium by Sale or Foreclosure. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale of any Condominium pursuant to a power of sale in a first mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale. No sale or transfer shall relieve the Owner of such Condominium from liability for any assessments thereafter becoming due or from the lien thereof.

Where the mortgagee of a first mortgage of record or other purchaser of a Condominium obtains title to the Condominium as a result of foreclosure of any such first mortgage, such purchaser, including said purchaser's successors and assigns, shall not be liable for the share of the common expenses or assessment by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such purchaser (except for assessments liens recorded prior to the mortgage). Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from Owners of all of the Condominiums, including such purchaser or the purchaser's successors and assigns.

If a Condominium is transferred, the grantor shall remain liable to the Association for all unpaid assessments against the Condominium through and including the date of transfer. The grantor shall be entitled to a statement from the Association dated as of the date of transfer, setting forth the amount of unpaid assessments against the grantor due the Association and the Condominium so transferred shall not be subject to a lien for unpaid assessments in excess of the amount set forth in the

statement; provided, however, the grantee shall be liable for any such assessment that becomes due after the date of the transfer.

Section 4.11 Estoppel Certificate. The Board, on not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not, to the knowledge of the Association, a particular Owner is in default as to his Condominium under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such Condominium. Any certificate delivered pursuant to this Section may be relied on by any prospective purchaser or mortgagee of such Condominium, but reliance on such certificate may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

Section 4.12 Right to Enforce. The right to collect and enforce assessments is vested in the Board, acting by and on behalf of the Association. The Board, or its authorized representative, can enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale, pursuant to Section 4.14, to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments, together with all amounts described in Section 4.1, shall be maintainable without foreclosing or waiving the lien rights.

Section 4.13 Creation of Lien. If there is a delinquency in the payment of any assessment or installment thereof on a Condominium, as described in Section 4.9, any amounts that are delinquent, together with any late charges, interest and all costs that are incurred by the Board or its authorized representative in the collection of the amounts, including reasonable attorneys' fees, shall be a lien against such Condominium upon the recordation in the Office of the County Recorder of the County of San Francisco of a notice of delinquent assessment, as provided in California Civil Code Section 1367. The assessment lien created by this Section shall be prior to all other liens recorded subsequent to the notice of delinquent assessment, except for taxes, bonds, assessments and other levies, which by law would be superior thereto and the lien of any first mortgage made in good faith and for value. The notice of delinquent assessment shall state the amount of the assessment, collection costs, attorneys' fees, late charges, and interest, a description of the Condominium against which the assessment and other sums are levied, the name of the record Owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by the President of the Association or such other person designated by the Association for that purpose.

Fines and penalties levied by the Association to reimburse the Association for costs incurred in the repair of damage to Common Areas and facilities for which the Owner was allegedly responsible, or in bringing the Owner and his Condominium into compliance with the Condominium Documents, are not assessments which may become a lien against the Condominium Owner's

subdivision interest enforceable by a sale of the interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the California Civil Code.

The above statement does not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments.

Section 4.14 Enforcement of Assessment Lien. The lien created pursuant to Section 4.13 above may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to California Civil Code Section 2934(a). Any sale by a trustee shall be conducted in accordance with the provisions of California Civil Code Sections 2924, 2924(b), 2924(c), 2924(f), 2924(g), and 2924(h), applicable to the exercise of powers of sale in mortgages and deeds of trust.

Section 4.15 Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article IV, the benefit of any homestead or exemption laws of the State of California in effect at the time any assessment or installment becomes delinquent or any lien is imposed.

Section 4.16 Assessments on Condominiums in Phase II. In the event that the Condominiums in Phase II, or any of them, are not annexed to this Declaration pursuant to Section 2.8, and said Condominiums are developed and then sold or leased to persons

whose use thereof results in the use of private streets and/or utilities located within the Common Area, the property in said Phases and the owners thereof shall be subject to regular and special assessments, pursuant to Section 4.1, levied by the Board specifically for the maintenance and repair of said streets and/or utilities. Such assessments shall be levied equally against all such Condominiums and shall be enforced by any remedy set forth in this Article IV. Any disagreement regarding the reasonableness of regular or special assessment levied pursuant to this Section 4.16 shall be submitted to arbitration under the rules of the American Arbitration Association, or such other similar organization existing from time to time. All Owners shall be bound by the determination of the arbitrator.

Section 4.17 Unallocated Taxes. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Condominiums, such taxes shall be included in the assessments made under the provisions of Section 4.1, and if necessary, a special assessment may be levied against the Condominium in an amount equal to such taxes, to be paid in two (2) installments, not less than thirty (30) days prior to the due date of each installment.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

Section 5.1 Duties. In addition to the duties enumerated in the Articles, the Bylaws, or elsewhere provided in this

Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

(a) Maintenance. Except as specifically provided in Section 5.1(a) of the Master Declaration, the Association shall maintain, repair, replace, restore, operate and manage all of the Common Area (including Exclusive Use Common Areas, if any) and all facilities, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association. Maintenance shall include, without limitation, painting, maintaining, repairing and replacing all Common Areas (including Exclusive Use Areas, if any), exterior glass surfaces, and landscaping; periodic sweeping or cleaning of fireplace chimneys and flues, if any; periodic cleaning of the exhaust shafts that provide venting for the clothing dryers located in the Units; periodic inspection and servicing of the fire windows located in Units 308, 408, 508, 608, 708, 808, and 908; and periodic maintenance and testing of all built-in fire detection and protection devices and equipment, if any. The Association shall have no responsibility for the maintenance, repair, replacement, restoration, operation or management of those improvements that are the responsibility of the Master Association pursuant to Section 5.1 of the Master Declaration. The Association shall contract for security services provided to the Project and to Parcel 2 and Parcel 3, as shown on the Airspace Map. As provided in Section 4.7 of the Master Declaration, the owner of Parcel 2 and the owner of Parcel 3 shall pay to Association the following proportionate shares of such services, which shares are based on

the relative degree of use by the Project (Parcel 4), Parcel 2 and Parcel 3:

<u>Parcel 2</u>	20%
<u>Parcel 3</u>	12%
<u>Parcel 4</u>	68%.

The foregoing proportionate shares may be revised based on actual usage of security services by the Project (Parcel 4), Parcel 2 and Parcel 3. Promptly after receipt of a statement for such security services from the provider thereof, the Association shall submit to the owner of Parcel 2 and the owner of Parcel 3 bills for their respective proportionate shares of such statement, and as provided in Section 4.7 of the Master Declaration, such owners shall remit payment-in-full to the Association within thirty (30) days after receipt of said bills. The Association shall bear the costs for any portion of the Common Area damaged by the presence of wood-destroying pests or organisms. The responsibility of the Association for maintenance, repair and replacement shall not extend to repairs or replacements 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. Repairs or replacements resulting from such excluded items shall be the responsibility of each Owner; provided, however, that if an Owner shall fail to make the repairs or replacements which are his responsibility as provided herein, then, upon a vote of a majority of the Board of Directors, and after not less than thirty (30) days notice to the Owner and hearing (except in emergency situations), the Association shall have the right (but not the obligation) to make such repairs or

replacements, and the cost thereof shall be added to the assessments chargeable to such Condominium and shall be payable to the Association by the Owner of such Condominium.

(b) Insurance. All insurance for the benefit of the Project and the Owners of Units therein shall be obtained by the Master Association, as required by the Master Declaration, except for general liability insurance (including errors and omissions insurance) in the amount of at least Five Hundred Thousand Dollars (\$500,000.00) to cover the acts of Directors and Officers of the Association, which shall be obtained by the Association. The Association shall, however, review annually the insurance provided by the Master Association and shall inform the Board of Directors of the Master Association of any additional insurance or other changes to coverage required by the Association. Unit Owners shall be responsible for obtaining adequate insurance for personal property, including window glass, located within the Unit and for personal liability insurance. Each Owner appoints the Board of Directors as attorney-in-fact to negotiate and agree on the value and extent of, and to collect the proceeds payable with respect to, any loss covered under insurance carried by the Master Association. The Board shall have the authority to compromise any claim, pursue any claim by legal action or otherwise, or to release and discharge any insurer on behalf of an Owner or all Owners.

(c) Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof to the Member or Members responsible for the existence of such lien. Such Member(s) shall

be given notice and the opportunity to be heard by the Board prior to discharge of the lien.

(d) Assessments. The Association shall fix, levy, collect and enforce assessments, as provided in Article IV hereof.

(e) Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Property of the Association.

(f) Enforcement. The Association shall enforce this Declaration.

(g) Resident Manager. The Association shall appoint an Owner who resides in the Project to serve as a resident manager, as defined in Section 1311 of the San Francisco Housing Code.

Section 5.2 Powers. In addition to the powers enumerated in its Bylaws, or elsewhere provided herein, and without limiting the generality thereof, the Association shall have the following powers:

(a) Utility Service. The Association shall have the authority to obtain, for the benefit of all of the Condominiums, all water, gas and electric service; refuse collection; janitorial or window cleaning service; and fireplace cleaning and chimney cleaning service.

(b) Easements. The Association shall have the authority to grant easements, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Areas and the Condominiums.

(c) Manager. The Association shall have the authority to employ a manager or managing agent and to contract with independent contractors to perform all or any part of the day to day management duties and responsibilities of the Association, each of whom shall be subject to the direction and control of the Board, provided that any contract with a firm or person appointed as manager or managing agent shall not exceed a one (1) year term and shall provide for the right to terminate by either party without cause and without payment of a termination fee on thirty (30) days written notice. The prospective manager or managing agent shall provide to the Association all information required by California Civil Code Section 1363.1. Any delegation of authority to a manager or managing agent shall be subject to Section 5.2(k) hereof.

(d) Adoption of Rules. The Association may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area, the Exclusive Use Common Areas, if any, and all facilities thereon, and the conduct and use thereof and the conduct of Owners and their tenants and guests with respect to the Property and other Owners.

(e) Access. For the purpose of performing the maintenance authorized herein, the Association's agents or employees shall have the right, after reasonable notice to the Owner thereof, to enter upon any Unit or to enter any portion of the Common Area at reasonable hours. Except in the case of any emergency, forty-eight (48) hours advance notice shall be given to the Owner or occupant prior to any entry of a Unit, and such entry shall be made at reasonable hours.

(f) Assessments, Liens and Fines. The Association shall have the power to levy and collect assessments, in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay assessments or for violation of any provision of the Condominium Documents. Penalties may include but are not limited to: fines, temporary suspension of voting rights or other appropriate discipline, provided that the accused Member is given at least fifteen (15) days notice and the opportunity to be heard orally or in writing before the Board of the Association with respect to the alleged violations at least five (5) days before a decision to impose discipline is made. All notices required under this Section shall be made pursuant to Section 9.14 of this Declaration.

(g) Enforcement. The Association shall have the authority to enforce this Declaration, as provided in Section 9.1 thereof.

(h) Acquisition of Property. The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of, real or personal property in connection with the affairs of the Association.

(i) Loans. The Association shall have the power to borrow money, and only with the consent (by vote or written consent) of three-fourths (3/4) of each class of Members, to mortgage, to pledge, to encumber or to hypothecate any or all of

its real or personal property as security for monies borrowed or debts incurred.

(j) Contract. The Association shall have the power to contract for goods and/or services for the Common Area facilities and interests or for the Association, subject to any limitations set forth in the Condominium Documents.

(k) Delegation. The Association shall have the power to delegate its authority and powers to committees, officers or employees of the Association. The Association may not, however, delegate the following powers:

i. To levy fines, hold hearings, or impose discipline;

ii. To make capital expenditures;

iii. To file suit, to cause a claim of lien to be recorded, or to foreclose for failure to pay assessments; or

iv. To levy regular or special assessments.

(l) Temporary Removal of Occupants. The Association may cause the temporary removal of any occupant for such periods and at such times as necessary for prompt, effective treatment of wood-destroying pests or organisms. The cost of the temporary relocation is to be borne by the Owner of the Unit affected. Not less than fifteen (15) days nor more than thirty (30) days notice of the need to temporarily vacate shall be given to occupants and to the Owner of the Unit affected. The notice shall state:

i. The reason for the temporary relocation;

ii. The date and time of the beginning of the treatment;

iii. The anticipated date and time of termination of treatment; and

iv. That the occupants will be responsible for their own accommodations during the temporary relocation.

Notice is deemed complete if a copy is personally delivered or mailed first class to the occupants and a copy is sent to non-occupying Owners via first class mail.

(m) Use of Facilities. The Association shall have the power to limit the number of an Owner's tenants or guests who may use the Common Area facilities, provided that any limitation apply equally to all Owners, except in the case of disciplinary measures taken after notice and hearing, as provided in the Bylaws.

(n) Appointment of Trustee. The Association, or the Board on behalf of the Association, shall have the power to appoint a trustee to enforce assessment liens as provided in Section 4.14 hereof, and as provided in California Civil Code Section 1367(b).

(o) Other Powers. In addition to the powers enumerated in this Declaration and in the Bylaws, the Association may exercise the powers granted to a nonprofit mutual benefit corporation, as such exist from time to time, under the California Corporations Code.

ARTICLE VI

USE RESTRICTIONS

Section 6.1 Owners' Rights and Duties. The rights and duties of the Owners of Condominiums within the Project with respect to electric, telephone, water, gas and sanitary sewer

lines, facilities and connections; cable or master television antenna lines, facilities and connections; and security system lines, facilities and connections (collectively referred to as "utility facilities") shall be as follows:

(a) Whenever utility facilities are installed within the Property, which utility facilities, or any portion thereof, lie within or upon Condominiums owned by other than the Owner of a Condominium served thereby, the Board or its authorized representative shall have the right to enter (or to have the utility company enter) upon the Condominiums within or upon which such utility facilities, or any portion thereof, lie, in connection with construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common.

(b) Whenever utility facilities are installed within the Property, which utility facilities serve more than one Condominium, the Owner of each Condominium served thereby shall be entitled to the full use and enjoyment of the portions of such utility facilities as service his Condominium.

(c) In the event of a dispute between Owners with respect to the maintenance, repair or rebuilding of such utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors who shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

Section 6.2 Easements for Utilities and Maintenance.
Easements over and under the Property for the installation, repair and maintenance of utility facilities, drainage facilities,

walkways, and landscaping, as shown on the recorded Map of the Property, and as may be hereafter required or needed to service the Property are hereby reserved by Declarant and the successors and assigns of Declarant, including the Association, together with the right to grant and transfer the same.

Section 6.3 Association's Duties. The Association shall maintain all utility installations located in the Common Area except those installations maintained by utility companies, public, private or municipal. The Association shall pay all charges for utilities supplied to the Project, except those metered and charged separately to the Condominiums.

ARTICLE VII

USE RESTRICTIONS

Section 7.1 Condominium Use. No Condominium shall be occupied and used except for non-transient residential purposes by the Owners, their tenants and social guests, and no trade or business shall be conducted therein, except that: (i) An Owner may use the Unit as a "home office", as allowed by the ordinances of the City and County of San Francisco; and (ii) Declarant, and the successors or assigns of Declarant, may use any Unit or Units in the Project owned by Declarant for a model home site or sites and display and sales office until the last Condominium is sold by Declarant, or, if Declarant elects to retain one (1) or more Condominiums, three (3) years after the close of the sale of the first Condominium in the final phase of the Project. No

Condominium shall be owned, leased, occupied or rented pursuant to a time-sharing agreement of any kind.

Use and occupancy of Units shall not exceed the maximum number of persons per bedroom permitted by Section 503 of the San Francisco Municipal Code, Part II, Chapter XII (Housing Code).

Section 7.2 Nuisances. No illegal or seriously offensive activity shall be transacted or conducted in any Unit or on any part of the Property, nor shall anything be done thereon which is a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his respective Unit, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be canceled or to cause a refusal to renew the same or which will impair the structural integrity of any Condominium Building. Each Owner shall comply with all local and state ordinances and statutes regarding use and occupancy of the Unit.

Section 7.3 Signs. No signs shall be displayed to the public view on any Unit or any portion of the Property except signs as are approved by the Board and such signs as are permitted by Section 7.6 of the Master Declaration. In accordance with California Civil Code Section 712, one "For Sale" or "For Rent" sign for each Condominium shall be allowed without such approval, provided that it is reasonable in size and posted at an appropriate location on the Property. The Board may adopt rules and regulations concerning the size and location of "For Sale" or "For Rent" signs.

Nothing contained in this Section shall prohibit Declarant from placing promotional signs anywhere on the Property, provided

such signs do not prohibit the use of the Common Area by Owners. This right in the Declarant shall terminate within four (4) years of the issuance of the Final Public Report for the Project.

Section 7.4 Animals. No animals or birds of any kind shall be raised, bred or kept in any Condominium, or any portion of the Property, except that no more than a total of two (2) small or medium usual and ordinary household pets may be kept, only one (1) of which may be a small or medium dog; provided they are not kept, bred or maintained for any commercial purposes, and they are kept under reasonable control at all times. Fish shall not be included in determining the number of pets. Notwithstanding the foregoing, no pets may be kept on the Property which are a serious annoyance or are obnoxious to the Owners. No pets shall be allowed in the Common Area except if they are leashed or hand-carried. No pet shall be allowed in the pool area at any time. Declarant or any Owner may cause any unauthorized pet found in the Common Area to be removed to a pound or animal shelter under the jurisdiction of the County of San Francisco, by calling the appropriate authorities, whereupon the Owner (upon payment of all expenses connected therewith) may repossess the pet. No pet who seriously disturbs other Owners shall be permitted to remain on the Property. Any decision regarding the conduct of a pet shall be made only after notice to the Owner and the opportunity to be heard before the Board.

Section 7.5 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All

equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No equipment, moving supplies, garbage cans, wood piles or storage piles shall be kept or maintained on any balcony. No toxic or hazardous materials shall be disposed of within the Project by dumping in the garbage containers or down the drains, or otherwise, other than those required, in normal quantities, for the normal cleaning of a Condominium.

Section 7.6 Radio and Television Antennas. No alteration to or modification of a central radio antenna or television antenna system or cable television system, if any, as developed by Declarant and, if applicable, as maintained by the Association, shall be permitted, and no Owner may be permitted to construct and/or use and operate his own external radio and/or television antenna without the consent of the Board.

Section 7.7 Right to Lease. Owners shall be entitled to rent or lease their Unit provided that:

- (a) Not less than the entire Unit is rented or leased.
- (b) The lease term is for a period of not less than thirty (30) days.
- (c) Any lease or occupancy agreement for a Unit shall be in writing and shall provide that it is subject to the Condominium Documents and the Master Association Documents, and that violation or infraction of the Condominium Documents or the Master Association Documents shall constitute a default under such lease or occupancy agreement. The Owner shall remain responsible for any such violation or infractions by the tenant(s).

(d) Within three (3) days after entering into a lease or a contract of sale for his Unit, an Owner shall notify the Association, in writing, of the names of lessees or contract purchasers, the mailing address of the lessor or seller, the term of the lease or contract of sale, and the names of all persons who will occupy the Unit. The Owner shall also provide the Association with a copy of the lessee's or purchaser's signed receipt for the Condominium Documents and the Master Association Documents, including the Rules and Regulations, and agreement to abide by all provisions thereof.

(e) No Condominium shall be owned, leased, occupied or rented pursuant to any time sharing agreement of any kind.

Section 7.8 Window Covering. Window coverings shall be restricted to a neutral exterior color and finish.

Section 7.9 Clothes Lines. No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes. No draping of towels, carpets or laundry over railings shall be allowed.

Section 7.10 Reduction of Noise. In order to maintain the highest level of acoustical privacy possible, the Board shall, from time to time, adopt rules and regulations to reduce levels of noise emission from Units. Additionally, no loudspeakers shall be affixed to any wall, ceiling, shelving or cabinets so as to cause vibrations discernible between Units. The use of stereo equipment, televisions and musical instruments shall be subject to the Board's rules and regulations. All Owners covenant and agree to take all reasonable precautions to lower noise transference between Units and to abide by the rules and regulations of the

Association and any noise reduction ordinance of the City and County of San Francisco.

Section 7.11 Combining Units. Subject to prior written approval of the Board, which shall not unreasonably be withheld, the Owner of two or more adjacent Units may combine the Units by creating internal access from one Unit to another through the walls or other portions of the Common Area which separate and divide the individual Units, or separate and divide two or more Units previously joined hereunder, so long as any such work does not impair the structural integrity of the Condominium Building. All of such work shall be done at the expense of the Owner and shall be performed in accordance with any permits which may be required. All plans must be approved by the Board prior to commencement of work or by an architectural control committee appointed by the Board. Any Owner combining Units, as provided in this Section, shall indemnify all other Owners and the Association against and hold them harmless from any cost, loss, liability, damage or injury to property or persons arising from or caused by, such work. As a condition to granting its approval, the Board or any committee appointed by the Board may impose reasonable terms and conditions, including, without limitation, a requirement that the Owner obtain lien and completion bonds to assure lien-free completion of the work. Assessments by the Association shall continue to be made to each Unit whether or not combined.

Section 7.12 Liability of Owners for Damage to Common Area. The Owner of each Condominium shall be liable to the Association for all damage to the Common Area, or improvements thereon, caused by such Owner or Owner's agent, any occupant, invitee, guest or

pet, except for that portion of damage, if any, fully covered by insurance. Liability of an Owner shall be established only after notice to the Owner and hearing before the Board.

Section 7.13 Hazardous Materials. An Owner shall not use or keep in a Condominium any kerosene, gasoline or inflammable or combustible fluid or material or other hazardous materials, other than those required, in limited quantities, for the normal cleaning of a Condominium.

ARTICLE VIII

ARCHITECTURAL CONTROL

Section 8.1 Approval of Plans. No building, fence, wall, obstruction, outside or exterior wiring, balcony, deck, screen, patio, patio cover, tent, awning, improvement or structure of any kind shall be commenced, installed, erected, painted or maintained upon the Property, nor shall any alteration or improvement of any kind be made thereto, or to the exterior of any residence (excluding, however, the construction of a vent by the Owner of airspace Parcel 3 in accordance with Section 2.3(e) hereof), until the same has been approved in writing by the Architectural Control Committee appointed by the Board, pursuant to Section 8.2 hereof. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the Architectural Control Committee for approval as to quality of workmanship and design and harmony of external design with all improvements located in the Project,

and as to location in relation to surrounding structures. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Unit (provided there is no impairment of the structural integrity of the Property), or to paint the interior of his Unit any color desired. In the event the Committee fails to approve or disapprove plans and specifications within ninety (90) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Notwithstanding the foregoing provisions for approval, any approved plans and specifications shall be subject to review by the Master Association if the Board of the Master Association requests such review in writing within the fifteen (15) day period following the date of approval.

Section 8.2 Architectural Control Committee Action. The Architectural Control Committee shall consist of three (3) members. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the original final public report for the first phase of the Project. The Declarant reserves to itself the power to appoint a majority of the members to the Committee until ninety percent (90%) of all the Condominiums in the Project, including subsequent phases, have been sold or until the fifth anniversary of the issuance of the final public report for the first phase of the Project, whichever first occurs. After one (1) year from the date of issuance of the original public report for the first phase of the Project, the Board shall have the power to appoint at least one (1) member to the Committee until ninety percent (90%) of all

the Condominiums in the Project, including subsequent phases, have been sold or until the fifth anniversary date of the issuance of the original final public report for the first phase of the Project, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Control Committee. Members appointed by the Board shall be Members of the Association. Members appointed by Declarant, however, need not be Members of the Association. In the event of death or resignation of any Committee member, said member's replacement shall be appointed by whomever (the Board or Declarant) appointed that member. A majority of the members of the Committee may appoint a single member to act for it. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant thereto.

Section 8.3 Governmental Approval. Before commencement of any alteration or improvements approved by the Architectural Control Committee, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1 Enforcement.

(a) Right to Enforce. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in

equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Condominium Documents, or decisions made by the Association pursuant to the provisions of the Condominium Documents, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by the Court. Failure by the Association or by any Owner to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the rights to so do thereafter.

(b) Alternative Dispute Resolution. Pursuant to the provisions of California Civil Code Section 1354, prior to the filing by either the Association or an Owner of a civil action related to the enforcement of the Condominium Documents for declaratory or injunctive relief only, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages (other than Association assessments) not in excess of five thousand dollars (\$5,000), the parties shall endeavor to resolve the dispute through some form of alternative dispute resolution such as mediation or arbitration, in compliance with the procedure and time limits specified in said Section 1354. The form chosen may be binding or nonbinding at the option of the parties. The costs of the alternative dispute resolution shall be borne by the parties.

The failure by any Member or the Association to comply with the requirements of said Section 1354 may result in the loss of the right to obtain a court judgment.

Section 9.2 Invalidity of any Provision. Should any provision or portion hereof be declared invalid or in conflict

with any law of the jurisdiction in which this Project is situated, the validity of all the remaining provisions and portions thereof shall remain unaffected and in full force and effect.

Section 9.3 Term. The covenants, conditions 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 property subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of thirty (30) years from the date that this Declaration is recorded, after which time, these covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by seventy-five percent (75%) of the then Owners of the Condominiums (and approved by first mortgagees in accordance with Section 9.6.) has been recorded within the year preceding the year of each successive period of ten (10) years, agreeing to change such covenants and restrictions, in whole or in part, or to terminate them.

Section 9.4 Amendments. This Declaration may be amended only by the affirmative vote of seventy-five percent (75%) of each class of the Association Members, if the two class voting structure is still in effect. Under the single class voting structure, amendment of this Declaration shall require both the affirmative vote of seventy-five percent (75%) of the total voting power of the Association Members and a bare majority (51%) of the votes of Members other than Declarant. All such amendments must

be recorded and shall become effective upon being recorded in the Recorder's Office of the County of San Francisco.

Section 9.5 Encroachment Easements. 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 minor encroachment due to engineering errors, errors in original construction, settling or shifting of the Condominium Building, or any other cause. There shall be valid easements for the maintenance of such encroachments as long as they shall exist, and the rights and obligations of the Owners shall not be altered in any way by such encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if such encroachment occurred due to willful misconduct of such Owner or Owners. In the event that a structure is partially or totally destroyed, and subsequently 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 valid easements for the maintenance of such encroachments, so long as they shall exist.

Section 9.6 Mortgage Protection Provision.

(a) Mortgage Permitted. Any Owner may encumber his Condominium with a mortgage or mortgages. The Exclusive Use Common Areas, if any, are a part of the Project and are covered by the mortgage at least to the same extent as are the Common Areas. All such areas are fully installed, completed, and in operation for use by the Owners.

(b) Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first mortgage that encumbers any Condominium, made in good faith and for value, and no such lien shall in any way defeat, invalidate or impair the obligation or priority of such mortgage, unless the mortgagee expressly subordinates his interest in writing to such lien. The transfer of ownership of a Condominium as the result of the exercise of a power of sale or a judicial foreclosure involving a default under the first mortgage, shall extinguish the lien of assessments which were due and payable prior to the transfer of the ownership interest. No transfer of an ownership interest, as the result of a foreclosure or exercise of a power of sale, shall relieve the new Owner, whether it be the former mortgagee or beneficiary of the first mortgage or another person, from liability for any assessments thereafter becoming due or from the lien thereof. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominiums and not to the Project as a whole.

(c) Amendment. No amendment to the Condominium Documents shall affect the rights of any mortgagee under any mortgage made in good faith and for value and recorded before the recordation of any such amendment, unless a mortgagee either joins in the execution of the amendment or approves it in writing as a part of such amendment.

(d) Restrictions on Certain Changes.

i. Unless sixty-seven percent (67%) of all first mortgagees of Condominiums (based on one vote for each first

Mortgage owned) and sixty-seven percent (67%) of Owners (other than Declarant or sponsors, developers, or builders) have given their prior written approval (unless a higher percentage is required by a specific provision of this Declaration), neither the Association nor the Owners shall be entitled:

A. By act or omission to seek to abandon or terminate the Project, except for abandonment provided by statute in case of substantial loss to the Units and the Common Area.

B. To change the pro rata interest or obligations of any Condominium for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the pro rata share of ownership of each Condominium in the Common Area.

C. To partition or subdivide any Condominium.

D. By act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association or the Owners shall not be deemed a transfer within the meaning of this subparagraph.

E. To use hazard insurance proceeds for losses to Units or Common Area for other than the repair, replacement or reconstruction of improvements, except as provided by statute in case of substantial loss to the Units or Common Area of the Project.

ii. A. Unless a higher percentage is required by

a specific provision of this Declaration, the consent of sixty-seven percent (67%) of Owners and the approval of Eligible Mortgagees holding mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to mortgages held by Eligible Mortgagees shall be required to add or amend any material provisions of the Condominium Documents which establish, provide for, govern, or regulate any of the following: (1) voting; (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens or the priority of such liens; (3) reductions in reserves for maintenance, repair and replacement of the Common Area; (4) insurance requirements; (5) reallocation of the interests in the Common Area or the Exclusive Use Areas or rights to their use (except as provided in Section 2.6(a)); (6) responsibility for maintenance and repair; (7) expansion or contraction of the Project or the addition, annexation, or withdrawal of property to or from the Project (except as provided in Section 2.6(a)); (8) the redefinition of boundaries of any Condominium; (9) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified herein; (10) convertibility of Units into Common Area or of Common Area into Units; (11) imposition of any restriction on the leasing of Condominiums; (12) imposition of any right of first refusal or similar restriction on the right of a Condominium Owner to sell, transfer, or otherwise convey his Condominium; and (13) any provisions which are for the express benefit of Eligible Mortgagees or Eligible Insurers or Guarantors.

B. An addition or amendment to such document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any Eligible Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

iii. Unless the prior consent of sixty-seven percent (67%) of Owners and approval of Eligible Mortgagees holding mortgages on Condominiums which have at least sixty-seven percent (67%) of the votes of Condominiums subject to mortgages held by Eligible Mortgagees has been obtained, neither the Association nor the Owners shall be entitled to terminate the legal status of the Project as a condominium project; except that the approval of only fifty-one percent (51%) of Eligible Mortgagees shall be required to terminate the legal status of the Project after substantial destruction or a substantial taking in condemnation.

(e) Right to Examine Books and Records. The Association shall make available to Owners and first mortgagees (and insurers or guarantors of any first mortgage), current copies of the Condominium Documents and the membership register (including mailing addresses and telephone numbers); books of account; and minutes of meetings of the Members, of the Board, and of committees of the Board or the Association in accordance with Sections 11.1 and 11.2 of the Bylaws. Any first mortgagee shall be entitled, on written request, to have prepared pursuant to Section 9.1(e) of the Bylaws, a copy of the financial statement

for the immediately preceding fiscal year. Such statement shall be furnished within a reasonable time following such request.

(f) Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of first mortgagees of Condominiums pursuant to their mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Units or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Project is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected mortgagees naming the mortgagees, as their interests may appear.

(g) Notice to Mortgagees of Record. On receipt of written request to the Association from any Eligible Mortgagee or Eligible Insurer or Guarantor, identifying both its name and address and the Unit number or address of the Unit on which it has the mortgage, the Association shall give written notice to each Eligible Mortgagee or Eligible Insurer or Guarantor of the following:

i. Any loss to any Unit covered by such mortgage, if such loss exceeds one thousand dollars (\$1,000), or any taking of such Unit;

ii. Any loss to the Common Area, if such loss exceeds five thousand dollars (\$5,000), or any taking of the Common Area;

iii. Any default by the Owner of any Unit covered

by such mortgage under any provision of this Declaration or any other provision of the Bylaws or rules and regulations adopted by the Association, which default is not cured within sixty (60) days after written notice to such Owner (such notice to include the fact that said sixty (60) day period has expired);

iv. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

v. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 9.6(d)(ii).

(h) Effect of Breach. No breach of any provision of this Declaration nor the enforcement of any lien provision herein shall invalidate the lien of any mortgage on any Condominium made in good faith and for value, but all covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

(i) Foreclosure. If any Condominium is encumbered by a first mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the first mortgage. On foreclosure of the first mortgage, the lien of assessments, or installments, that have accrued up to the time of foreclosure shall be subordinate to the lien of the first mortgage, with the foreclosure-purchaser taking title to the Condominium free of the lien for assessments, or installments, that have accrued up to the time of the foreclosure sale. On taking title to the Condominium,

the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Condominium. The subsequently levied assessments or other charges may include previously unpaid assessments; provided all Owners, including the foreclosure-purchaser, and his successors and assigns, are required to pay their proportionate share, as provided in this Section.

(j) Appearance at Meetings. Because of its financial interest in the Project, any mortgagee may appear at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made subject to remedial proceedings or assessments.

(k) Right to Furnish Any Information. Any mortgagee may furnish information to the Board concerning the status of any mortgage.

(l) Inapplicability of Right of First Refusal to Mortgagee. The Condominium Documents contain no right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium. No such right of first refusal or similar right shall be granted to the Association in the future without the consent of any mortgagee of the Condominium. Any right of refusal or similar right that may be granted to the Association (or other person or entity) shall not apply to any conveyance or transfer of title to such Condominium, whether voluntary or involuntary, to a mortgagee who acquires title to or ownership of the Condominium, pursuant to the remedies provided in its mortgage, or by reason of foreclosure of

the mortgage or deed (or assignment) in lieu of foreclosure. In addition, said right of first refusal or similar right shall not impair the rights of a mortgagee to sell or lease a Condominium acquired by the mortgagee.

(m) Payment of Taxes or Insurance by Mortgagees. First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area; provided such first mortgagees making such payment have given notice to the Association prior to the making of such payment(s) and the Association has failed to pay the same.

Section 9.7 Owner's Right and Obligations to Maintain and Repair. Except for those portions of the Project that the Association is required to maintain and repair, each Owner shall, at his sole cost and expense, maintain and repair his Unit, keeping the same in good condition. Each Owner shall keep those portions of Exclusive Use Common Areas, if any, to which he has an exclusive easement or license, clean and neat. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish or decorate the inner surfaces of the walls, ceilings, floors, windows, and doors bounding his Unit. In the event that an Owner fails to maintain the interior of his Unit in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request that it be done within sixty (60) days from the giving of such notice. In the event the

Owner fails to carry out such maintenance within such sixty (60) day period, the Board may give notice and hold a hearing and cause such work to be done and may specially assess the cost thereof to such Owner and, if necessary, place a lien on his Condominium for the amount thereof.

Section 9.8 Entry for Repairs. The Board or its appointed agents may enter upon any Unit when necessary in connection with any maintenance, repair or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable, and any damage caused thereby shall be repaired by the Board at the expense of the Association. Except in the case of any emergency, forty-eight (48) hour advance notice shall be given to the Owner or occupant prior to any such entry.

Section 9.9 Damage or Destruction.

(a) If the Project improvements are damaged by fire or other casualty, the improvements shall be rebuilt or repaired substantially the same as the improvements existed prior to the fire or other casualty, subject to local building codes and other applicable governmental regulations, unless either of the following occurs:

i. The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement of all the improvements located in the Project, the available insurance proceeds are not sufficient to pay eighty-five percent (85%) of the cost of such repairs or reconstruction, and seventy-five percent (75%) of the total voting power of the Association

residing in Members and their first mortgagees vote against the repair and reconstruction; or

ii. Available insurance proceeds are not sufficient to repair or reconstruct the improvement substantially to their condition prior to the casualty, a special assessment fails to receive the requisite vote, if required, pursuant to Article IV, Section 4.4 hereof, and the Board is unable to supplement the insurance by borrowing in the name of the Association sufficient funds to reconstruct the improvements within a reasonable time.

(b) The following procedures shall be employed for disposition of insurance proceeds and guidance in reconstruction:

i. Minor Casualty. If the cost to repair or reconstruct does not exceed the sum of thirty thousand dollars (\$30,000), the Board shall thereupon contract to repair and rebuild the damaged portions of all Units and the Common Area, in accordance with the conditions existing immediately prior to damage (modified at the discretion of the Board to comply with building codes and construction standards in effect at the time of the rebuilding) and the funds held in the insurance trust fund shall be used for that purpose. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Owners of the Units affected shall pay for the portion of the insufficiency attributed to their Unit by the Board and the Board shall levy a special assessment on all Condominiums to make up any deficiency attributed to the Common Area. The special assessment shall be subject to the provisions of this Declaration governing membership approval of special assessments and shall be levied

according to the Owner's percentage interest in the Common Area, as set forth in Section 2.2(b) hereof.

ii. Major Casualty. If subparagraph (b)(i) is inapplicable, then,

A. All insurance proceeds and funds borrowed by the Association, if any, shall be paid to a bank, trust company or other entity designated by the Board ("the insurance trustee") to be held for the benefit of the Owners and their mortgagees, as their respective interests may appear. Said funds shall be disbursed according to standard construction loan procedures. The Board, on behalf of the Association and of the Owners, hereby is authorized to enter into an insurance trust agreement, consistent with this Declaration, with such insurance trustee, relating to its powers, duties and compensation.

B. The Board shall obtain firm bids from two (2) or more responsible contractors to rebuild the Project in accordance with the conditions existing immediately prior to damage and destruction (modified at the direction of the Board to comply with building codes and construction standards in effect at the time of the rebuilding). The Board may also obtain an estimate from the insurance carrier of the scope of work included within the amount of the insurance coverage. To be considered, any contractor's bid shall include the premium payable for performance, labor and material payment bonds from a reputable bonding company.

C. The Board shall, as soon as reasonably possible after receipt of such contractors' bids, or insurance estimate, call a special meeting of the Owners to consider such

bids or insurance estimate. If the Board fails to do so within sixty (60) days after the casualty occurs, any Owner may obtain such contractors' bids or insurance estimate and call and conduct such meeting, as provided herein. Failure to call such a meeting, or to repair such casualty damage within twelve (12) months from the date such damage occurred, shall be deemed, for all purposes, a decision not to rebuild the damaged or destroyed improvements.

D. At such meeting, the Owners may elect to reject all such bids or estimates and thus not to rebuild. A vote in excess of seventy-five percent (75%) of each class of Association Members shall be required to reject all bids or estimates; provided, however, that a vote in excess of fifty percent (50%) shall be sufficient to reject any bid or estimate requiring more than fifteen thousand dollars (\$15,000) over and above insurance proceeds for such reconstruction, repair or rebuilding. Failure of the Owners to reject all bids and estimates shall authorize the Board to accept the unrejected bid it considers most favorable; provided, however, that if acceptance of any such bid would require the levy of a special assessment, such acceptance shall only be granted following membership approval of such special assessment, as required by this Declaration. If such membership approval is not obtained, the bid shall be deemed to have been rejected.

E. In the event the Owners elect not to rebuild, insurance proceeds received by the Association shall be distributed by the Association among Owners and their respective mortgagees, according to the respective fair market values of the Condominiums at the time of destruction, as determined by the

following procedure: The Board shall appoint two (2) independent appraisers to determine the relative value of the Condominiums affected. The two appraisers shall appoint a third independent appraiser. If the two appraisers are unable to agree on a third, then the third shall be appointed by the presiding Judge of the Superior Court of the State of California for the County of San Francisco. The market value of the respective Condominiums shall then be the average of the three values submitted by each of the appraisers.

F. If a bid or estimate is accepted, the Board shall levy a special assessment to make up any deficiency between the total insurance proceeds or insurance work and the cost for such repairs or rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of mortgages, shall be paid to the insurance trustee to be used for such rebuilding. The special assessment shall be levied according to the Owner's percentage interest in the Common Area, as set forth in Section 2.2(b) hereof.

(c) Notwithstanding any provision in this Section to the contrary, if the insurance carrier offers the full amount required to repair and restore all of the damage, then the Board shall contract to repair and rebuild the damaged portions of all Units and the Common Area in the manner provided in subparagraph (b)(i) for a minor casualty.

(d) Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty as it may deem necessary or desirable under the circumstances.

(e) This Section 9.9 is subject and subordinate to the provisions of Section 8.8 of the Master Declaration.

Section 9.10 Condemnation. In the event of an award for the taking of any Condominium in the Project by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking and, after acceptance thereof, he and his mortgagee shall be divested of all interest in the Project, if such Owner shall vacate his Unit as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to adjust proportionately the percentages of the undivided interests of the remaining Owners in the Project. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Area or any part thereof, and the award or proceeds of settlement shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Condominium Owners and their mortgagees, as their interests may appear. If Condominiums are not valued separately by Court judgment or by agreement between the condemning authority and each of the affected Owners in the Project, the condemnation award shall be distributed as follows: The Board shall appoint two (2) independent appraisers to determine the relative values of the Condominiums affected by the condemnation. The two appraisers shall appoint a third independent appraiser. If the two appraisers are unable to agree on a third, then the third shall be

appointed by the presiding Judge of the Superior Court of the State of California for the County of San Francisco. The value of the respective interests shall be the average of the three values submitted by each of the appraisers. In the event any Owner disagrees with the proposed allocation, he may have the matter submitted to arbitration under rules of the American Arbitration Association. In the event of eminent domain proceedings against the Project or any portion thereof, institutional lenders shall be given timely written notice thereof. This Section 9.10 is subject and subordinate to the provisions of Section 8.9 of the Master Declaration.

Section 9.11 Owners' Compliance. Each Owner, tenant or occupant of a Condominium shall comply with the provisions of this Declaration, the Bylaws, and the decisions and resolutions of the Association or its duly authorized representative, as lawfully amended from time to time. Failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Bylaws, shall be deemed to be binding on all Owners of Condominiums, their successors and assigns.

Section 9.12 Limitation of Restrictions on Declarant. Declarant is undertaking the work of constructing a phased Condominium Project and incidental improvements upon the Property. The completion of that work and the sale, rental, and other disposal of Condominiums is essential to the establishment and

welfare of said Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to do the following:

- (a) Prevent Declarant, its contractors, or subcontractors, from doing on the Property or any Condominium, whatever is reasonably necessary or advisable in connection with the completion of said work; or
- (b) Prevent Declarant or its representatives from erecting, constructing and maintaining on the Property (except upon Condominiums owned by others), such structures as may be reasonable and necessary for developing said Property as a residential community and disposing of the same by sale, lease or otherwise; or
- (c) Prevent Declarant from conducting on the Property (except upon Condominiums owned by others) its business of completing said work and of establishing a plan of residential ownership and of disposing of said Property in Condominiums by sale, lease or otherwise; or
- (d) Prevent Declarant from maintaining such sign or signs on the Property (except upon Condominiums owned by others) as may be necessary for the sale, lease or disposition thereof; or
- (e) Subject Declarant to the architectural control provisions of Article VIII for construction of any residence or other improvements on the Property.

The foregoing rights of Declarant shall terminate upon sale of Declarant's entire interest in the Project.

So long as Declarant, its successors and assigns own one (1) or more of the Condominiums described herein, Declarant, its successors and assigns shall be subject to the provisions of this Declaration. Declarant shall make reasonable efforts to avoid disturbing the use and enjoyment of Condominiums and the Common Area by their Owners, while completing any work necessary to said Condominiums or Common Area.

Section 9.13 Termination of Any Responsibility of Declarant.

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

Section 9.14 Notices. Any notice permitted or required by this Declaration or the Bylaws may be delivered either personally or by mail. If delivery is by mail, it shall be by first-class mail and shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each person at the current address given by such person to the Secretary of the Board or addressed to the Unit of such person if no such address has been given to the Secretary.

Section 9.15 Special Provisions for Enforcement of Bonded Obligations.

(a) Special Procedures. Because certain Common Area improvements may not have been completed prior to the date of

execution of this Declaration and by the date of issuance of a final public report covering the Project, or the first phase thereof, and because the Association is or may become obligee under a bond or other arrangement (hereafter "bond") to secure the completion of such Common Area improvements, there are hereby created special procedures for the initiation of action to enforce the obligations of the Declarant and the surety under any such bond.

(b) Action by Board. The Board is hereby directed to 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 aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

(c) Meeting of Members to Override Decision by Board. A special meeting of Members of the Association for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the bond, or on the failure of the Board to consider the question, 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.

(d) Vote by Members at Special Meeting. At any meeting held under the provisions of subsection (c) above, a vote shall be taken by Members of the Association other than the Declarant. A vote of a majority of the voting power of the Association residing in Members other than Declarant to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

(e) Release of Bond. Upon satisfaction of the Declarant's obligation to complete the Common Area improvements, the Association shall acknowledge in writing that it approves the release of the bond and execute any other documents as may be necessary to effect such release. The Association shall not condition its approval of the release of the bond on the satisfaction of any conditions other than the completion of the Common Area improvements, as described on the planned construction statement appended to the bond. Any dispute between the Declarant and the Association regarding the completion of the Common Area improvements shall be submitted to binding arbitration under the commercial rules of the American Arbitration Association and the prevailing party shall be entitled to recover costs, including

reasonable attorneys' fees.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 3rd day of February, 1994

Declarant:

HUM BABY ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP

By: Emerald Fund, Inc., a California corporation, Its General Partner

By: [Signature]
S. Osborn Erickson
President

EMEF10\C-CCRES.5G3

- Sign Here
- Initial Here
- Notarize Here
- Return
- _____

Post-it signature request pad 7080

Single Form)
Effective 1/1/91

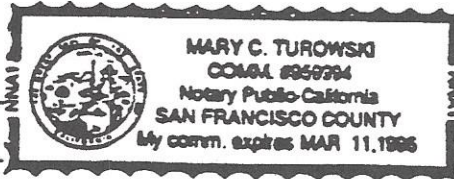
STATE OF CALIFORNIA }
COUNTY OF San Francisco } SS.

3 February 1994 before me, the undersigned, a Notary Public in and for said State,
personally appeared S. Osborn Erickson

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

WITNESS my hand and official seal.

Signature: [Signature]
Name: Mary C. Turowski
(typed or printed)



G-1197

(This area for official notarial seal)

ATTACHMENT A
TO
DECLARATION OF
CONDITIONS, COVENANTS AND RESTRICTIONS
OF
PORTSIDE,
A CONDOMINIUM PROJECT

Description:

All that certain real property situated in the City and County of San Francisco, and more particularly described as follows:

All that certain real property described on that certain map entitled "Map of Portside, a Condominium Project," recorded the 11th day of February, 1994, in Book 42 of Condominium Maps, at Pages 161 through 170, inclusive, Official Records of the City and County of San Francisco, State of California.

ATTACHMENT B
 TO
 DECLARATION OF
 CONDITIONS, COVENANTS AND RESTRICTIONS
 OF
 PORTSIDE,
 A CONDOMINIUM PROJECT

PHASING SCHEDULE*

PHASE I

<u>Phase</u>	<u>Lots</u>	<u>Units</u>	<u>Units Per Phase</u>	<u>Total Units Annexed</u>
I	25	101		
	26-29	301-304		
	30-32	307-309		
	33-41	401-409		
	42-50	501-509		
	51-59	601-609		
	60-68	701-709		
	69-77	801-809		
	78-86	901-909	62	62
II	as yet undetermined number of units up to a maximum of		198	260 maximum

* Declarant reserves the right to change the order and number of phases, number of Units, or Unit mix, at any time, subject to approval of the Department of Real Estate.

ATTACHMENT C
 TO
 DECLARATION OF
 CONDITIONS, COVENANTS AND RESTRICTIONS
 OF
 PORTSIDE,
 A CONDOMINIUM PROJECT

INTEREST IN COMMON AREAS AND PRORATION PERCENTAGE

PHASE I

<u>Unit No.</u>	<u>Percentage Interest in Common Area</u>	<u>Proration Percentage</u>
101	1.20	1.0689
301	2.55	2.2976
302	0.97	1.0689
303	1.23	1.2304
304	1.90	1.8541
307	1.74	1.5210
308	1.68	1.8541
309	1.62	1.5210
401	1.13	1.0689
402	2.26	2.2976
403	1.45	1.5210
404	1.82	1.8541
405	2.43	2.2976
406	2.41	2.2976
407	1.72	1.5210
408	1.87	1.8541
409	1.51	1.5210
501	1.13	1.0689
502	2.26	2.2976
503	1.45	1.5210
504	1.82	1.8541
505	1.23	1.2304
506	0.99	1.0689

ATTACHMENT C
TO
DECLARATION OF
CONDITIONS, COVENANTS AND RESTRICTIONS
OF
PORTSIDE,
A CONDOMINIUM PROJECT

INTEREST IN COMMON AREAS

PHASE I

(Continued)

<u>Unit No.</u>	<u>Percentage Interest in Common Area</u>	<u>Proration Percentage</u>
507	1.95	1.8541
508	1.87	1.8541
509	1.61	1.5210
601	1.13	1.0689
602	2.26	2.2976
603	1.45	1.5210
604	1.82	1.8541
605	1.23	1.2304
606	0.99	1.0689
607	1.95	1.8541
608	1.87	1.8541
609	1.61	1.5210
701	1.13	1.0689
702	2.26	2.2976
703	1.45	1.5210
704	1.82	1.8541
705	1.23	1.2304
706	0.99	1.0689
707	1.95	1.8541

ATTACHMENT C
 TO
 DECLARATION OF
 CONDITIONS, COVENANTS AND RESTRICTIONS
 OF
 PORTSIDE,
 A CONDOMINIUM PROJECT

INTEREST IN COMMON AREAS

PHASE I

(Continued)

<u>Unit No.</u>	<u>Percentage Interest in Common Area</u>	<u>Proration Percentage</u>
708	1.87	1.8541
709	1.51	1.5210
801	1.13	1.0689
802	2.12	2.2976
803	1.42	1.5210
804	1.78	1.8541
805	1.23	1.2304
806	0.99	1.0689
807	1.95	1.8541
808	1.82	1.8541
809	1.44	1.5210
901	1.13	1.0689
902	2.12	2.2976
903	1.42	1.5210
904	1.73	1.8541
905	1.23	1.2304
906	0.99	1.0689
907	1.95	1.8541
908	1.79	1.8541
909	1.44	1.5210

ATTACHMENT D
TO
DECLARATION OF
CONDITIONS, COVENANTS AND RESTRICTIONS
OF
PORTSIDE,
A CONDOMINIUM PROJECT
EXCLUSIVE USE COMMON AREAS
PHASE I
(Continued)

<u>Unit No.</u>	<u>Exclusive Use Common Area</u>
609	D-609
707	D-707
708	D-708
709	D-709
802	D-802a D-802b D-802c
803	D-803
807	D-807
808	D-808
809	D-809
907	D-907
908	D-908
909	D-909

ATTACHMENT D
TO
DECLARATION OF
CONDITIONS, COVENANTS AND RESTRICTIONS
OF
PORTSIDE,
A CONDOMINIUM PROJECT
EXCLUSIVE USE COMMON AREAS
PHASE I

<u>Unit No.</u>	<u>Exclusive Use Common Area</u>
301	D-301a D-301b D-301c
302	D-302
303	D-303
307	D-307
308	D-308
309	D-309
401	D-401
402	D-402a D-402b
403	D-403
405	D-405
406	D-406
407	D-407
408	D-408
409	D-409
507	D-507
508	D-508
509	D-509
607	D-607
608	D-608

Exhibit "A"

1. First Interstate Bank of California, a California corporation, as Corporate Co-Trustee for Cement Masons Pension Trust Fund for Northern California,
2. First Interstate Bank of California, a California corporation, as Custodian for Sheet Metal Workers of Northern California Pension Trust Fund,
3. First Interstate Bank of California, a California corporation, as Corporate Co-Trustee for Laborers Pension Trust Fund for Northern California,
4. First Interstate Bank of California, a California corporation, as Corporate Co-Trustee for Pension Trust Fund for Operating Engineers,
5. First Interstate Bank, Ltd., a California corporation, as Corporate Co-Trustee for Carpenters Pension Trust Fund for Northern California,
6. Imperial Trust Company, a California corporation, as Corporate Co-Trustee for Pacific Coast Roofers Pension Plan,
7. First Interstate Bank, Ltd., a California corporation, as Corporate Co-Trustee for Northern California Plastering Industry Pension Trust Fund, and
8. First Interstate Bank, Ltd., a California corporation, as Corporate Co-Trustee for Northern California Glaziers, Architectural Metal and Glassworkers Pension Trust Fund.

CONSENT AND SUBORDINATION

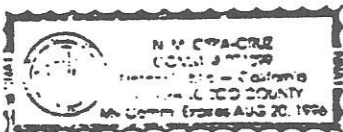
The undersigned, See exhibit "A" attached, as Beneficiary,
under that certain Deed of Trust dated October, 1992, recorded
October 29, 1992, Instrument No. F234335,
Book F766, Page 408, Official Records of the County Recorder of the
County of San Francisco, executed by Hum Baby Associates, a California
limited partnership, as Trustor,
with Fidelity National Title Insurance Company, as Trustee,
does hereby consent to the execution and recordation of the attached Declaration
of Covenants, Conditions and Restriction and does hereby subordinate said Deed of
Trust to said Declaration of Covenants and Restrictions, to the same extent and
with the same force and effect as if said Declaration of Covenants, Conditions
and Restrictions had been executed and recorded prior to the execution and
recordation of said Deed of Trust.

IN WITNESS WHEREOF, the undersigned has executed this Consent and Subordination
this 27th day of January, 1994.

See Exhibit "B" for signatures

STATE OF CALIFORNIA)
COUNTY OF San Francisco)
ON January 27, 1994 BEFORE ME, N.M. Ciria-Cruz, Notary Public
PERSONALLY APPEARED ROBERT F. FERGUSON

PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE)
TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT
AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUT-
HORIZED CAPACITY(IES) , AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT
THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED
THE INSTRUMENT.
WITNESS MY HAND AND OFFICIAL SEAL.



N.M. Ciria-Cruz