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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
LOFTS AT PLAYA VISTA AND PARK HOUSES AT PLAYA VISTA

SECTION 12.4 OF THIS DECLARATION CONTAINS (I) A
BINDING ARBITRATION PROVISION IN ACCORDANCE
WITH THE FEDERAL ARBITRATION ACT, AND (II) A
WAIVER OF CONSTITUTIONAL RIGHT TO A JURY.
YOU SHOULD CONSULT LEGAL COUNSEL FOR
QUESTIONS ON THESE OR OTHER PROVISIONS OF
THIS DECLARATION.

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR**

LOFTS AT PLAYA VISTA AND PARK HOUSES AT PLAYA VISTA

This DECLARATION is made by Concert Park South Venture LLC, a Delaware limited liability company. The capitalized terms used in the Preamble are defined in Article I.

P R E A M B L E:

A. Declarant is the owner of real property located in the City of Los Angeles, Los Angeles County, California, described as follows:

Units, Common Area and Association Property, as shown on the Condominium Plan Recorded on _____, 2005, as Instrument No. _____, in Official Records of Los Angeles County, California ("*Official Records*"), on a part of Lots 3 to 5, inclusive, 65, 66 and Parcel R of Tract No. 49104-01, as shown on a Subdivision Map, Filed in Book 1233, at Pages 51 to 64, inclusive, of Maps, in the Office of the Los Angeles County Recorder.

EXCEPTING THEREFROM, Units and Common Area shown on the Condominium Plan Recorded on _____, 2005, as Instrument No. _____, of Official Records.

Lots 3 to 5, inclusive, 65, 66 and Parcel R are subject to a Covenant and Agreement to Hold Property as One Parcel which was recorded on September 6, 2001, as Instrument No. 01-1672186 of Official Records, although Declarant may further subdivide such Lots into Condominiums as herein provided.

B. Declarant intends to create a "condominium project," as defined in Section 1351(f) of the California Civil Code, to subdivide the Community as authorized by Section 66427 of the California Government Code into "condominiums" as defined in Section 783 of the California Civil Code and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the Condominiums created pursuant to the Davis-Stirling Common Interest Development Act.

C. The Community is to be held, conveyed, encumbered, leased, used and improved subject to the limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration, all of which are in furtherance of a plan for subdividing, maintaining, improving and selling the Community. All provisions of this Declaration are imposed as equitable servitudes on the Community. All limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration shall run with and burden the Community and shall be binding on and for the benefit of all of the Community and all Persons acquiring any interest in the Community.

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D. Declarant and its successors and assigns covenant that each undivided interest in the Common Area, the appurtenant Membership in the Association, all easements conveyed therewith and fee title to the respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, Membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit. This restriction on severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Community is suspended in accordance with Section 1359 of the California Civil Code. Any conveyance by an Owner of a Condominium, or any portion thereof, shall be presumed to convey the entire Condominium together with a Membership in the Association.

ARTICLE I DEFINITIONS AND INTERPRETATION

1.1 **DEFINITIONS.** Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings.

1.1.1 **Annual Assessment.** Annual Assessment means a charge levied against the Owners and their Condominiums representing their share of Common Expenses. The Annual Assessment is a regular assessment as described in California Civil Code Section 1366. Annual Assessments consist of a "General Assessment Component" and for the Lofts only, a "Lofts Special Benefit Area Component," as provided in Section 7.7.3.

1.1.2 **Architectural Guidelines.** Architectural Guidelines means the rules or guidelines setting forth procedures and standards for submission of plans for Architectural Review Committee approval.

1.1.3 **Architectural Review Committee.** Architectural Review Committee means the Architectural Review Committee created pursuant to Article V.

1.1.4 **Articles.** Articles means the Articles of Incorporation of the Association as currently in effect. A copy of the Articles is attached as *Exhibit A*.

1.1.5 **Assessment.** Assessment means any Annual Assessment, Capital Improvement Assessment, Reconstruction Assessment and Special Assessment.

1.1.6 **Association.** Association means PH&L Community Association, a California nonprofit corporation (formed pursuant to the California Nonprofit Mutual Benefit Corporation Law) and its successors in interest. The Association is an "association" as defined in Section 1351(a) of the California Civil Code. The Association is a "Subassociation" as defined in Section 1.63 of the Master Declaration.

1.1.7 **Association Maintenance Funds.** Association Maintenance Funds means the accounts created for Association receipts and disbursements pursuant to Article VII.

1.1.8 **Association Maintenance Guide.** Association Maintenance Guide means the manual which may be prepared by Declarant or its agents and provided to the Association, specifying obligations for maintenance of Association Property by the Association, as updated and amended from time to time.

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1.1.9 Association Property. Association Property means real or personal property designated by the Declarant as Association Property and therefore made subject to the restrictions on Association Property established in the Restrictions. Any references in this Declaration to Association Property are references to the Association Property as a whole and to portions thereof. The Association Property is "Common Area" as defined in Section 1.13 of the Master Declaration and in Section 1351(b) of the California Civil Code. The Association Property located in the Community includes the following:

(a) **Association Property Owned in Fee Simple by the Association.** The portions of Lots 3 to 5, inclusive, 65, 66 and Parcel R of Tract No. 49104-01 which are designated as Association Property on the Condominium Plan for the Community;

(b) **Additional Association Property in the Community.** Association Property includes the following, regardless of how they are designated in the Condominium Plan or any other part of the Restrictions: gas, water and waste pipes, sewers, ducts, chutes, conduits, wires and other utility installations (except the electrical outlets in the Units), all residential structures including the bearing walls, columns, unfinished floors, the roofs, foundation slabs, party walls, utility walls, pedestrian plazas and the subterranean parking structure. Association Property does not include the Units and any window glass serving the Units.

(c) **Personal Property.** Association Property includes all personal property owned by the Association.

1.1.10 Board or Board of Directors. Board or Board of Directors means the Association's Board of Directors.

1.1.11 Budget. Budget means a written, itemized estimate of the Association's income and Common Expenses prepared pursuant to the Bylaws.

1.1.12 Bylaws. Bylaws means the Bylaws of the Association as currently in effect. A copy of the Bylaws as initially adopted by the Board is attached as *Exhibit B*.

1.1.13 Capital Improvement Assessment. Capital Improvement Assessment means a charge levied against the Owners and their Condominiums representing their share of the Association's cost for installing or constructing capital Improvements on the Common Property. Capital Improvement Assessments shall be levied in the same proportions as Annual Assessments. However, Capital Improvement Assessments for the Lofts Specific Benefit Area shall be levied in the same proportion as Annual Assessments only against Loft Owners. Capital Improvement Assessments are special assessments as described in California Civil Code Section 1366.

1.1.14 City. City means the City of Los Angeles, California, and its various departments, divisions, employees and representatives.

1.1.15 Close of Escrow. Close of Escrow means the date on which a deed is Recorded conveying a Condominium pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the DRE.

1.1.16 Commercial Area. Commercial Area means the real property shown on the condominium plan recorded on _____, as Instrument No. _____

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of Official Records. The Commercial Area is located within the three (3) buildings which contains the Loft Units along Pacific Promenade.

1.1.17 Commercial Owner. Commercial Owner means the fee simple owner of the Commercial Area

1.1.18 Common Area. Common Area means those certain volumes of airspace described in the Condominium Plan which shall be owned by Owners in the Community as tenants-in-common. Any references in this Declaration to Common Area are references to the Common Area as a whole and to portions thereof. The Common Area is "Common Area" as defined in Section 1.13 of the Master Declaration.

1.1.19 Common Expenses. Common Expenses means those expenses for which the Association is responsible under this Declaration, excepting Lofts Special Benefit Expenses, including the actual and estimated costs of and reserves for maintaining, managing and operating the Common Property, controlled access facilities for the Community, and clustered mailboxes and address identification signs. Common Expenses include the costs of operating, maintaining, testing and reporting on the methane mitigation and monitoring systems serving the Community. Common Expenses include unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments. Common Expenses include the cost of all utilities metered to more than one Condominium, other commonly metered charges for the Community, trash collection and removal, any Telecommunications Facilities and Telecommunications Services for the Condominiums provided by the Association, managing and administering the Association, the costs associated with the Mutual Benefit Agreement, compensating Managers, accountants, attorneys and employees, gardening and other services benefiting the Common Property, all insurance covering the Community and the Directors, officers and agents of the Association, bonding the members of the Board, taxes paid by the Association, amounts paid by the Association for discharge of any lien or encumbrance levied against the Community, maintenance required by this Declaration, all Reserves and all other expenses incurred by the Association for the Community or for the common benefit of the Owners.

1.1.20 Common Property. Common Property means the Common Area and the Association Property. Any references in this Declaration to Common Property are references to the Common Property as a whole and to portions thereof.

1.1.21 Community. Community means the property described in Preamble A to this Declaration. The Community is a "condominium project" as defined in Section 1351(f) of the California Civil Code. The Community is a "common interest development" as defined in Section 1351(c) of the California Civil Code. Any references in this Declaration to the Community are references to the Community as a whole and to portions thereof.

1.1.22 Condominium. Condominium means an estate in real property as defined in California Civil Code Section 1351(f). A Condominium consists of an undivided fee simple ownership interest in the Common Area together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. Subject to the provisions of Article X, the undivided fee simple interest in the Common Area is appurtenant to each Unit and is a fraction having one (1) as its numerator and the number of Units as its denominator; and shall be held by the Owners of Condominiums as tenants-in-common. Condominiums in the Community are "Condominiums" as defined in Section 1.18 of the Master Declaration.

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1.1.23 Condominium Plan. Condominium Plan means the Recorded plan, as currently in effect, for all of the Community consisting of (a) a description or survey map of the Community which shall refer to or show monumentation on the ground, (b) a three-dimensional description of the Community, one or more dimensions of which may extend for an indefinite distance upwards or downwards in sufficient detail to identify the Association Property, Common Area and each Unit, and (c) a certificate consenting to the Recordation thereof signed and acknowledged by the record owner of fee title to the Community, and by either the trustee or the Mortgagee of each Recorded Mortgage encumbering the Community.

1.1.24 County. County means Los Angeles County, California, and its various departments, divisions, employees and representatives.

1.1.25 Declarant. Declarant means Concert Park South Venture LLC, a Delaware limited liability company, its successors, and any Person to which it shall have assigned any of its rights under this Declaration by an express written assignment. As used in this Section, "successor" means a Person who acquires Declarant or substantially all of Declarant's assets by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise. Unless otherwise expressly provided in the Declaration, all actions that may be taken by Declarant may be chosen by Declarant in its sole discretion. Declarant is a builder as described in California Civil Code Section 1375. Declarant is a "Participating Builder" as defined in Section 1.50 of the Master Declaration.

1.1.26 Declaration. Declaration means this instrument as currently in effect. This Declaration is a "Subordinate Declaration" as defined in Section 1.64 of the Master Declaration.

1.1.27 DRE DRE means the California Department of Real Estate and any department or agency of the California state government which succeeds to the DRE's functions.

1.1.28 Exclusive Use Area. Exclusive Use Area means the Association Property over which exclusive easements are reserved for the benefit of specified Owners, including for patios, storage, garages and subterranean parking purposes, and for internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of that Unit in accordance with California Civil Code Section 1351(i). The locations and assignment of Exclusive Use Area patios and garages are shown and described in the Condominium Plans. The locations and assignment of Exclusive Use Area parking spaces are shown and described in this Declaration. The location of the Exclusive Use Area storage spaces are shown in this Declaration. The storage areas will either be assigned in individual grant deeds or, if not assigned on the last Close of Escrow in the Community, the storage spaces will remain Association Property (not subject to an exclusive easement), and the Association shall have the right to assign such storage spaces to Owners for a fee or rent.

1.1.29 FHA. FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and its successors.

1.1.30 Family. Family means natural individuals, related or not, who live as a single household in a Residence.

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1.1.31 Fannie Mae. Fannie Mae means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968 and its successors.

1.1.32 Final Subdivision Public Report. Final Subdivision Public Report means the report issued by the DRE pursuant to California Business and Professions Code Section 11018.2.

1.1.33 Fiscal Year. Fiscal Year means the fiscal accounting and reporting period of the Association selected by the Board.

1.1.34 Freddie Mac. Freddie Mac means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970 and its successors.

1.1.35 Ginnie Mae. Ginnie Mae means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development and its successors.

1.1.36 Homeowner Maintenance Guide. Homeowner Maintenance Guide means the manual which may be prepared by Declarant or its agents and provided to the Association, specifying obligations for maintenance of the Units by the Owners, as updated and amended from time to time. Declarant may provide two different Homeowners Maintenance Guides: one for the Park Houses and one for the Lofts.

1.1.37 Include. Whether capitalized or not, include means "include without limitation."

1.1.38 Improvement. Improvement means (a) any structure and any appurtenance thereto including a building, walkway, lighting system, controlled access facility, elevator, driveway, parking area, fence, wall, awning, stairway, balcony, antenna, the exterior surface of any visible structure and the paint on such surface, sign, exterior air conditioning and water softener fixture or equipment, (b) any landscaping and irrigation system, and (c) any alteration, repair or replacement of any portion of the floors, walls, ceilings, doors or windows encompassing a Unit. The Architectural Review Committee may identify additional items that are Improvements.

1.1.39 Loft. Loft means one of the following Units, as numbered on the Condominium Plan: 100 to 108, 200 to 217, 300 to 317, and 400 to 417, all located within the three (3) buildings along Pacific Promenade.

1.1.40 Lofts Special Benefit Area. Lofts Special Benefit Area means the Lofts which share the costs of the Lofts Special Benefit Expenses described on *Exhibit E*. The Park Houses are not part of a Lofts Special Benefit Area.

1.1.41 Lofts Special Benefit Expenses. Lofts Special Benefit Expenses means those Common Expenses listed on *Exhibit E*.

1.1.42 Maintain. Whether capitalized or not, maintain means maintain, repair and replace.

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1.1.43 Maintenance Obligations. Maintenance Obligations refers to each Owner's obligation and the Association's obligations to perform (i) all reasonable maintenance consistent with the terms of the Homeowner Maintenance Guide and the Association's Maintenance Guide, as applicable, any maintenance obligations and schedules in any warranty offered by Declarant or any manufacturer, and any maintenance obligations and schedules otherwise provided to the Owners or the Association by Declarant or any manufacturer; and (ii) any commonly accepted maintenance practices to prolong the life of the materials and construction in the Units and Association Property, as updated and amended from time to time.

1.1.44 Manager. Manager means the Person retained by the Association to perform management functions of the Association as limited by the Restrictions and the terms of the agreement between the Association and the Person.

1.1.45 Master Association. Master Association means the California nonprofit public benefit corporation formed to manage and maintain the Playa Vista master development.

1.1.46 Master Declaration. Master Declaration means the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Playa Vista, Recorded on February 7, 2000, as Instrument No. 00-0187083, and amended by a First Amendment thereto, recorded on March 26, 2001, as Instrument No. 01-0481376, a Second Amendment thereto, recorded on November 26, 2002, as Instrument No. 02-2875170, and a Third Amendment thereto, recorded on November 26, 2002, as Instrument No. 02-2875171, all of Official Records, Los Angeles County, California, as amended or restated.

1.1.47 Membership. Membership means the voting and other rights, privileges and duties established in the Restrictions for members of the Association.

1.1.48 Mortgage. Mortgage means any Recorded document, including a deed of trust, by which a Condominium or other portion of the Community is hypothecated to secure the performance of an obligation.

1.1.49 Mortgagee. Mortgagee means a Person to whom a Mortgage is made or the assignee of the Mortgagee's rights under the Mortgage by a Recorded instrument. Mortgagee includes a beneficiary under a deed of trust.

1.1.50 Mortgagor. Mortgagor means a Person who Mortgages his property to another. Mortgagor includes a trustor under a deed of trust.

1.1.51 Mutual Benefit Agreement. Mutual Benefit Agreement means the Mutual Benefit Agreement Between Owners of Mixed Use Building recorded on _____, 200____, as Instrument No. _____ of Official Records. The Mutual Benefit Agreement sets forth the rights and responsibilities of the Commercial Owner and the Association with respect to sharing the cost of maintenance, insurance and shared utilities for the Association Property. The Mutual Benefit Agreement is attached hereto as *Exhibit G*. The Mutual Benefit Agreement is not incorporated into this Declaration and can be revised without amending this Declaration.

1.1.52 Neighborhood Guidelines Neighborhood Guidelines means the current policies and rules for the Community.

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1.1.53 Notice and Hearing. Notice and Hearing means written notice and a hearing before the Board, as provided in the Bylaws.

1.1.54 Owner. Owner means the Person or Persons, including Declarant, holding fee simple interest to a Condominium. Each Owner has a Membership in the Association. The term "Owner" includes sellers under an executory contracts of sale but excludes Mortgagees. The term "Owner" may be expanded in a Supplementary Declaration to include other Persons.

1.1.55 Park House. Park House means one of the following Units, as numbered on the Condominium Plan: 1201 to 1210, which are the ten (10) park house condominiums located along Discovery Creek.

1.1.56 Person. Person means a natural individual or any entity recognized under California law. When the word "person" is not capitalized, the word only refers to natural persons.

1.1.57 Reconstruction Assessment. Reconstruction Assessment means a charge levied against the Owners and their Condominiums, representing their share of the Association's cost to reconstruct any Improvements on the Common Property. Such charge shall be levied among all Owners and their Condominiums in the same proportions as Annual Assessments. Reconstruction Assessments are special assessments as described in California Civil Code Section 1366.

1.1.58 Record or File. Record or File means, with respect to any document, entry of such document in the official records of the County Recorder.

1.1.59 Residence. Residence means a Unit.

1.1.60 Reserves. Reserves means those Common Expenses for which Association funds are set aside pursuant to Article VII of this Declaration and Section 1365.5 of the California Civil Code for funding the periodic painting and maintaining of the major components of the Common Property which would not reasonably be expected to recur on an annual or more frequent basis. Reserve amounts shall be determined annually by the Board pursuant to maintenance cost guidelines established in accordance with prudent property management practices generally applied to a "common interest development" (as defined in Section 1351(a) of the California Civil Code) throughout the geographic region in which the Community is located.

1.1.61 Restrictions. Restrictions means this Declaration, the Articles, Bylaws, Neighborhood Guidelines, Architectural Guidelines and Supplemental Declarations.

1.1.62 Special Assessment. Special Assessment means a charge against an Owner and his Condominium representing a reasonable fine or penalty, including reimbursement costs, as provided for in this Declaration.

1.1.63 Supplemental Declaration. Supplemental Declaration means an instrument executed, acknowledged and Recorded by Declarant which imposes conditions, covenants, or restrictions or reserves easements for a portion of the Community in addition to the conditions, covenants, restrictions and easements established by this Declaration. Declarant may Record a Supplemental Declaration if Declarant owns all of the property to be encumbered by the Supplemental Declaration or, if such property has already been conveyed, with the consent of the

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Owners of such property to which the restriction is to be imposed. A Supplemental Declaration may modify this Declaration as it applies to the property encumbered by the Supplemental Declaration. A Supplemental Declaration may be recorded by Declarant to correct any technical or minor errors in this Declaration, any previously recorded Supplemental Declaration or any of the Restrictions.

1.1.64 Telecommunications Facilities. Telecommunication Facilities means equipment, cables, conduits, inner ducts, vaults, connecting hardware, wires, poles, transmitters, towers, antennae and other facilities, structures and Improvements necessary for, or used in, the provision of Telecommunication Services. Declarant may expand this definition in any Supplemental Declaration.

1.1.65 Telecommunications Services. Telecommunications Services means services for cable television, communications, telecommunications, high-speed data, telephony and all related vertical services, intranet, internet, broad band communications, information transfer, transmission, video and other similar services. Declarant may expand this definition in any Supplemental Declaration.

1.1.66 Unit. Unit means a separate interest in space as defined in Section 1351(f) of the California Civil Code. Each Unit is a separate fee estate, as separately depicted and numbered in a Condominium Plan. Each Unit includes the frames and hardware of all entry doors and all glass portions of the windows and doors that are constructed at Unit boundaries. The boundaries of the Unit are approximately depicted in the Condominium Plan. In interpreting deeds, the Declaration and Condominium Plans, the actual boundaries of each Unit shall be deemed to extend to the interior unfinished surfaces of the wall, floor and ceiling Improvements encompassing the Unit, as constructed or reconstructed in substantial accordance with the original plans for the Unit. This interpretation shall apply notwithstanding any depiction expressed in deeds, Condominium Plans or this Declaration, regardless of settling or lateral movement of the Improvements, and regardless of minor variances between Unit boundaries shown in a deed or Condominium Plan and those of the Improvements.

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

1.2 INTERPRETATION.

1.2.1 General Rules. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for creating and operating a residential condominium development and maintaining the Common Property. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

1.2.2 Priorities and Inconsistencies. If there are conflicts or inconsistencies between this Declaration and the Articles, Bylaws, Architectural Guidelines, Neighborhood Guidelines, a Supplemental Declaration, or Condominium Plan, then the provisions of this Declaration shall prevail. If there is a conflict between the Restrictions and the Master Declaration, the Master Declaration shall control.

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1.2.3 Severability. The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

1.2.4 Statutory References. All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes

1.2.5 Articles, Sections and Exhibits. The Article and Section headings have been inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. *Exhibits C through G attached* to this Declaration are incorporated herein by this reference

ARTICLE II RESIDENCE AND USE RESTRICTIONS

The Community shall be held, used and enjoyed subject to the following restrictions and responsibilities, and the exemptions and rights of Declarant in the Restrictions.

2.1 SINGLE FAMILY RESIDENCES. The Residence shall be used as a dwelling for a single Family and for no other purpose. Subject to any Owner occupancy requirements separately imposed by Declarant, an Owner may rent his Condominium to a single Family provided that the Condominium is rented pursuant to a lease or rental agreement which is (a) in writing and (b) subject to all of the provisions of the Restrictions. At the request of the Association, the Owner of any Condominium subject to a lease or rental agreement must provide the Association with the names of the tenants of the Condominium and the Owner's current mailing address. Any Owner who rents or leases his Condominium is responsible for assuring that the tenants and occupants of his Condominium comply with the Restrictions. Any failure by a tenant or subtenant to comply with the Restrictions is a default under the lease or rental agreement. The Common Property, including parking spaces and other amenities contemplated as a part of the Community, will not be leased by Declarant to the Owners or the Association. Owners may also rent Condominiums to Declarant for use as sales offices, models and parking areas.

2.2 BUSINESS OR COMMERCIAL ACTIVITY. No part of the Community may ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including any activity for which the provider is compensated or receives any consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license. This Section does not preclude any of the above-described activities provided that: (a) the activity complies with law; (b) the patrons or clientele of the activity do not visit the Condominium or park automobiles or other vehicles in the Community; (c) the existence or operation of the activity is not apparent or detectable by sight, sound or smell from outside the boundaries of the Condominium; (d) the activity does not increase the Association's liability or casualty insurance obligation or premium; and (e) the activity is consistent with the residential character of the Community and this Declaration. This Section does not prohibit activities of the Association authorized by the Articles, Bylaws or this Declaration.

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2.3 NUISANCES. Noxious and offensive activities in the Community or on any public street abutting or visible from the Community are prohibited. All horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residence or vehicle and its contents, are also prohibited. Noisy, unsightly, unusually painted or smoky vehicles, large power equipment and large power tools (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance), off-road motor vehicles or items which may unreasonably interfere with television or radio reception to any Condominium and objects which create or emit loud noises or noxious odors may not be located, used or placed in the Community or on any public street abutting or visible from the Community, or exposed to the view of other Owners without the Board's written approval. The Association is entitled to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner may (a) permit or cause anything to be done or kept in the Community or on any public street abutting or visible from the Community which may (i) increase the rate of insurance in the Community, (ii) result in the cancellation of such insurance, or (iii) obstruct or interfere with the rights of other Owners, or (b) commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all requirements of the local or state health authorities and with all other laws regarding occupancy and use of a Condominium. Each Owner is accountable to the Association and other Owners for the conduct of persons residing in or visiting the Owner's Condominium. Any damage to the Common Property, personal property of the Association, or property of another Owner caused by such persons shall be repaired at the sole expense of the Owner of the Condominium where such persons are residing or visiting. No plants or seeds infected with noxious insects or plant diseases may be brought upon, grown or maintained in the Community.

2.4 SIGNS. Subject to California Civil Code Sections 712, 713, 1353.5 and 1353.6 and California Government Code Section 434.5, no sign, flag, advertising device or other display of any kind shall be displayed in the Community or on any public street in or abutting the Community except for the following signs, so long as they comply with law:

- (a) entry monuments, community identification signs, and traffic or parking control signs maintained by the Association;
- (b) for each Condominium, one (1) nameplate or similar Owner name or address identification sign authorized by the Architectural Review Committee;
- (c) for each Condominium, one (1) sign advising of the existence of security services protecting a Condominium authorized by the Architectural Review Committee;
- (d) for each Condominium, one (1) sign advertising the Condominium for sale or lease that complies with the following requirements:
 - (i) the sign is not larger than eighteen inches (18") by thirty inches (30") in size;
 - (ii) the sign is of a color and style and location authorized by the Architectural Review Committee; and
- (e) other signs, flags or displays authorized by the Architectural Review Committee.

2.5 PARKING AND VEHICULAR RESTRICTIONS.

2.5.1 Authorized Vehicles. The following vehicles are "Authorized Vehicles": standard passenger vehicles including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles, and pickup trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Community intended for parking of motorized vehicles; however, no Owner may park a vehicle in a manner which the Association determines either restricts the passage of pedestrians or vehicles over garage areas, driveways, streets or sidewalks in the Community or extends beyond the limits of the space where the vehicle is parked. The Association has the power to identify additional vehicles as Authorized Vehicles in the Neighborhood Guidelines to adapt this restriction to other types of vehicles.

2.5.2 Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": (a) recreational vehicles (e.g., motorhomes, travel trailers, camper vans and boats), (b) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks, and limousines), (c) buses or vans designed to accommodate more than ten (10) people, (d) vehicles having more than two (2) axles, (e) trailers, (f) inoperable vehicles or parts of vehicles, (g) aircraft, (h) any vehicle or vehicular equipment deemed a nuisance by the Association, and (i) any other vehicle not classified as an Authorized Vehicle. Prohibited Vehicles may not be parked, stored or kept on any public or private street in, adjacent to or visible from the Community or any other Common Property parking area except for brief periods for loading, unloading, making deliveries or emergency repairs. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle, unless the vehicle is expressly authorized in writing by the Association. The Association has the power to identify additional vehicles as Prohibited Vehicles in the Neighborhood Guidelines to adapt this restriction to other types of vehicles.

2.5.3 General Restrictions. Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or in the control of an Owner or a resident of an Owner's Condominium and kept in the Community must be parked in the assigned parking space(s) or the garage (as applicable) of that Owner to the extent of the space available. However, each Owner shall ensure that each Exclusive Use Area parking space accommodates one Authorized Vehicle and each Exclusive Use Area garage accommodates the number of Authorized Vehicles for which it was constructed. No repair, maintenance or restoration of any vehicle may be conducted in the Community except in an Exclusive Use Area garage so long as (i) the garage door is closed, and (ii) the activity does not violate any other Section of this Declaration. The Exclusive Use Area garages shall be used for parking of vehicles and storage of personal property if allowed by the Neighborhood Guidelines, and for no other purpose, including any dwelling, commercial and recreational purposes. Garage doors must be kept closed except as necessary for entry or exit of vehicles or Persons. Each assigned parking space or garage is an Exclusive Use Area. The Board may designate portions of the subterranean garage as guest parking areas ("*Guest Parking Areas*"). Guest Parking Areas are intended to be reserved primarily for use by guests of residents in the Community. Owners are generally prohibited from parking in the Guest Parking Areas, however, the Board has the power to make exceptions to this restriction. Some Owners will be assigned tandem parking arrangements. The Exclusive Use Area parking spaces and garages may not physically accommodate oversized vehicles that otherwise satisfy that definition of an Authorized Vehicle above.

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2.5.4 Parking Regulations. The Board may establish additional regulations regarding parking areas not assigned to Condominiums, including designating "parking," "guest parking," and "no parking" areas; may establish reasonable regulations for parking areas assigned to Condominiums; and may enforce all parking and vehicle use regulations applicable to the Community. The initial parking regulations, which have been adopted by the Board, are attached hereto as *Exhibit C*. Enforcement actions the Association may take include removing violating vehicles from the Community pursuant to California Vehicle Code Section 22658.2 or other applicable laws. If the Association fails to enforce any of the parking or vehicle use regulations, the City may enforce such regulations.

2.6 ANIMAL REGULATIONS. The only animals that may be raised, bred or kept in any Residence are dogs, cats, fish, birds, reptiles and other usual household pets, provided that they are not kept, bred or raised for commercial purposes, in unreasonable quantities or sizes or in violation of the Restrictions. As used in the Declaration, "unreasonable quantities" ordinarily means more than two (2) pets per Residence; however, the Association may determine that a reasonable number in any instance may be more or less. The Association may prohibit the maintenance of certain pets based on size, weight, breed and type of animal. The Association may also prohibit maintenance of any animal which, in the Association's opinion, constitutes a nuisance to any other Owner. Animals must be either kept in an enclosed area or on a leash held by a person capable of controlling the animal. Each Person is liable for any unreasonable noise and for damage to person or property caused by any animals brought or kept in the Community by such Person. Each Person shall clean up after such Person's animals. Any Person who keeps any animal, insect or reptile in the Community shall indemnify, defend and hold harmless the Association, its officers, directors, contractors, agents and employees from any claim brought by any Person against the Association, its officers, directors, agents and employees for personal injuries or property damage caused by such animals.

2.7 ANTENNA

2.7.1 Authorized Antenna Requirements. Owners are prohibited from installing any Telecommunications Facilities in the Community except for an "Authorized Antenna" which may be installed so long as the proposed location for such installation is reviewed by the Architectural Review Committee before installation to ensure that the visibility of the Authorized Antenna is minimized with respect to other Owners. The Architectural Review Committee may require that the location of the Authorized Antenna be moved so long as such review by the Architectural Review Committee does not (i) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (ii) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna, or (iii) preclude acceptable quality reception.

2.7.2 Authorized Antenna Defined. An "Authorized Antenna" means (i) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, (ii) an antenna designed to receive video programming service, including multichannel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement, (iii) an antenna designed to receive television broadcast signals, and (iv) a mast supporting an antenna described in items (i), (ii), and (iii) above.

2.7.3 Additional Restrictions. The Association may adopt additional restrictions on installation or use of an Authorized Antenna on an Owner's Condominium as a part of the

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Association's Neighborhood Guidelines so long as such restrictions do not (i) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (ii) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna, or (iii) preclude acceptable quality reception.

2.7.4 Prohibitions. The Association may prohibit the installation of an Authorized Antenna if the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of Managers, agents or employees of the Association and other Owners, or for any other safety-related reason established by the Association. The Association may also (i) prohibit an Owner from installing an Authorized Antenna on property which such Owner does not own or is not entitled to exclusively use or control under the Restrictions, or (ii) allow an Owner to install an antenna other than an Authorized Antenna subject to the architectural standards and review by the Architectural Review Committee.

2.7.5 Restatement of Legal Authority. This Section is intended to be a restatement of the authority granted to the Association under the law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna shall be interpreted to amend, modify, restate or interpret this Section.

2.8 TRASH. Trash shall be disposed of in containers designated by the Association. Trash from the Park Houses must be deposited in the trash bins maintained in the parking garage. Trash from the Lofts must be deposited in the trash chutes located in the building housing the Lofts. Owners must not deposit oversized items in the trash bins or in the trash chutes. Owners are responsible for removing from the Community any trash that cannot be disposed of in the trash bins or trash chutes. Storage of building materials, refuse or any other materials in the Community is prohibited. No clothing, fabrics or unsightly articles may be hung, dried or aired in the Community so that it is visible from other Residences or the street. Articles which are unsightly may be defined in the Neighborhood Guidelines. The cost of regular trash collection and removal and trash bin rentals shall be borne by the Association and shall constitute a portion of the Common Expenses. The Association shall cooperate with the Master Association in the collection and removal of trash. If requested by the Master Association, the Association shall enter into a contract for trash removal or recycling services, or both, with a service provider selected by the Master Association on terms negotiated by the Master Association.

2.9 INSTALLATIONS.

2.9.1 Generally. Neither the Declarant nor the Association is liable for any damage caused by an Improvement constructed, removed or modified by an Owner, even if the Owner obtains approval from the Architectural Review Committee or the Board. No Owner may cause or permit any mechanic's lien to be filed against the Community for labor or materials alleged to have been furnished or delivered to the Community or any Condominium for such Owner and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

2.9.2 Installations Outside the Units. Patio screens or shades, patio fencing, wiring, air conditioning equipment, water softeners, other equipment and other similar Improvements, Improvements protruding through the walls or roofs of buildings, and all other additions or alterations outside of any Unit are prohibited unless either (a) installed by Declarant, (b)

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installed by the Association, or (c) authorized by the Architectural Review Committee. Furniture, plants, and other personal property may be kept outside of the Units in the Exclusive Use Area patios or other locations only if authorized in the Neighborhood Guidelines. No fire pits, and no barbecues which violate City fire department regulations or the Neighborhood Guidelines, are allowed on any Exclusive Use Area or in any Unit in the Community. No clothing, fabrics or unsightly articles may be hung, dried or aired outside of any Unit. There shall be no storage of any items in the Exclusive Use Area parking spaces, which shall be only used for the parking of Authorized Vehicles

2.9.3 Installations Inside the Units. All window coverings that are visible outside of the Unit must either be installed by Declarant or authorized by the Architectural Review Committee. Nothing may be done in any Condominium or in, on or to the Common Property which may impair or alter the structural integrity of any building in the Community, alters the fire sprinklers or their source of water provided by the Association, alters the plumbing or natural gas facilities serving other Units, without prior approval of the Board, except as otherwise expressly provided in this Declaration. No alteration, repair or replacement of sub-floor materials in Units may be made without prior approval of the Architectural Review Committee. The Board may adopt a Neighborhood Guideline restricting the hours of operation of Jacuzzi-type tubs in the Units.

2.10 FURTHER SUBDIVISION. Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide a Condominium in any manner, including dividing such Owner's Condominium into time-share estates or time-share uses. This provision does not limit the right of an Owner to (a) rent or lease all such Owner's Condominium by a written lease or rental agreement subject to this Declaration; (b) sell such Owner's Condominium; or (c) transfer or sell any Condominium to more than one Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. Any failure by the tenant of the Condominium to comply with the Restrictions constitutes a default under the lease or rental agreement. Except as provided in this Declaration, there shall be no judicial partition of the Common Property, or any part thereof, for the term of this Declaration; nor may Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Community seek any such judicial partition. No Condominium in the Community may be partitioned or subdivided without the written approval of the Mortgagee of any first Mortgage on that Condominium

2.11 DRAINAGE. No one may interfere with or alter the established drainage pattern over the Community unless an adequate alternative provision is made for proper drainage with the Board's written approval. For the purpose of this Section, "established" drainage in any Exclusive Use Area means the drainage which (a) exists at the time of the first Close of Escrow for the Condominium, or (b) is shown on any plans approved by the Board.

2.12 WATER SUPPLY SYSTEM. No individual water supply, sewage disposal or self-generating water softener system is permitted in any Condominium unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of any water district having jurisdiction, the City, the Architectural Review Committee and all other governmental authorities with jurisdiction. Neither the Association nor any Owner may use reclaimed water on any portion (interior or exterior) of the structure of the building housing the Units.

2.13 VIEW OBSTRUCTIONS. Each Owner acknowledges that (a) there are no protected views in the Community, and no Condominium is assured the existence or unobstructed

continuation of any particular view, and (b) any construction, landscaping or other installation of improvements by Declarant, other Owners or owners of other property in the vicinity of the Community may impair the view from any Condominium, and the Owners consent to such view impairment.

2.14 RIGHTS OF DISABLED. Subject to Article V, each Owner may modify his Residence and the route over the Common Property leading to the front door of his Residence, at his sole expense, to facilitate access to his Residence by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons in accordance with California Civil Code Section 1360 or any other applicable law.

2.15 WATER QUALITY MANAGEMENT.

2.15.1 Requirements. The Association and the Owners shall comply with any NPDES requirements and the BMP guidelines (as defined below) as they apply to the Community. The Community is subject to all Federal, State and local requirements of the National Pollutant Discharge Elimination System ("**NPDES**") adopted pursuant to the Federal Clean Water Act. Pursuant to a NPDES General Permit adopted by the State Water Resources Control Board and the County NPDES Storm Water Permit Program, Drainage Area Management Plan ("**DAMP**"), the County has adopted a Water Quality Management Plan for the Community ("**Water Management Plan**") which identifies certain Best Management Practices ("**BMP**") to reduce the discharge of pollutants to storm water facilities before, during and after construction in the Community is completed. The Association and the Owners shall comply with all BMPs and perform all maintenance imposed by DAMP and the Water Management Plan, as amended.

2.15.2 Guidelines. The Association shall ensure that all landscape irrigation in the Community is implemented in accordance with the BMPs, including (a) the provision for water sensors and programmable irrigation times allowing for short cycles, (b) the use of planting material similar to that installed by Declarant and with similar water requirements in order to reduce excess irrigation runoff and to promote surface filtration, and (c) maintenance of all permanent slopes with required landscaping with native or other drought tolerant planting materials.

2.15.3 Reporting. The Master Association is required to prepare a report regarding the condition of certain storm water drainage facilities that are maintained by the Association. The Association shall provide all requested information to the Master Association within the time frame established by the Master Association. The Association shall perform all monitoring and maintenance for any storm water drainage improvements requested by any local governmental agency or the Master Association.

2.15.4 Indemnification of City. The Association shall indemnify and hold the City harmless from any liability resulting from the Association's activities mandated pursuant to this Section.

2.16 METHANE GAS.

2.16.1 Definition. Methane is a lighter than air, colorless, odorless gas, which is non-toxic and non-carcinogenic, and which is the primary constituent (about 85%) of the gas burned in kitchen stoves and ranges. Methane is potentially combustible if present within a confined space at concentrations greater than approximately 5.0% by volume or approximately

50,000 parts per million by volume ("ppmv"). In very high concentrations, in a confined space, methane gas can dilute the air, thereby lowering the oxygen concentration to the point that the mixture becomes an asphyxiant.

2.16.2 Occurrence of Methane Gas. All soils are porous, usually having 20% to 30% void volume. This void area is often filled with soil gas consisting of air and water vapor, but if other substances are present, such as methane gas, they will mix with the other soil gas. In an area such as Playa Vista, methane soil gas may come from several natural sources. One source could be a point source such as a natural crude oil reservoir where methane is the primary component of the gaseous hydrocarbons associated with crude oil. Another source could be distributed throughout the soil in the case of bacterial degradation of buried organic material which produces methane. The source of methane gas in soil at Playa Vista has not been and may not be precisely determined.

2.16.3 Testing. Testing of the soil at and around the Community revealed methane soil gas in various concentrations in different areas. Geotechnical and environmental consulting firms were retained by Declarant to determine what areas at and around the Community are affected, the concentrations of methane soil gas present and the appropriate remedial or mitigation actions that should be taken. The presence of methane soil gas was analyzed in a series of tests conducted by Terra Petra, Inc. ("*Terra Petra*"), and their findings are contained in a report entitled "Playa Vista Land Committee Package, Appendix Exhibit A, Methane Mitigation Discussion" ("*Methane Mitigation Discussion*"), revised November 4, 2004. Terra Petra tested for the presence of methane gas during two rounds of testing with ten shallow gas probes, with one test conducted on January 8, 2003 and another test conducted on January 14, 2003. Nine of the ten probes measured no detectable concentrations of methane during either test. The remaining probe recorded concentrations of 27% by volume on the first test and 23% by volume on the second test. Based on the results of this testing, construction activities are intended to adhere to Level-III gas mitigation requirements, which are the most stringent requirements of the Chief Legislative Analyst ("*CLA*") for the City of Los Angeles and of the Los Angeles Department of Building and Safety ("*LADBS*"). The elements of the Level-III methane gas mitigation design are contained in the following section, "Mitigation Systems."

2.16.4 Mitigation Systems. Terra Petra has proposed the Methane Mitigation Discussion measures for the Declarant, to mitigate the potential impacts of methane soil gas. The Methane Mitigation Discussion classifies the property at and around the Community as having a Level-III methane concentration, which is the highest LADBS level, requiring comprehensive prevention, detection and monitoring systems ("*Mitigation Systems*") for the buildings constructed within the Community. Detailed plans for the required Mitigation Systems were prepared on behalf of Declarant. These plans will be reviewed by LADBS, whose approval is anticipated. The approved Mitigation Systems will then be installed in conjunction with the construction of the subject buildings. The following components will be included in the methane Mitigation Systems:

(a) **Deep vent well.** A deep vent well will be constructed at the location of the shallow probe which had sustainable soil gas concentrations. It will have a minimum 20" diameter boring, with a 16" diameter solid steel casing. The annular space between the casing and the earth will be filled with bentonite clay slurry. The casing will extend 10' into the prescribed sand/gravel layer and will be filled with 1" to 2" rock. A reinforced concrete 'oil well' vent cone will

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be installed over the casing. The vent cone will have a 3" diameter cast iron vent pipe terminating either 10' above grade, or 3' above the roof, and 10' from any opening into the building

(b) *A 12-inch thick permeable layer beneath the slab.* A 10" thick blanket of 3/8" to 3/4" poorly graded gravel will be placed on the excavated grade, covered with a layer of 4 ounce per square yard non-woven geotextile, which in turn will be covered with a 2" thick layer of clean fine-grained sand.

(c) *A subslab ventilation system.* A 1-1/4" x 12", so-called flat pipe will be installed on 50" maximum centers. This material is referred to as a pressure relief, collection and venting system (PRCVS). This matrix of PRCVS will be connected to at least 8-4" diameter cast iron vent risers, evenly distributed throughout the building footprint. The vent risers will terminate at least 3' above the roof, 3' from parapet walls, and at least 10' from any opening into the building.

(d) *A dewatering system.* The dewatering system will be integral to the PRCVS which will have a 1% slope to a sump located at the northeast corner of the parking garage. The sump will have 4" diameter pipe inlet and outlet, both with invert elevations of +4.87'. The groundwater will be gravity-discharged to the 10" diameter sewer drain in Pacific Promenade, which has an invert of +1.3'. The Geological Engineer reports that maximum groundwater infiltration is 30 gpm.

(e) *An impermeable methane gas membrane.* A membrane will be installed at all portions of the building in contact with the earth. The subslab membrane will be installed over the 2" thick clean fine-grained sand layer mentioned above. There will be no membrane under any foundation footings or grade beams, with the exception of elevator pit footings. The membrane will also be applied directly to all CMU perimeter walls, and will be protected from backfill materials with a manufactured subsurface drain mat. The membrane will be one that possesses a current LADBS Research Report number, and it will be installed per the requirements of the respective Research Report. There will be continuous inspection of the membrane installation by an independent inspector recognized by LADBS for methane gas mitigation systems inspections. The membrane will be protected by a 1" thick clean fine-grained sand layer, which will be covered by 4-ounce per square yard non-woven geotextile, and a 1" thick one sack cement slurry cover. No further inspections of the membrane shall be required once the cement slurry is in place.

(f) *A subsurface ventilation system.* Two of the 4" diameter vent risers will be equipped with blowers. The combined capacity of these blowers will generate 4 air changes per hour in the 12" thick permeable layer. The two blower risers shall be further equipped with upstream automatic valves which will close to facilitate directing the air flow into the permeable layer. Every effort will be made to keep subslab pressures at a level which will prevent soil gases from being transmitted to adjoining properties.

(g) *A sub-membrane data collection system.* The two blower vent risers shall be equipped with infra-red gas detectors positioned in the convective air stream. The detectors will be set to activate the blowers at combustible gas concentrations of 37,500 ppm.

(h) *Above membrane/below slab data collection system.* Four evenly distributed, passive monitoring ports will be constructed in the garage slab. Probes will be placed in the 1" thick sand layer which is below the concrete slurry course and above the membrane.

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The probes will consist of well-screened 1/2" PVC, with a lab-cock and hose-barb fitting, set in traffic rated vaults.

(i) *Electronic gas detectors located in the lowest level.* Infra-red gas detectors will be located on the ceiling of the parking garage where approved daily ventilation does not take place. The detectors will be tied to a computerized touch screen capable of annunciating faults in the gas detection circuitry, low alarm at 10% of the lower explosive limit (LEL) and high alarm at 25% LEL. The touch screen will also report gas detection concentrations for the two blower vent riser sensors. The system will be provided with a secured internet access port. The system will also be connected to a UL or ITL listed central station via dual telephone lines. The telephone lines will be automatically tested every 24 hours for system integrity. Any failure of the telephone system will automatically be reported to the central station. The gas detection system will specifically identify and will automatically report (locally by alarm, and remotely by telephoning the central station) all 'trouble/failures', low alarms and high alarms. Upon either trouble/failure or low alarm, the central station will call a predetermined list of responsible parties to notify the adverse condition of the gas detection system. Upon high alarm, the central station will notify the Los Angeles City Fire Department. At no time will the central station mention the word 'fire' when reporting a methane gas incident.

Alarms will be strategically located throughout the parking garage, and at the main address side of the building exterior, and in one other location which is most likely to be frequented by the building tenants.

The gas detection system will be provided with 24-hour battery back-up plus 5 minutes of alarm. The system will operate 24 hours per day, continuously. Upon any methane gas alarm inside the building, the gas detection system will activate the garage ventilation system.

(j) *Mechanical ventilation system.* The garage, with the exception of stairwells and elevator shafts will be provided with a mechanical ventilation system. The ventilation will be of 100 percent outside make-up air, exhausting 100% to the atmosphere. The ventilation system when activated only by the gas detection system will provide a minimum of 4 air changes per hour, until the alarm condition is corrected.

(k) *Ventilation system operation rate.* The ventilation system may optionally operate at the rate of one air change per hour, or 24 air changes per day; or at the equivalent rate of one air change per hour, with a minimum of 4 starting times every 24 hours. Under these conditions, when the gas detection system activates the ventilation, the ventilation system will provide one air change per hour, minimum, until the alarm condition is corrected.

(l) *Utility trench dams.* All utility conduits and pipes coming into the building will have the trench filled with a bentonite clay mixture, near the structure and for a minimum trench length of 3 feet. This is to preclude soil gases that may be traveling through the loosely compacted trench backfill from coming in direct contact with the building.

2.16.5 Restricted Work. Before any Persons, including the Association and its agents, perform any excavations, modifications, construction, installations or other Improvements to the structure of a building or to other areas in the Association Property ("*Restricted Work*"), they must comply with recommendations of "Qualified Consultants" and the "Guidelines for Restricted Work" as defined below. The Association Board also has the power and duty to comply with all

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laws, regulations or ordinances applicable to the Mitigation Systems or the existence of methane in the Community.

216.6 Use of Qualified Consultant. The term "Qualified Consultant" means a California registered professional engineer who has experience in the analysis of methane gas intrusion characteristics and maintains professional liability and commercial general liability insurance which conforms to industry standards. Any Persons who shall be performing Restricted Work shall engage a Qualified Consultant to review the scope of the work and, if recommended by the Qualified Consultant, develop a work plan specifying the procedures for performing the proposed work in accordance with the Guidelines for Restricted Work, and as recommended by the Qualified Consultant, and shall confirm with a Qualified Consultant that any contractors performing any such work shall have sufficient training and experience with respect to the work to be performed.

216.7 Guidelines for Restricted Work. Guidelines for Restricted Work are guidelines which outline potential actions that may adversely impact the operation of the Mitigation Systems (including the methane barrier and the venting and monitoring systems) and which may describe methane mitigation for other actions affecting Association Property. Guidelines for Restricted Work include the following:

(a) **Initial Guidelines.** The following Restricted Work shall not be performed without prior consultation with a Qualified Consultant:

(i) **Sub-Slab Elements.** Any action that would penetrate or disturb any of the sub-slab components of the Mitigation Systems. Removal or penetration of concrete floor slabs, walls and foundations have the potential to damage and penetrate the membrane barriers.

(ii) **Venting Elements.** Any action that would penetrate, damage, remove, or plug the Mitigation System risers and venting pipes, particularly within the walls or at the roof. Changes to walls, plumbing, and roofs have the potential to damage, penetrate or compromise the venting system. Plumbing modifications and equipment installations, such as air conditioning units, should not connect to the venting system, risers and pipes. The Mitigation System venting pipes should remain independent of all other vents.

This Declaration shall not be amended to delete the above guidelines without the prior written approval of the LADBS.

(b) **Other Guidelines.** Other written guidelines for Restricted Work, prepared or reviewed by a Qualified Consultant, which may be adopted by the Association Board. If Declarant or a governmental entity provide guidelines for Restricted Work, the Association must include these guidelines in the Guidelines For Restricted Work.

216.8 Monitoring of Mitigation Systems. The Association is responsible for operating, maintaining and testing the building Mitigation System regularly and when requested by any local governmental agency. These responsibilities include contracting with a methane gas consultant approved by the LAFD to test the Mitigation Systems at least annually and to submit a certification to the LAFD and the LADBS stating that annual testing, maintenance and service has

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been completed and that all Mitigation Systems are operational. The responsibilities in this Section 2.16.8 shall continue until the LADBS approves in writing their termination

2.16.9 Notification Responsibilities.

(a) *Association.* The Association shall keep copies of all records and any reports of the results of the Association's methane testing (the "*Methane Records*") in its files. The Association shall make the Methane Records available for inspection and copying upon request by representatives of the City, representatives of the Master Association, and any Owner for a purpose reasonably related to the Owner's interest as an Owner. Copies of these Methane Records shall be provided upon the payment of a reasonable fee for duplication and distribution established by the Association.

(b) *Owners.* Each Owner must notify Persons occupying the Owner's Condominium and Persons who acquire the Condominium from the Owner of the possible existence of methane gas in the Community and the existence of the Mitigation Systems. Each Owner must deliver to Persons occupying the Owner's Condominium and Persons who acquire the Condominium from the Owner all disclosures and other information relating to the Mitigation System.

2.16.10 Indemnification Provisions.

(a) *Association.* The Association shall indemnify and hold the City harmless from any liability resulting from the Association's activities mandated pursuant to this Section, including its activities involved in monitoring and mitigating methane in the Community.

(b) *Owners.* By accepting a deed to a Condominium Unit, each Owner agrees to release Declarant and its officers, directors, shareholders, members, partners, employees, contractors, attorneys, representatives, agents, successors and assigns (collectively, "*Released Parties*"), from and against any and all claims, damages, losses, or other liability (including, without limitation, attorneys' fees) arising from the presence of methane in or near the Owner's Unit or the failure of the Association to operate, test and maintain the Mitigation Systems as provided herein (collectively "*Released Claims*"). Each Owner further agrees to indemnify, defend and hold the Released Parties harmless from and against such Released Claims. Owner agrees that the above waiver and release extends to all claims of any nature and kind whatsoever, known or unknown, suspected or unsuspected.

ARTICLE III DISCLOSURES

Because much of the information included in this Article (a) has been obtained from other sources (e.g., governmental and other public agencies and public records) and (b) is subject to change for reasons beyond the control of Declarant and the Association, the Declarant and the Association do not guarantee the accuracy or completeness of any of the information in this Article. Further, neither Declarant nor the Association undertakes to advise Persons of any changes affecting the disclosures in this Article. Persons should make their own investigations to determine the current status of the matters addressed in this Article.

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3.1 NO REPRESENTATIONS OR WARRANTIES. No representations or warranties, express or implied, have been given or made by Declarant, the Association or their agents in connection with the Common Property, its physical condition, zoning, compliance with laws, use, or in connection with the subdivision, operation, maintenance, cost of maintenance, taxes or regulation of the Community as a condominium Community, except as expressly provided in this Declaration, as submitted by Declarant to the DRE, or as provided by Declarant to the first Owner of each Condominium.

3.2 ACCESS FACILITIES. Vehicular and pedestrian access into the Community may be controlled by entry doors and gates located at various entrances into the Community. There are no assurances that any controlled-access entry doors and gates will be operational. Until the last Close of Escrow occurs in the Community, (a) controlled-access doors and gates may be open to the general public, (b) Declarant may change the hours of controlled-access door and gate operation in its sole discretion without notice to accommodate construction and marketing activities, and (c) operation of controlled-access doors and gates may be limited.

3.3 URBAN ENVIRONMENT. The Park Houses are detached but are closely situated next to each other. The Lofts are attached and contained within three buildings. Living in a Loft located in an attached condominium building within a densely populated Community entails living in very close proximity to other persons and business, with attendant limitations on solitude. Walls, floors and ceilings of the Lofts have been designed to meet applicable building codes. However, Loft Owners will hear noise from adjacent Residences within the Community, including, but not limited to, noise from showers, bathtubs, sinks, toilets or other sources of running water. Also, both Loft and Park House Owners may hear noise from items such as vacuum cleaners, stereos or televisions, or from people running, walking or exercising. Finally, both Loft and Park House Owners can expect to hear noise from adjacent residential and commercial areas. All Owners may also experience light entering the Residences from street lights located in close proximity to the windows and doors of the Residences. Declarant has no control over the transmission of noise or light and their potential effects on Residences within the Community.

3.4 PLAZA OPEN TO PUBLIC. The plaza which divides the Community between the Citi-Homes and the lofts is subject to a dedicated public easement. Members of the public may access the plaza at all hours of the day. Condominiums situated near the plaza may be subject to noise from pedestrian traffic at all hours of the day and glare from night lighting in the evening. Neither Declarant nor the Association have any control of the use of the plaza. However, the Association will be responsible for maintaining the plaza and such maintenance shall be a Common Expense of the Association.

3.5 SECURITY AND PRIVACY DISCLAIMER. Access gates are not intended to provide security or privacy for persons, personal property or Condominiums within the Community. Declarant and the Association do not undertake to provide security or privacy for the Community or Owners nor do they make any representations or warranties concerning the privacy, security and safety of the Community or Owners.

3.6 RECLAIMED WATER. In its efforts to conserve water, the Los Angeles Department of Water and Power ("*Water District*") has for years required the use of reclaimed water (i.e. treated wastewater) to irrigate parks, school yards, golf courses, greenbelt areas and common areas. The Water District now requires the use of reclaimed water to irrigate certain landscaping. The water used in the Residences will be domestic potable water. However, the water

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used to irrigate the landscaping around the perimeter of the Community will be reclaimed water. Reclaimed water is not potable and, therefore, not suitable for human consumption. As with any water overspray, repeated spray of reclaimed water may stain or discolor personal property, fencing and structural improvements over time.

According to the Water District, the Water District's reclaimed water is disinfected with chlorine and its clarity to the human eye is indistinguishable from domestic water. The standards imposed on the Water District for reclaimed water quality are established by various governmental regulatory agencies, and these standards are subject to change. Declarant and their respective employees, consultants and agents are not liable for any property damage or personal injury by reclaimed water.

Owners are subject to Water District rules and regulations, one of which prohibits the use of self-generating water softeners connected to Water District sewer facilities. Further information regarding Water District regulations is available from the Water District at its headquarters office.

3.7 NO ENHANCED PROTECTION AGREEMENT. No provisions of this Declaration and any Supplemental Declaration are intended, or shall be interpreted, to be an "enhanced protection agreement," as defined in Section 901 of the California Civil Code.

3.8 CONTROLLED PRICE UNITS. Six (6) Units in the Community ("*Controlled Price Units*") will be subject to that certain "Agreement Containing Covenants Affecting Real Property Between The City of Los Angeles and Maguire Thomas Partners - Playa Vista First Phase of The Playa Vista Project (Controlled Price Units)" (the "*Agreement*") between the City of Los Angeles, acting by and through The City of Los Angeles Housing Department, and the Maguire Thomas Partners - Playa Vista, a California limited partnership, predecessor in interest to Playa Capital Company, LLC, a Delaware limited liability company. The Agreement regulates the sale price of the Controlled Price Units for a period of fifteen (15) years. Transfers of title for any of the Controlled Price Units during the term of the Agreement must be in compliance with the Agreement. Any attempt to transfer title or any interest in a Controlled Price Unit in violation of the Agreement shall be null and void.

3.9 MUTUAL BENEFIT AGREEMENT. Declarant and the Commercial Owner have entered into a Mutual Benefit Agreement that sets forth the rights and responsibilities of the Association and the Commercial Area with respect to sharing the costs of maintenance, insurance and shared utilities for the Association Property. The Association (and its members) and the Commercial Owner will both be responsible for sharing these costs as determined in the Mutual Benefit Agreement. Owners will receive a copy of the Budget, which lists the costs that will be paid through the Mutual Benefit Agreement. The Mutual Benefit Agreement also includes certain easements for utilities, exclusive use of certain portions of the Association Property, permitted encroachments and pedestrian and vehicular access through the Association Property for the benefit of the Commercial Owner.

3.10 COMMERCIAL AREA. The Commercial Area is not a part of the Community or the Association. The Restrictions do not apply to the Commercial Area. Noise and other emanations will be generated at various hours and may negatively impact the Residences. Uses currently planned for the Commercial Area include a dry cleaners, restaurant, coffee shop and visitor center. These uses can change over time without any notice to the Owners. The Mutual Benefit Agreement establishes the relationship between the Commercial Area and the Community.

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3.11 LOCKS FOR LOFTS. Loft Owners must not rekey the locks on the front doors to their Unit. The locks must work with the master key kept in a knox box in the Community. Locks on Loft front doors can only be replaced with locks approved by the Association that are consistent with the master key in the Community's knox box. This restriction on locks is a fire department requirement.

3.12 ADDITIONAL PROVISIONS. There may be provisions of various laws, including the Davis-Stirling Common Interest Development Act codified at Sections 1350 et seq. of the California Civil Code and the federal Fair Housing Act codified at Title 42 United States Code, Section 3601 et seq., which may supplement or override the Restrictions. Declarant makes no representations or warranties regarding the future enforceability of any portion of the Restrictions.

ARTICLE IV THE ASSOCIATION

4.1 GENERAL DUTIES AND POWERS. The Association has the duties and powers listed in the Restrictions and also has the general and implied powers of a nonprofit mutual benefit corporation, generally to do all things that a corporation organized under the laws of the State of California may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of the Owners, subject only to the limits on the exercise of such powers listed in Restrictions. Unless otherwise indicated in the Articles, Bylaws or this Declaration, the powers of the Association may be exercised by the Board.

4.2 SPECIFIC DUTIES AND POWERS. In addition to its general powers and duties, the Association has the following specific powers and duties:

4.2.1 Common Property. The power and duty to accept, maintain and manage the Common Property in accordance with the Restrictions. The Association may install or remove capital Improvements on the Common Property. The Association may reconstruct, replace or refinish any Improvement on the Common Property. The Association may restrict access to portions of the Common Property not reserved as Exclusive Use Areas to protect sensitive landscaping, allow the Association to make and complete repairs, or for safety reasons.

4.2.2 Utilities. The power and duty to obtain, for the benefit of the Community, all commonly metered water, gas and electric services, and the power but not the duty to provide for trash collection, and Telecommunications Facilities and Telecommunications Services.

4.2.3 Granting Rights. The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in the Common Property, to the extent any such grant is reasonably required (a) for utilities and facilities to serve the Common Property and the Condominiums, (b) for purposes of conformity with the as-built location of Improvements installed or authorized by Declarant or the Association, (c) in connection with any lawful lot line adjustment, or (d) for other purposes consistent with the intended use of the Community. This power includes the right to create and convey Exclusive Use Areas. The Association may deannex any Property from the encumbrance of the Declaration in connection with any lawful lot line adjustment.

4.2.4 Employ Personnel. The power to employ Persons necessary for the effective operation and maintenance of the Common Property, including legal, management and accounting services.

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4.2.5 **Insurance.** The power and duty to maintain insurance for the Common Property in accordance with this Declaration.

4.2.6 **Neighborhood Guidelines.** The power but not the duty to establish, amend, restate, delete, and create exceptions to, the Neighborhood Guidelines. The Association may provide two different sets of Neighborhood Guidelines: one for the Park Houses and one for the Lofts.

(a) **Standards for Enforceability.** To be valid and enforceable, a Neighborhood Guideline must satisfy all the following requirements:

(i) The Neighborhood Guideline must be in writing;

(ii) The Neighborhood Guideline is within the authority of the Board conferred by law or by this Declaration, the Articles or the Bylaws;

(iii) The Neighborhood Guideline is not inconsistent with governing law, this Declaration, the Articles, or the Bylaws;

(iv) The Neighborhood Guideline is adopted, amended or repealed in good faith and in substantial compliance with the requirements of Article 4 of Title 6 of Part 4 of Division 2 of the California Civil Code;

(v) The Neighborhood Guideline is reasonable; and

(vi) The Neighborhood Guideline complies with the requirements of California Civil Code Section 1357.110 (as amended from time to time).

(b) **Areas of Regulation.** The Neighborhood Guidelines may concern use of the Community, signs, parking restriction, minimum standards of property maintenance, and any other matter under the Association's jurisdiction; however, the Neighborhood Guidelines are enforceable only to the extent they are consistent with the Articles, Bylaws, Declaration and any Supplemental Declarations.

(c) **Limits on Regulation.** The Neighborhood Guidelines for the Park Houses must apply uniformly to all Park Houses Owners. The Neighborhood Guidelines for the Lofts must apply uniformly to all Loft Owners. No modification to the Neighborhood Guidelines may require an Owner to dispose of personal property that was in compliance with all rules previously in force; however, this exemption shall apply only during the period of such Owner's ownership of the Condominium and it shall not apply to: (i) subsequent Owners who take title to a Condominium after the modification is adopted; or (ii) clarifications to the Neighborhood Guidelines.

(d) **Procedure for Adoption, Amendment and Repeal.** Guidelines or procedures concerning (i) the use of Common Property, (ii) the use of a Condominium, including any standards or Architectural Guidelines that affect Condominiums, (iii) member discipline, including any schedule of monetary penalties for violation of the Restrictions, (iv) any procedure for the imposition of penalties, (v) any standards for delinquent assessment payment plans, and (vi) any procedures adopted by the Association for resolution of assessment disputes (each, a "**Covered**

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Guideline”) may only be adopted, amended or repealed in accordance with the following procedure:

(i) The Board must provide written notice (“*Notice*”) of a proposed change in a Covered Guideline to the members at least thirty (30) days before making the change, except for an Emergency Guideline Change (defined below). The Notice must include the text of the proposed change and a description of the purpose and effect of the proposed change (Notice is not required if the Board determines that an immediate change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association);

(ii) The decision on a proposed change shall be made at a Board meeting after consideration of comments made by the members of the Association;

(iii) The Board shall deliver Notice of the adopted change to every member of the Association within fifteen (15) days of adoption. If the change was an Emergency Guideline Change, the notice shall include the text of the Emergency Guideline Change, and the date on which the Emergency Guideline Change expires;

(iv) If the Board determines that an immediate Neighborhood Guideline change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association, it may make the change on an emergency basis (“*Emergency Guideline Change*”) and no Notice will be required. An Emergency Guideline Change is effective for one hundred-twenty (120) days, unless the adopted change provides for a shorter effective period. Any change that is adopted as an Emergency Guideline Change may not be re-adopted under authority of this subpart.

(v) A Notice required by this Section 4.2.6(d) is subject to California Civil Code Section 1350.7.

(vi) A Neighborhood Guideline change made pursuant to this Section 4.2.6(d) may be reversed as provided in California Civil Code Section 1357.140.

The foregoing procedure does not apply to Neighborhood Guidelines or Architectural Guidelines that do not meet the definition of Covered Guidelines above, nor to decisions of the Board regarding maintenance of Common Property, a decision on a specific matter that is not intended to apply generally, a decision setting the amount of an Annual Assessment or a Special Assessment, a Neighborhood Guideline change that is required by law if the Board has no discretion as to the substantive effect of the changes, or issuance of a document that merely repeats existing law or the governing documents.

4.2.7 Borrowings. The power but not the duty to borrow money for purposes authorized by the Articles, Bylaws, Declaration, or any Supplemental Declarations, and to use the Association Property as security for the borrowing.

4.2.8 Contracts. The power but not the duty to enter into contracts. This includes (a) contracts for the renting of storage spaces by individual Owners and (b) contracts with Owners or other Persons to provide services or to maintain Improvements in the Community and elsewhere which the Association is not otherwise required to provide or maintain pursuant to this

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Declaration. Because the Community is part of a larger community managed by the Master Association, the Association is obligated to cooperate with the Master Association in connection with contracts for services the Master Association determines benefit the larger community. Therefore, at the Master Association's request, the Association shall enter into contracts with service providers selected by the Master Association to obtain trash removal, security, and other services the Master Association determines should be obtained from a single service provider by all "Subassociations" defined in the Master Declaration.

4.2.9 Indemnification.

(a) *For Association Representatives.* To the fullest extent authorized by law, the Association has the power and duty to indemnify Board members, Association officers, Architectural Review Committee members, and all other Association committee members for all damages, pay all expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action brought because of performance of an act or omission within what such person reasonably believed to be the scope of the Person's Association duties ("*Official Act*"). Board members, Association officers, Architectural Review Committee members, and all other Association committee members are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any person entitled to such indemnification.

(b) *For Other Agents of the Association.* To the fullest extent authorized by law, the Association has the power but not the duty to indemnify any other Person acting as an agent of the Association for damages incurred, pay expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act.

(c) *Provided by Contract.* The Association also has the power but not the duty to contract with any Person to provide indemnification in addition to any indemnification authorized by law on such terms and subject to such conditions as the Association may impose.

4.2.10 *Vehicle Restrictions.* The power granted in Section 2.5 to identify Authorized Vehicles or Prohibited Vehicles and to modify the restrictions on vehicles.

4.2.11 Prohibited Functions.

(a) *Property Manager.* The Association shall not hire any employees, furnish offices or other facilities, or use any Common Property for an "on-site" Manager. The Association Manager shall at all times be a professional manager employed as an independent contractor working at its own place of business.

(b) *Off-site Nuisances.* The Association shall not use any Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of the Community.

(c) *Political Activities.* The Association shall not (i) participate in federal, state or local political activities or activities intended to influence a governmental action affecting areas outside the boundaries of the Community (e.g., endorsement or support of (A) legislative or administrative actions by a local governmental authority, (B) candidates for elected or

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appointed office, or (C) ballot proposals, or (ii) conduct, sponsor, participate in or expend funds or resources or any activity, campaign or event, including any social or political campaign, event or activity which is not directly and exclusively pertaining to the authorized activities of the Association. There shall be no amendment of this Section so long as Declarant owns any portion of the Community.

4.2.12 Standing to Resolve Disputes. Subject to the provisions of this Declaration, the Association shall have the power, but not the duty, to initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Association in matters pertaining to (a) the application or enforcement of this Declaration and (b) damage to the Association Property; provided, however that no representative of Declarant on the Board shall vote on the initiation of any claim under California Civil Code Section 895 et seq., and any successor statutes or laws, such that Declarant shall relinquish control over the Association's ability to decide whether to initiate a claim under such statutory provisions and in the event of such a vote, the affirmative vote of the two non-Declarant representatives on the Board shall be binding so long as a quorum of the Board is present at any meeting where such vote is taken. The Association and not the individual Members shall have the power to pursue any claims or other actions using the non-adversarial proceedings for construction defects in the Association Property pursuant to Civil Code Section 895 et seq., and any successor statutes or laws. Any recovery by the Association with respect to any damage to or defect in the Association Property shall be utilized solely for the purpose of paying for the actual and reasonable costs of obtaining the recovery and for correcting such damage or defect.

4.2.13 Association Maintenance Guide. The Board may, from time to time, make appropriate revisions to the Association's Maintenance Guide based on the Board's review thereof, to update such manual to provide for maintenance according to current industry practices so long as such changes do not reduce the useful life or functionality of the items being maintained. The Association shall maintain at the offices of the Association a copy of the Homeowner Maintenance Guide provided by Declarant to the Owner and shall make available to every Owner upon request, a copy of the Homeowner Maintenance Guide for the Owners' Units.

4.2.14 Mutual Benefit Agreement. The power and the duty to assume the obligations of Declarant under the Mutual Benefit Agreement

4.3 STANDARD OF CARE, NONLIABILITY.

4.3.1 Scope of Powers and Standard of Care.

(a) *General Scope of Powers.* Rights and powers conferred on the Board, the Architectural Review Committee or other committees or representatives of the Association by the Restrictions are not duties, obligations or disabilities charged upon those Persons unless the rights and powers are explicitly identified as including duties or obligations in the Restrictions or law. Unless a duty to act is imposed on the Board, Architectural Review Committee or other committees or representatives of the Association by the Restrictions or law, the Board and the committees have the right to decide to act or not act. Any decision to not act is not a waiver of the right to act in the future.

(b) *Business Affairs.* This Section 4.3.1(b) applies to Board member actions in connection with management, personnel, maintenance and operations, insurance,

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contracts and finances, and Architectural Review Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board member believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing his duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial data prepared or presented by:

(i) One or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(ii) Counsel, independent accountants or other Persons as to matters which the Board member believes to be within such Person's professional or expert competence; or

(iii) A committee of the Board upon which the Board member does not serve, as to matters within its designated authority, which committee the Board member believes to merit confidence, so long as, in any such case, the Board member acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(iv) This Section 4.3.1(b) is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this Section 4.3.1(b).

(c) *Association Governance.* This Section 4.3.1(c) applies to Board actions and Architectural Review Committee decisions in connection with interpretation and enforcement of the Restrictions, architectural and landscaping control, regulation of uses within the Community, rule making and oversight of committees. Actions taken or decisions made in connection with these matters shall be consistent with California Law, made in good faith and may not be unreasonable, arbitrary or capricious.

4.3.2 Nonliability.

(a) *General Rule.* No Person is liable to any other Person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct. The Association is not liable for damage to property in the Community unless caused by the negligence of the Association, the Board, the Association's officers, the manager or the manager's staff.

(b) *Nonliability of Certain Board Members and Officers.* A Board member or Association officer shall not be personally liable to any Person who suffers injury, including bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the officer or Board member if all applicable conditions specified in Section 1365.7 of the California Civil Code are met.

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(c) *Nonliability of Owners.* Pursuant to California Civil Code Section 1365.9, no Owner shall be liable for any cause of action in tort which can be brought against the Owner solely because of the Owner's undivided interest in the Common Area so long as the Association keeps one or more policies of insurance which include coverage for general liability of the Association in the amount required by California Civil Code Section 1365.9 and that insurance is in effect for the cause of action being brought.

4.4 MEMBERSHIP.

4.4.1 *Generally.* Every Owner shall automatically acquire a Membership in the Association and retain the Membership until such Owner's Condominium ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Condominium is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Condominium is transferred, and every Membership is appurtenant to and may not be separated from the fee ownership of such Condominium. The rights, duties, privileges and obligations of all Owners are as provided in the Restrictions.

4.4.2 *Transfer.* The Membership of any Owner may not be transferred, pledged or alienated in any way, except on the transfer or encumbrance of such Owner's Condominium, and then only to the transferee or Mortgagee of such Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold a Condominium to a contract purchaser under an agreement to purchase may delegate the Owner's Membership rights to the contract purchaser. The delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all charges and Assessments attributable to the contract seller's Condominium which accrue before title to the Condominium is transferred. If an Owner fails or refuses to transfer his Membership to the purchaser of such Owner's Condominium on transfer of title thereto, the Association may record the transfer in the Association's records. Until satisfactory evidence of such transfer is presented to the Association, the purchaser will not be entitled to vote at Association meetings. The Association may levy a reasonable transfer fee against a new Owner and such Owner's Condominium (which fee shall be paid through escrow or added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the Association's records. Such fee may not exceed the Association's actual cost involved in changing its records.

4.4.3 *Classes of Membership.* The Association classes of voting Membership are as follows:

Class A. Class A members are all Owners except Declarant for so long as a Class B Membership exists. Class A members are entitled to one (1) vote for each Condominium owned by such Class A members which is subject to Assessment. Declarant shall become a Class A member on conversion of Declarant's Class B Membership as provided below. The vote for each Condominium shall be exercised in accordance with Section 4.5.2, but no more than one (1) Class A vote may be cast for any Condominium.

Class B. The Class B member is Declarant. The Class B member is entitled to three (3) votes for each Condominium owned by Declarant and subject to Assessment. The Class B Membership shall convert to Class A Membership on the first to occur of the following events:

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(1) When the total outstanding votes held by Class A members equal the total outstanding votes held by the Class B member; or

(2) The second anniversary of the first Close of Escrow in the Community.

4.5 VOTING RIGHTS.

4.5.1 **Limits Generally.** All voting rights are subject to the Restrictions. Except as provided in Sections 4.5.2 and 12.3 of this Declaration and Section 4.8 of the Bylaws, as long as there exists a Class B Membership, any provision of the Restrictions which expressly requires the vote or written consent of a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall require the approval of such specified percentage of the voting power of both the Class A and Class B Membership. Except as provided in Section 12.3 of this Declaration and Section 4.8 of the Bylaws, on termination of the Class B Membership, any provision of the Restrictions which expressly requires the vote or written consent of Owners representing a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall then require the vote or written consent of Owners representing such specified percentage of both (1) the Association's total voting Class A power and (2) the Association's Class A voting power represented by Owners other than Declarant.

4.5.2 **Vote to Initiate Construction Defect Claims.** In the event that any claim or other actions brought by the Association under California Civil Code Section 895 et seq., and any successor statutes or laws, involving allegations of construction defects relating to the Association Property, is not resolved pursuant to the non-adversarial procedures set forth in California Civil Code Sections 910 through 938 and any successor statutes or laws, the Association shall not initiate an action or arbitration under Section 12.4 or otherwise without first obtaining the consent of the Owners other than Declarant, constituting a quorum of more than fifty percent (50%) of the Owners of the Association casting a majority of the votes at a meeting or election of the Association conducted in accordance with the provisions of California Corporations Code Sections 7510 et. seq. and 7613 and any successor statutes or laws.

4.5.3 **Joint Ownership.** When more than one (1) Person holds an interest in any Condominium ("co-owners"), each co-owner may attend any Association meeting, but only one (1) such co-owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed, and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation is revoked, the vote for the Condominium shall be exercised as the co-owners owning the majority interests in the Condominium agree. Unless the Association receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with his co-owners' consent. No vote may be cast for any Condominium if the co-owners present in person or by proxy owning the majority interests in such Condominium fail to agree to the vote or other action. The nonvoting co-owner or co-owners are jointly and severally responsible for all obligations imposed on the jointly-owned Condominium and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Restrictions are binding on all Owners and their successors in interest.

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4.6 REPAIR AND MAINTENANCE.

4.6.1 **Maintenance Standards.** The Association shall maintain everything it is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with the level of maintenance reflected in the most current Budget, and in conformance with any applicable Maintenance Guidelines. Unless specifically provided in any Maintenance Guidelines, the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Association Property and Improvements thereon. Each Owner shall maintain everything the Owner is obligated to maintain in a clean, sanitary and attractive condition, and in conformance with any applicable Maintenance Guidelines. Each Owner and the Association will comply with the Maintenance Obligations and each Owner is further obligated to provide a copy of the Homeowner Maintenance Guide and any documentation describing the Maintenance Obligations to any successors in interest and/or subsequent purchasers of such Owners.

4.6.2 **Specific Maintenance Obligations.** The specific items listed in this Section for the Lofts and Park Houses shall be maintained by either the Association or the Owners, as indicated. If an item is not listed in this Section, then it shall be maintained in accordance with the general rules established in Section 4.6.3. The maintenance obligations imposed in this Section can be varied as provided in Section 4.6.4.

The Lofts at Playa Vista

| MAINTENANCE ITEM | RESPONSIBILITIES |
|------------------------------|---|
| General elements of the Unit | <p>The Association maintains structural elements of the building that extend within the Unit, such as bearing walls.</p> <p>The Association also maintains any utility installations contained within one Unit that serve other Units.</p> <p>The Association provides periodic pest control services.</p> <p>The Owner maintains everything else inside the Unit, including all interior doors and their hardware, wall surfaces, drywall, cabinets, floor coverings, ceilings, permanent fixtures, appliances, electrical outlets and switches, toilets, smoke detectors (including periodic testing and replacement of batteries) and washing machine water hoses. Each Owner maintains any intrusion alarm system serving the Owner's Unit.</p> |
| Unit entry door | <p>The Owner repairs and replaces the door and maintains the interior surfaces, the handle, locking mechanism, kick plates and performs any touch up painting on the exterior surface if necessary before the Association's periodic exterior painting.</p> <p>Owners are prohibited from rekeying the locks on the front doors to their Units. The locks must work with the master key kept in a knox box in the Community. Locks on front doors can only be replaced with locks approved by the Association that are consistent with the master key in the Community's knox box. This is a fire department requirement.</p> |

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| MAINTENANCE ITEM | RESPONSIBILITIES |
|---|---|
| Decorative Fireplaces in some Units | The Owner maintains the interior surface of the flue and firebox, including periodically removing soot, and maintains any gas pipes, logs and other contents of the firebox. These fireplaces are decorative and not designed to burn wood or other materials. |
| Glass doors and screen doors serving the Unit | The Owner maintains all portions of these items, including the weatherproofing, sheathing, frame, the locking mechanisms and any glass. |
| Windows serving the Unit | <p>The Owner maintains all portions of the windows including the frame, locking mechanism, window pane, screens, weather stripping, caulking, and sheathing.</p> <p>The Association is responsible for washing the exteriors of the windows that are not located in the Exclusive Use Area patios with such frequency as the Board determines is appropriate. The Owner washes the exterior of all windows in the Owner's Exclusive Use Area patio.</p> |
| Exterior light fixtures | The Association maintains the light fixtures located outside the Units which are actuated from switches controlled by the Association. |
| Exclusive Use Area patio | <p>The Association maintains the structural elements and periodically resurfaces and repaints the Exclusive Use Area patio.</p> <p>The Owner maintains any tile, paver or other material located on the surface of the patio floor. The Owner must ensure that the drainage facilities are kept clear and that water does not pond on the Exclusive Use Area patio. Any potted plants in the patio must be maintained so that they do not stain the surface of the Exclusive Use Area patio and water does not pond under or around the pot.</p> <p>The Owner sweeps the patio regularly and keeps it free from debris and reasonably protected against damage.</p> <p>The Owner maintains any electrical outlets and switches in the Exclusive Use Area patio.</p> |
| Exclusive Use Area parking space | <p>The Association maintains the structural elements and periodically resurfaces and repaints the parking spaces.</p> <p>The Owner keeps the Exclusive Use Areas free from debris and reasonably protected against damage.</p> |
| Unit systems - Water pressure regulator, hot water heater, plumbing outlets and fixtures, furnaces, ducts, built-in appliances (microwave, range, and ovens), electrical wiring and circuit breakers. | <p>No matter where they are located, the Owner maintains the portions that exclusively serve either (a) the Unit, or (b) the Exclusive Use Area patio appurtenant to the Unit.</p> <p>The Association maintains both the portions serving multiple Units and the portions serving the Exclusive Use Area parking spaces.</p> |

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| MAINTENANCE ITEM | RESPONSIBILITIES |
|--|---|
| Air conditioning compressor(s) and related equipment mounted on roof serving individual Units. | Owners maintain the all air conditioning compressors and related equipment; however, all work must be performed by a contractor approved by the Association. |
| Telephone wiring exclusively serving a Unit. | The Owner maintains. |
| Utilities | <p>The Association maintains (a) the utilities serving the Association Property, (b) utilities serving at least two Units, or Exclusive Use Area patios, (c) any utilities serving the Exclusive Use Area parking spaces, and (d) any other utilities which serve individual Units but which are subject to a common meter, such as potable water, irrigation water and fire sprinkler water and common (entry system) telephone lines.</p> <p>Each Owner maintains the separately metered utilities that exclusively serve the Owner's Unit or Exclusive Use Area patio. This includes all gas lines serving the Units that are not serviced by the gas company.</p> |
| Buildings housing the Loft Units | <p>The Association maintains the structural components, elevators, building entry area, hallways, stairs and other building areas serving multiple Units, building exterior, and roofs.</p> <p>The Association operates, maintains and tests the storm water drainage facilities, the water quality systems and the methane venting and monitoring systems in accordance with Section 2.16.8 of this Declaration.</p> <p>The Association operates, maintains and tests the fire alarm and sprinkler systems.</p> <p>The Association maintains the trash chutes in the buildings.</p> |

Park Houses at Playa Vista

| MAINTENANCE ITEM | RESPONSIBILITIES |
|------------------------------|--|
| General elements of the Unit | <p>The Owner maintains everything inside the Unit including the interior doors and their hardware, interior wall surfaces, drywall, cabinets, floor coverings, ceilings, permanent fixtures, appliances, electrical outlets and switches, toilets, smoke detectors (including periodic testing and replacement of batteries) and washing machine water hoses.</p> <p>The Association has the responsibility to engage periodic pest control services.</p> <p>Each Owner maintains any intrusion alarm system serving the Owner's Unit.</p> |

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| MAINTENANCE ITEM | RESPONSIBILITIES |
|--|---|
| Building Housing the Unit | <p>The Association paints and maintains the exterior of the building and the roof. The Association maintains the structural components, chimneys and flues (excluding the interior surface). The Association operates, maintains and tests the storm water drainage facilities, the water quality systems and the methane venting and monitoring systems in accordance with Section 2.16.8 of this Declaration. The Association also operates, maintains and tests the fire alarm and sprinkler systems.</p> <p>Exclusive Use Area patios are located on the roofs of each Park House Unit. For the portion of the roof that is a part of the Exclusive Use Area, maintenance responsibility is as described in the paragraph above regarding Exclusive Use Area patios. For the remainder of the roof, maintenance is as described for the building housing the Unit</p> |
| Elevator serving the Unit | <p>The Owner maintains all parts of the elevator, including the cab, elevator call button, the motor, pumps and the cables. The Owner also maintains and repaints the elevator shaft and repairs damage to the walls surrounding the elevator shaft.</p> |
| Unit entry doors | <p>The Owner maintains the doors, including the interior and exterior surfaces, the handle, locking mechanism, kick plates and performs any touch up painting on the exterior surface as necessary.</p> |
| Fireplace in the first floor Exclusive Use Area patio and fire place inside the Unit | <p>The Owner maintains the interior surface of the flue and firebox, including periodically removing soot, and maintains any gas pipes, logs and other contents of the firebox and repairs minor damage to the surface of the fireplace.</p> <p>The Association replaces the structure.</p> |
| Glass doors and screen doors serving the Unit | <p>The Owner maintains all portions of these items, including the weatherproofing, sheathing, frame, the locking mechanisms and any glass.</p> |
| Windows serving the Unit | <p>The Owner maintains all portions of the windows including the frame, locking mechanism, window pane, screens, weather stripping, caulking, and sheathing and washes the windows.</p> |
| Exterior light fixtures | <p>The Owner maintains the light fixtures located outside the Units but which are actuated from switches controlled from, or separately metered to, the Owner's Unit.</p> |

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| MAINTENANCE ITEM | RESPONSIBILITIES |
|---|--|
| Exclusive Use Area Patios | <p>The Association maintains the structural elements and periodically resurfaces and repaints the Exclusive Use Area patio.</p> <p>The Owner maintains any tile, paver or other material located on the surface of the patio floor. The Owner must ensure that the drainage facilities are kept clear and that water does not pond on the Exclusive Use Area patio. Any potted plants in the patio must be maintained so that they do not stain the surface of the Exclusive Use Area patio and water does not pond under or around the pot.</p> <p>The Owner sweeps the patio regularly and keeps it free from debris and reasonably protected against damage.</p> <p>The Owner maintains any hose bibs, electrical outlets and switches, and the Owner must keep the drains clear of debris.</p> |
| Exclusive Use Area Garage | <p>The Owner maintains the interior surface of the floors, ceiling and walls, permanent fixtures, electrical outlets and switches, the garage door opener, the interior surface and structure of the garage door. The Owner paints the exterior surface of the garage door.</p> |
| Stairs outside of the Unit that exclusively serve the Unit | <p>The Owners maintain the stairs that exclusively serve the Unit.</p> |
| Unit systems - built-in appliances (microwave, range, and ovens), circuit breakers, ducts, electrical wiring, furnaces and other elements of the heating system, hot water heater, plumbing outlets and fixtures, and water pressure regulator. | <p>No matter where they are located, the Owner maintains the items that exclusively serve: (1) the Unit, (2) the stairs serving the Unit, (3) the elevator serving the Unit, and (4) the Exclusive Use Area patios and garages appurtenant to the Unit.</p> |
| Air conditioning compressor(s) and related equipment serving individual Units. | <p>The Owner maintains.</p> |
| Telephone wiring exclusively serving a Unit. | <p>The Owner maintains.</p> |
| Utilities | <p>Each Owner maintains the separately metered utilities that exclusively serve the Owner's Unit and Exclusive Use Area patio and garage. This includes all gas lines serving the Units that are not serviced by the gas company. Each Owner pays separately for domestic water based on usage.</p> |

4.6.3 General Maintenance Obligations.

(a) *Maintenance Standards.* Unless Section 4.6.2 provides otherwise or the maintenance obligation is changed pursuant to Section 4.6.4, the Association shall maintain

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the Association Property (including the Exclusive Use Areas), and the Owners shall maintain the Units. Each Owner shall immediately notify the Association of any dangerous, defective or other condition which could cause injury to person or property in such Owner's Unit or Exclusive Use Area. Unless other arrangements are approved by the Board, all Improvements an Owner installs in any area of the Property must be maintained by the Owner who installed the Improvements. If the Owner fails to maintain the Improvements and the Board determines that the Improvements significantly interfere with the Association's ability to fulfill its obligations, the Association may remove any Improvement installed by an Owner.

(b) *Commencement of Association Maintenance.* The Association's obligation to maintain Association Property in the Community commences on the date Annual Assessments commence on Condominiums in the Community.

4.6.4 *Variations in Maintenance Obligations.* The specific and general maintenance obligations established in Sections 4.6.2 and 4.6.3 may be varied as described in this Section.

(a) If an Owner fails to maintain any Improvement the Owner is obligated to maintain, the Association has the power but not the duty to perform the maintenance. In the case of a situation that the Association determines is an emergency, the Association may perform the maintenance immediately; in all other cases, the Association may perform the maintenance after Notice and Hearing.

(b) The Board has the power, but not the duty, to have the Association contract to fulfill any maintenance obligation of multiple Owners then charge the Owners for this expense.

(c) The Board has the power, but not the duty, to allow Owners to install tile, paver or other surface material in an area the Association is obligated to maintain, subject to written approval by the Committee and any reasonable restrictions or conditions the Board may impose.

(d) If a dispute arises between Owners or between an Owner and the Association regarding any maintenance obligation, the Board, in its reasonable discretion, shall determine who is responsible for the maintenance obligation and that decision shall be binding on the Association and all Owners.

(e) The Association shall maintain, repair and replace, as necessary, the air conditioning compressor equipment located on the roofs of the Residences, provided that the costs the Association incurs in connection with any such air conditioning equipment are added to, and constitute a part of, the Annual Assessment levied against the Owner of the Residence served by such air conditioning equipment.

4.6.5 *Termite Eradication.*

(a) *Periodic Program Adopted by Association.* The Association shall adopt an inspection and preventive program for the prevention and eradication of infestation by wood destroying pests and organisms, the Association, on no less than fifteen (15) nor more than thirty (30) days' notice, may require each Owner and any occupants of the Owner's Condominium

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to vacate such Condominium to accommodate Association efforts to eradicate such infestation. The notice must state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage caused to a Condominium by such entry by the Association or by any person authorized by the Association shall be repaired by the Association as a Common Expense. All costs involved in operating the inspection and preventive program as well as repairing and replacing the Association Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of wood destroying pests or organisms are a Common Expense.

(b) *Inspections and Repairs in Connection with Transfers.* The Association is not responsible for paying for any inspections, eradication efforts or repairs that must be performed in connection with the transfer of any Condominium or that are ordered by any individual Owner. These costs are the Condominium Owner's responsibility even if the costs involve repairs to Association Property which are not otherwise the responsibility of the Owner.

4.6.6 *Community Inspections.* The Board shall require strict compliance with all provisions of this Declaration and shall periodically cause a compliance inspection of the Community to be conducted by the Architectural Review Committee to report any violations thereof. The Board shall also cause condition inspections of the Common Property and all Improvements thereon to be conducted at least once every three (3) years, or at more frequent intervals required in any applicable Maintenance Guidelines, to (a) determine whether the Association Property is being maintained adequately in accordance with the standards of maintenance established in Section 4.6.1, (b) identify the condition of the Association Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (c) recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future. The Board shall keep Declarant fully informed of the Board's activities under this Section 4.6.6. The Board shall employ such experts and consultants as are necessary to perform the inspections and make the reports required by this Section.

The Board shall prepare a report of the results of each of the inspections required by this Section. Reports shall be furnished to Owners within the time set for furnishing the Budget to the Owners. The report of a condition inspection must include at least the following:

- (a) a description of the condition of the Association Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) a description of all maintenance, repair and replacement planned for the ensuing Fiscal Year and included in the Budget;
- (c) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) a summary of all reports of inspections performed by any expert or consultant employed by the Association to perform inspections;

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(e) a report of the status of compliance with the maintenance, replacement and repair needs identified in the inspection report for preceding years and identified in any applicable Maintenance Guidelines; and

(f) such other matters as the Board considers appropriate.

For a period of ten (10) years after the date of the last Close of Escrow in the Properties, the Board shall also furnish to Declarant (a) the report of each condition inspection performed for the Board, whenever such inspection is performed and for whatever portion of the Association Property that is inspected, within thirty (30) days after the completion of such inspection, and (b) the most recent condition inspection report prepared for any portion of the Association Property, within ten (10) days after the Association's receipt of a written request therefor from Declarant.

4.6.7 Damage by Owners. Each Owner is liable to the Association for any damage to the Association Property if the damage is sustained due to the act of an Owner, his guests, tenants or invitees, or any other persons deriving their right to use the Common Property from the Owner, or such Owner's respective family, tenants and guests. The Association may, after Notice and Hearing, (a) determine whether any claim shall be made on the Association's insurance, and (b) levy a Special Assessment equal to the cost of repairing the damage or any deductible paid and the increase, if any, in insurance premiums directly attributable to the damage caused by such Owner or the person for whom such Owner may be liable as described in this Declaration. If a Condominium is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with the joint owners to the contrary. After Notice and Hearing, the cost of correcting the damage shall be a Special Assessment against such Owner.

4.7 UNSEGREGATED REAL PROPERTY TAXES. To the extent not assessed to or paid by the Owners, the Association shall pay all real and personal property taxes and assessments levied on the Community. If all Condominiums are taxed under a tax bill covering all of the Community, then each Owner shall pay his share of any installment due under the tax bill to the Association at least ten (10) days before the delinquency date. The Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date. The Association shall allocate taxes equally among the Owners and their Condominiums, based on the total number of Condominiums. The Association shall, at least forty-five (45) days before the delinquency date of any tax installment, deliver to each Owner a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay his share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay his share. The Association shall add to the Annual Assessment of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the tax bill, which late charge results from the failure of the delinquent Owner to make timely payment of his share of the taxes. Until Close of Escrow for the sale of ninety percent (90%) of the Condominiums in the Community has occurred, this Section may not be amended without the written consent of Declarant.

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ARTICLE V ARCHITECTURAL REVIEW COMMITTEE

5.1 MEMBERS OF COMMITTEE. The Architectural Review Committee shall be composed of three (3) members. The initial members of the Committee shall be representatives of Declarant until one (1) year after the original issuance of the Final Subdivision Public Report for the Community ("*First Anniversary*"). After the First Anniversary the Board may appoint and remove one (1) member of the Committee, and Declarant may, but is not obligated to, appoint and remove a majority of the members of the Committee and fill any vacancy of such majority, until the earlier to occur of (a) Close of Escrow for the sale of sixty-six (66) of all the Condominiums in the Community, or (b) the fifth anniversary of the original issuance of the Final Subdivision Public Report for the Community, after which the Board may appoint and remove all members of the Committee. Committee members appointed by the Board must be Owners or agents of Owners, but Committee members appointed by Declarant need not be Owners or agents of Owners. Board members may serve as Committee members.

5.2 POWERS AND DUTIES.

5.2.1 General Powers and Duties. The Committee shall consider and act upon all plans and specifications submitted for its approval, including inspection of work in progress to assure conformance with plans approved by the Committee, and shall perform such other duties as the Board assigns to it.

5.2.2 Issuance of Standards. The Board shall annually issue Architectural Guidelines and provide notice of any requirements for Association approval of proposed Improvements. The notice shall describe the types of proposed Improvements that require Association approval and shall include a copy of the procedure used to review and approve or disapprove any proposed Improvements. The Architectural Guidelines may require a fee to accompany each application for approval, or may identify additional factors which the Committee will consider in reviewing submissions. The Board may provide that fees it imposes be uniform, or that fees be determined in any other reasonable manner. The Board may require such detail in plans and specifications submitted for its review as it deems proper, including floor plans, site plans, elevation drawings and descriptions or samples of exterior material and colors. The Board may issue two sets of Architectural Guidelines: one for the Lofts and one for the Park Houses.

5.2.3 Retaining Consultants. The Committee has the power but not the duty to retain Persons to advise the Committee in connection with decisions; however, the Committee does not have the power to delegate its decision-making power.

5.2.4 Coordination with Master Association. To ensure uniformity throughout the property managed by the Master Association, the Master Association has the right to review and approve proposed Architectural Guidelines and all changes to the Architectural Guidelines before they are effective.

5.3 REVIEW OF PLANS AND SPECIFICATIONS.

5.3.1 Improvements Requiring Approval. (a) No construction, installation, alteration or demolition of an Improvement, including landscaping, in the Community, and (b) no window coverings that are visible from the outside of the Unit and are not installed by Declarant,

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may be commenced until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the Committee. Without limiting the generality of the foregoing, the provisions of this Article apply to the construction, installation and alteration of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Sections 714 and 714.1, the City Building Code, zoning regulations, and other laws.

5.3.2 Application Procedure. Until changed by the Board, the address for the submission of such plans and specifications is the Association's principal office. The form of application used by the Committee may include spaces allowing "Adjacent Owners" to sign or initial the application confirming that they have been notified of the application. The Committee shall establish a definition of "Adjacent Owners" in its Architectural Guidelines. Applications will be complete and may be approved or disapproved by the Committee even if all of the Adjacent Owners do not initial the applications so long as the Owner submitting the plans and specifications ("**Applicant**") certifies that the Applicant has asked the Adjacent Owners to sign the applications.

If the Committee receives plans and specifications it determines are not complete, the Committee may reject the application for approval. The Committee shall transmit its decision and the reasons therefor to the Applicant at the address listed in the application for approval within forty-five (45) days after the Committee receives all required materials. Any application submitted pursuant to this Section shall be deemed approved unless the Committee transmits written disapproval or a request for additional information or materials to the Applicant within forty-five (45) days after the date the Committee receives all required materials. If the Committee does not act within the forty-five (45) days after the date the Committee receives all required materials, the Manager or a representative of the Committee shall, upon the request of Applicant, execute a written approval within fifteen (15) days of such request. If disapproved, the written decision shall include both an explanation of why the proposed Improvement is disapproved and a description of the procedure for reconsideration by the Board.

5.3.3 Standard for Approval. The Committee shall approve plans and specifications submitted for its approval only if it determines that (a) installation, construction or alterations of the Improvements in the locations proposed will not be detrimental to the appearance of the surrounding area of the Community as a whole, (b) the appearance of any structure affected by the proposed Improvements will be in harmony with the surrounding structures, (c) installation, construction or alteration of the proposed Improvements will not detract from the beauty, wholesomeness and attractiveness of the Community, (d) maintenance of the proposed Improvements will not become a burden on the Association, and (e) the proposed Improvements are consistent with this Declaration. The Committee shall take into account the aesthetic aspects of the architectural design, scaling, massing, locations of new and existing Improvements, color schemes, materials used, finishes and other aspects the Committee determines are relevant to its evaluation of proposed plans and specifications.

5.3.4 Conditions to Approval. The Committee may condition its approval of proposals or plans and specifications for any Improvement on any of the following: (i) the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Community as a result of such work, (ii) such changes therein as it considers appropriate, (iii) the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (iv) the

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Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (v) the Applicant's agreement to maintain the Improvement, (vi) the Applicant's agreement to reimburse the Association for the cost of such maintenance, or (vii) the Applicant's agreement to complete the proposed work within a stated period of time, and may require submission of additional plans and specifications or other information before approving or disapproving material submitted. The Applicant shall meet any review or permit requirements of the City before making any construction, installation or alterations permitted under this Declaration.

5.3.5 Limits on Review. The Committee's approval or disapproval shall be based solely on the considerations listed in this Article. The Committee is not responsible for reviewing, nor may its approval of any plan or design be deemed approval of, any plan or design from the standpoint of engineering design, structural safety, conformance with building or other codes, compliance with the requirements of any utility, or compliance with any Recorded restrictions or the Restrictions

5.4 MEETINGS AND ACTIONS OF THE COMMITTEE. The Committee shall meet as necessary to perform its duties. The vote or written consent of a majority of the Committee constitutes an act of the Committee. All approvals issued by the Committee must be in writing. Verbal approvals issued by the Committee or any individual Committee member are not valid, are not binding on the Association and may not be relied upon by any Person. If an Owner does not commence work pursuant to approved plans within six (6) months of issuance of the approval, the approval is automatically revoked and a new approval must be obtained before work can be commenced.

5.5 NO WAIVER OF FUTURE APPROVALS. The Committee's approval of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the Committee's approval does not waive any right to withhold approval or grant conditional approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

5.6 COMPENSATION OF MEMBERS. The Committee's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

5.7 INSPECTION OF WORK. The Committee or its duly authorized representative may inspect any work for which approval of plans is required under this Article ("*Work*"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the Committee-approved plans for the Work or with the requirements of this Declaration ("*Noncompliance*").

5.7.1 Time Limit. The Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the Work is completed and the Committee receives written notice on a form provided by the Committee from the Owner that the Work is completed. If the Committee fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

5.7.2 Remedy for Noncompliance. If an Owner fails to remedy any Noncompliance within sixty (60) days after the date of notice from the Committee, the Committee

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shall notify the Board in writing of such failure. After Notice and Hearing, the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Association may Record a Notice of Noncompliance (if allowed by law), correct the noncompliance and charge the Owner for the Association's costs, and commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

5.7.3 Remedy for Failure to Complete Work. If an Owner fails to complete Work within one (1) year from the date the approval for the Work is issued, then a Noncompliance is deemed to exist and the Association can pursue the remedies in Section 5.7.2.

5.7.4 Certificate of Completion. Upon the request of an Owner or pursuant to procedures established in the Architectural Guidelines, after the Committee determines that Work has been completed in accordance with Committee-approved plans, the Committee shall execute and deliver to the Owner a certificate confirming that the Work was completed in accordance with approved plans.

5.8 VARIANCES. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration including restrictions on height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration require. Such variances must be evidenced in writing, must be signed by a majority of the Committee, and become effective on Recordation. After Declarant's right to appoint a majority of the Committee's members expires, the Board must approve any variance recommended by the Committee before any such variance becomes effective. If variances are granted, no violation of the covenants, conditions and restrictions in this Declaration shall be deemed to have occurred with respect to the matter for which the variances were granted. The granting of a variance does not waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision of this Declaration covered by the variance, nor does it affect the Owner's obligation to comply with all laws affecting the use of his Residence.

5.9 PRE-APPROVALS. The Committee may authorize pre-approval of certain specified types of construction activities if, in the exercise of the Committee's judgment, preapproval of such types of Improvements is appropriate in carrying out the purposes of the Restrictions.

5.10 APPEALS. If a proposed Improvement is disapproved, the Applicant is entitled to reconsideration by the Board at an open meeting that satisfies the requirements of Civil Code Section 1363.05. This paragraph does not require reconsideration of a decision that is made by the Board or the Committee, if the Committee has the same membership as the Board.

ARTICLE VI PROPERTY EASEMENTS AND RIGHTS

6.1 BASEMENTS.

6.1.1 Utility Easements. Declarant reserves easements for maintaining utilities over the Common Property for the benefit of the Owners. Declarant reserves the right to grant

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additional easements and rights-of-way over the Community to utility companies and public agencies, as necessary, for the proper development and disposal of the Community. Such right of Declarant shall expire on Close of Escrow for the sale of the last Condominium in the Community.

6.1.2 **Encroachments.** Declarant reserves, for its benefit and the benefit of the Owners, a reciprocal easement appurtenant to each Condominium over the other Units and the Common Property to accommodate (a) any existing encroachment of any wall or any other authorized Improvement, (b) authorized construction or repair, and (c) shifting, movement or natural settling of the Residences or other Improvements. Use of the foregoing easements may not unreasonably interfere with each Owner's use and enjoyment of the burdened Residences.

6.1.3 **Completion of Improvements.** Declarant reserves the right and easement to enter the Community to complete any Improvement which Declarant considers desirable to implement Declarant's development plan.

6.1.4 **Owners' Easements in Common Property.** Declarant reserves, for the benefit of every Owner, his Family, tenants and guests, a nonexclusive easement for use of and vehicular and pedestrian access over the Common Property in connection with use and enjoyment of each Condominium in the Community. This easement is appurtenant to and passes with title to every Condominium in the Community. This easement is subject to the restrictions, rights and other easements reserved to the Association and to the Declarant.

6.1.5 **Exclusive Use Area** Declarant reserves, for the benefit of specified Condominiums, exclusive easements over the Community for use as Exclusive Use Area, including, without limitation, for (a) patio purposes as shown and assigned on the Condominium Plans for the Community, (b) garage purposes as shown and assigned on the Condominium Plans, (c) parking space purposes as shown and assigned on *Exhibit D*, (d) internal and external telephone wiring designed to serve a single Unit and (e) storage purposes as shown on *Exhibit D*, but assigned by individual grant deed. If not assigned by deed on the last Close of Escrow in the Community, the storage spaces will remain Association Property (not subject to an exclusive easement) and the Association shall have the right to assign such storage spaces to Owner's for a fee or rent. No Owner may install a decorative finish on the Exclusive Use Area patio floor nor may any Owner store any items in such patio other than as expressly provided in this Declaration. Each Owner may exchange or transfer the Exclusive Use Area parking spaces assigned to an Owner's Condominium if a deed of conveyance identifying the exchanged or transferred Exclusive Use Area parking spaces, and identifying the exchanging or transferring Owners and their respective Unit numbers, is executed by such Owners and Recorded. The Board may amend the assignment of Exclusive Use Area parking spaces by a Recorded instrument reassigning parking spaces shown on *Exhibit D*, if (a) the instrument identifies the Exclusive Use Area parking spaces and the Unit numbers to which they are reassigned, (b) the instrument is executed by the Board, and (c) the instrument is executed by any Owners whose assigned Exclusive Use Area parking spaces are reassigned by the amendment. No exchange, transfer or amendment of Exclusive Use Area parking spaces shall reduce the number of parking spaces below the number required by the City. The Owners shall deliver a copy of any Recorded deed of conveyance to the Association as soon as possible after Recordation. A Recorded amendment shall be returned to the Association after Recordation. Declarant may also amend the assignment of Exclusive Use Area parking spaces as set forth in Section 15.7. Declarant reserves a special power of attorney coupled with an interest to execute such instruments as are reasonably necessary on behalf of Owners and Mortgagees to correct

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misassignments of Exclusive Use Area parking spaces. Declarant also reserves, for the benefit of the Association, its agents and employees, the right to enter the Exclusive Use Areas as necessary to fulfill the obligations of the Association.

6.1.6 **Exclusive Commercial Easement Areas.** Declarant reserves, for the benefit of the Commercial Area, exclusive use easements over the Association Property in the areas depicted on *Exhibit G*.

6.2 **DELEGATION OF USE.** Any Owner may delegate his right to use the Common Property in writing to his tenants, contract purchasers or subtenants who reside in such Owner's Condominium, subject to regulation by the Board.

6.3 **RIGHT OF ENTRY.**

6.3.1 **Association.** The Association has the right to enter the Condominiums to inspect the Community, and may take whatever corrective action it determines to be necessary or proper. Entry onto any Condominium under this Subsection may be made after at least three (3) days' advance written notice to the Owner of the Unit except for emergency situations, which shall not require notice. Any damage to the Condominium caused by entry under this Subsection shall be repaired by the Association.

6.3.2 **Declarant.** The Declarant has the right to enter the Common Property and the Condominiums (i) to complete and repair any Improvements as determined necessary or proper by the Declarant, in its sole discretion, (ii) to comply with requirements for the recordation of the Map or the grading or construction of the Community, (iii) perform any warranty work Declarant determines is appropriate, and (iv) to comply with requirements of applicable governmental agencies. Declarant shall provide reasonable notice to Owner prior to entry into the Owner's Condominium under this Subsection except for emergency situations, which shall not require notice. Any damage to the Condominium caused by entry under this Subsection shall be repaired by the Declarant. Unless otherwise specified in the initial grant deed of the Unit from the Declarant, this right of entry shall automatically expire eleven (11) years from the last Close of Escrow for a Condominium in the Community.

6.3.3 **Owners.** Each Owner shall permit other Owners, and their representatives, to enter his Condominium to perform installations, alterations or repairs to the mechanical or electrical services to a Unit if (a) requests for entry are made in advance; (b) entry is made at a time reasonably convenient to the Owner whose Condominium is to be entered, and (c) the entered Condominium is left in substantially the same condition as existed immediately preceding such entry. Any damage to the Condominium caused by entry under this Subsection shall be repaired by the entering Owner.

ARTICLE VII
ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

7.1 **PERSONAL OBLIGATION TO PAY ASSESSMENTS.** Each Owner shall pay to the Association all Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the amount necessary for the purpose for which it is levied. All Assessments, together with late payment penalties, interest, costs, and reasonable attorneys' fees for the collection thereof, are a charge and a continuing lien on the

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Condominium against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs and reasonable attorneys' fees, is also the personal obligation of the Person who was the Owner of the Condominium when the Assessment accrued. The personal obligation for delinquent Assessments will not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser or unless the Purchaser has actual or constructive knowledge of such Assessments, whether by virtue of the Recordation of a Notice of Delinquent Assessment or receipt from the Association of a certificate pursuant to Section 1368(a)(4) of the California Civil Code.

7.2 ASSOCIATION FUNDS. The Board shall Budget, establish and maintain at least the following Association Maintenance Funds into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the Association's performance of its functions under the Restrictions:

7.2.1 General Operating Fund. A General Operating Fund for current expenses of the Association, exclusive of current expenses attributable to the Improvements and maintenance responsibilities included within the Lofts Special Benefit Area.

7.2.2 General Reserve Fund. An adequate General Reserve Fund for the deposit of Reserves attributable to Improvements within the Association Property, exclusive of Reserves attributable to Improvements included in the Lofts Special Benefit Area.

7.2.3 Lofts Special Benefit Area Operating Fund. A Lofts Special Benefit Area Operating Fund for Lofts Special Benefit Expenses of the Lofts Special Benefit Area which has been completed and is subject to maintenance by the Association.

7.2.4 Lofts Special Benefit Area Reserve Fund. An adequate Lofts Special Benefit Area Reserve Fund for the deposit of Reserves attributable to each Lofts Special Benefit Area which has been completed and is subject to maintenance by the Association.

7.2.5 Miscellaneous Maintenance Funds. Any other Association Maintenance Funds which the Board of Directors may deem necessary.

7.3 DISBURSEMENTS. All amounts deposited into the Association Maintenance Funds must be used solely for the purposes authorized by the Restrictions. The Board is authorized to transfer interest and other earnings on the General Reserve Fund and Lofts Special Benefit Area Reserve Fund into the respective operating fund in order to satisfy income taxes payable by the Association attributable to such interest and earnings. The signatures of either two (2) Directors of the Association or one (1) Director and one (1) officer of the Association who is not also a Director of the Association shall be required for the withdrawal of money from the Association's Reserve funds. Disbursements from the particular Association Maintenance Funds shall be limited to specific purposes as follows:

7.3.1 Lofts Special Benefit Area Reserves. Disbursements from each Lofts Special Benefit Area Reserve Fund shall be made solely for the purpose of funding Reserve expenditures attributable to the Lofts Special Benefit Area for which the fund was created.

7.3.2 Lofts Special Benefit Area Operations Disbursements from each Lofts Special Benefit Area Operating Fund shall be made solely for the purpose of funding the current

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operating Lofts Special Benefit Expenses of the Lofts Special Benefit Area for which the fund was created.

7.3.3 General Reserves. Disbursements from the General Reserve Fund shall be made solely for the purpose of funding those Reserve expenditures which are not Budgeted to a Lofts Special Benefit Area.

7.3.4 General Operations. Disbursements from the General Operating Fund shall be made for such purposes as are necessary for the discharge of the Association's responsibilities under the Restrictions, for the common benefit of all Owners, other than those purposes specified in Sections 7.3.1 through 7.3.3 above.

Nothing contained herein shall preclude the establishment of additional Association Maintenance Funds by the Association earmarked for specified purposes authorized by the Restrictions.

7.4 PURPOSE OF ASSESSMENTS. The Assessments shall be used exclusively to (a) promote the Owners' welfare, (b) operate, improve and maintain the Common Property, and (c) discharge any other Association obligations under the Declaration. All amounts deposited into the Association Maintenance Funds must be used solely for the common benefit of all Owners for purposes authorized by this Declaration.

7.5 WAIVER OF USE. No Owner may exempt himself from personal liability for Assessments duly levied by the Association, nor release such Owner's Condominium from the liens and charges thereof, by waiving use and enjoyment of the Common Property or by abandoning such Owner's Condominium.

7.6 LIMITS ON ANNUAL ASSESSMENT INCREASES. The Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined pursuant to Sections 7.6.1 and 7.6.2 below, unless first approved by the vote of Members representing at least (i) in the case of an increase in the General Assessment Component, a majority of votes at a meeting or written ballot of Members in which more than fifty percent (50%) of the total voting power of the Association is represented ("*Increase Election*"), and (ii) in the case of an increase in a Lofts Special Benefit Area Assessment Component, a majority of votes at a meeting or written ballot of the Owners of Condominiums participating in the Lofts Special Benefit Area generating such Lofts Special Benefit Area Assessment Component at which more than fifty percent (50%) of the total voting power attributable to such Lofts Special Benefit Area is represented.

7.6.1 Maximum Authorized Annual Assessment for Initial Year of Operations. Until the first day of the Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Maximum Authorized Annual Assessment per Condominium is one hundred twenty percent (120%) of the amount of Annual Assessments disclosed in the current Budget of the Association filed with the DRE at the time Annual Assessments commence. The provisions of this Section 7.6.1 shall be applied separately to the General Assessment Component and the Lofts Special Benefit Area Assessment Component, if any, of the Annual Assessment.

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7.6.2 Maximum Authorized Assessment for Subsequent Fiscal Years. Beginning with the Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Maximum Authorized Annual Assessment in any Fiscal Year is one hundred twenty percent (120%) of the level of Annual Assessments levied in the immediately preceding Fiscal Year; provided that distribution of the Budget for the current Fiscal Year in accordance with Section 1365(a) of the California Civil Code or other applicable law is a prerequisite to any increase in the Maximum Authorized Annual Assessment for such Fiscal Year pursuant to this Subsection. The provisions of this Subsection shall be applied separately to the General Assessment Component and the Lofts Special Benefit Area Assessment Component, if any, of the Annual Assessment.

This Section does not limit Annual Assessment increases necessary for paying an "Emergency Expense" as defined in Section 7.6.4.

7.6.3 Supplemental Annual Assessments. If the Board determines that the Association's essential functions may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in Sections 7.6.1, 7.6.2 and 7.6.4, the Board may levy a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Condominium.

7.6.4 Emergency Situations. For purposes of Sections 7.6.1, 7.6.2 and 7.7, an "Emergency Expense" is any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible where a threat to personal safety in the Community is discovered; and
- (c) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Before imposing or collecting an Assessment pursuant to this Subparagraph (c), the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Owners with the notice of the assessment.

7.7 ANNUAL ASSESSMENTS. Each Annual Assessment shall constitute an aggregate of separate assessments for each of the Association Maintenance Funds, reflecting an itemization of the amounts assessed and attributable to prospective deposits into the General Operating and Reserve Funds, the Lofts Special Benefit Area Operating and Reserve Funds, and any other Maintenance Fund established by the Association. Annual Assessments shall be levied against the Owners of Condominiums in the amounts as set forth in the Association Budget on file with the DRE. Sums sufficient to pay Common Expenses shall be assessed as Annual Assessments against the Owners of Condominiums as follows:

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7.7.1 **Assessment Allocation.** The Association Common Expenses and Lofts Special Benefit Expenses (if any) shall be allocated among the Owners and their respective Condominiums within the Community based upon the number of Condominiums owned by each Owner.

7.7.2 **General Assessment Component.** The Common Expenses of the Association, exclusive of Common Expenses Budgeted to the Lofts Special Benefit Area ("**General Assessment Component**"), shall be allocated uniformly and equally among all of the Condominiums and the Owners thereof in the Community based on the number of Condominiums owned by each Owner, except that the portion of General Assessment Component attributable to those Common Expenses described on *Exhibit F* shall be variably assessed against the Owners and their Condominiums in proportion to the base interior square footage of the Condominium Unit types, also described on *Exhibit F*. The proportionate share of the General Assessment Component of Common Expenses chargeable to each Condominium shall be a fraction, the numerator of which shall be the number one (1) and the denominator of which shall be the total number of all Condominiums in the Community.

7.7.3 **Lofts Special Benefit Area Assessment Component.** The Lofts Special Benefit Expenses of the Association comprising Lofts Special Benefit Area Operating and Reserve Funds Budgeted to the Lofts Special Benefit Area ("**Lofts Special Benefit Area Assessment Component**") shall be assessed to the Owners of Condominiums designated in this Declaration on *Exhibit E* as Condominiums to which the exclusive or disproportionate maintenance of such Lofts Special Benefit Area has been allocated. The Lofts Special Benefit Area Assessment Component shall consist of proportionate share and variably assessed sub-components. The proportionate share sub-component of the Lofts Special Benefit Area Assessment Component chargeable to each Condominium located in such Lofts Special Benefit Area shall be a fraction, the numerator of which is the number one (1) and the denominator of which is the total number of Condominiums located in or authorized to be created in such Lofts Special Benefit Area. The variably assessed sub-component of the Lofts Special Benefit Area Assessment Component chargeable to each Condominium located in such Lofts Special Benefit Area shall be variably assessed against the Owners and their Condominiums in proportion to the base interior square footage of the Condominium Unit types, also designated on *Exhibit E*. If all Condominiums in the Community are annexed into the Lofts Special Benefit Area, then the Lofts Special Benefit Area Assessment Component shall be merged into the General Assessment Component of Common Expenses.

7.8 **COMMENCEMENT AND COLLECTION OF ANNUAL ASSESSMENTS.** Upon the first Close of Escrow in the Community, Annual Assessments shall commence as to all Condominiums. Annual Assessments for fractions of a month shall be prorated. Declarant shall pay its full pro rata share of the Annual Assessments on all unsold Condominiums for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. However, unless otherwise established by the Board, the initial Annual Assessments shall be assessed in accordance with the most recent Budget on file with and approved by DRE. Written notice of any change in the amount of any Annual Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days before the increased Assessment becomes due.

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The Board may determine that amounts in any or all operating funds at the end of the Fiscal Year be retained and used to reduce the following Fiscal Year's Annual Assessments. On dissolution of the Association incident to the abandonment or termination of the Community as a condominium Community, any amounts remaining in any of the Maintenance Funds shall be distributed to or for the benefit of the Owners in the same proportions as such money was collected from the Owners.

Each Owner shall pay Annual Assessments in installments at such frequency and in such amounts and by such methods as are established by the Board. If the Association incurs additional expenses because of a payment method selected by an Owner, the Association may charge that expense to the Owner. The Association does not have to apportion the expense among all Owners as a part of Annual Assessments. Each installment of Annual Assessments may be paid to the Association in one check or in separate checks as payments attributable to specified Association Maintenance Funds. If any payment of an Annual Assessment installment (1) is less than the amount assessed and (2) does not specify the Association Maintenance Fund or Funds into which it should be deposited, then payment received by the Association from that Owner shall be credited in order of priority first to the General Operating Fund until that portion of the Annual Assessments has been satisfied, then any applicable Lofts Special Benefit Area Operating Fund until that portion of the Annual Assessment has been satisfied, then to the General Reserve Fund until that portion of the Annual Assessment has been satisfied, then to any applicable Lofts Special Benefit Area Reserve Fund until that portion of the Annual Assessment has been satisfied, then to any other Association Maintenance Fund established by the Association.

7.9 CAPITAL IMPROVEMENT ASSESSMENTS. The Board may levy, in any Fiscal Year, a Capital Improvement Assessment or Reconstruction Assessment applicable to that Fiscal Year only to defray, in whole or in part, the cost of any construction, repair or replacement of a capital improvement or other such addition to the Common Property. No Capital Improvement Assessments in any Fiscal Year which, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceed five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year, may be levied without the vote or written consent of Owners casting a majority of votes at an Increase Election. In the case of a proposed Capital Improvement to a Lofts Special Benefit Area, any Capital Improvement Assessment which exceeds five percent (5%) of the Association's Budgeted Lofts Special Benefit Expenses shall also require the majority votes at a meeting or written ballot of the Owners of Condominiums in the Lofts Special Benefit Area benefiting thereby at which more than fifty percent (50%) of the total voting power attributable to such Lofts Special Benefit Area is required. The Board may levy in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year which exceeds five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year without the vote of Members if such increase is necessary for addressing an Emergency Situation as defined in Section 7.6.4.

7.10 UNIFORM RATE OF ASSESSMENT. Annual Assessments, Capital Improvement Assessments and Reconstruction Assessments shall be assessed equally against all Owners and their Condominiums, except as may be otherwise provided herein with respect to Lofts Special Benefit Areas and as shown on *Exhibit F*. The Association may, subject to the provisions of Article IX hereof, levy Special Assessments against selected Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency as the Board shall determine.

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ARTICLE VIII INSURANCE

8.1 DUTY TO OBTAIN INSURANCE; TYPES. The Association shall obtain and keep in effect at all times the following insurance coverages:

8.1.1 Public Liability. Adequate public liability insurance (including coverage for medical payments), with limits acceptable to Fannie Mae and as required by Section 1365.9 of the California Civil Code, insuring against liability for bodily injury, death and property damage arising from the activities of the Association and the Owners, with respect to the Common Property.

8.1.2 Fire and Casualty Insurance. Fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Property and, if the Board deems it fair and economically feasible, those portions of the Units consisting of all fixtures, installations or additions comprising a part of the buildings housing the Units and all built-in or set-in appliances, cabinets and initial basic floor coverings, as initially installed or replacements thereof in accordance with the original plans and specifications for the Community, or as installed by or at the expense of the Owners. The casualty insurance shall not include earthquake coverage unless the Board is directed to obtain earthquake coverage by a majority of the Association's voting power. Premiums for all insurance carried by the Association are Common Expenses, unless the insurance is exclusively with respect to the Lofts Special Benefit Area in which case such premiums shall be Lofts Special Benefit Expenses for such Lofts Special Benefit Area.

8.1.3 Fidelity Insurance. Fidelity insurance coverage for any Person handling funds of the Association, whether or not such persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Person during the term of the insurance. The aggregate amount of the fidelity insurance coverage may not be less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Condominiums in the Community, plus reserve funds.

8.1.4 Insurance Required by Fannie Mae, Ginnie Mae and Freddie Mac. Casualty, flood, liability and fidelity insurance meeting the insurance requirements for condominium communities established by FNMA, Ginnie Mae and Freddie Mac, so long as any of these entities is a Mortgagee or Owner of a Condominium in the Community, except to the extent such coverage is not reasonably available or has been waived in writing by the entity requiring the insurance coverage.

8.1.5 Other Insurance. Such other insurance insuring other risks customarily insured by associations managing condominium communities similar in construction, location and use.

8.1.6 Beneficiaries. The Association's insurance shall be kept for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured, subject, however, to loss payment requirements established in this Declaration. The fire and casualty insurance policy shall name the City as an additional insured.

8.2 WAIVER OF CLAIM AGAINST ASSOCIATION. As to all policies of insurance kept by or for the benefit of the Association and the Owners, the Association and the Owners waive and release all claims against one another, the Board and Declarant, to the extent of

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the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of the Persons.

8.3 RIGHT AND DUTY OF OWNERS TO INSURE. Each Owner is responsible for insuring his personal property and all other property and Improvements in his Condominium for which the Association has not purchased insurance in accordance with Section 8.1. Nothing in this Declaration precludes any Owner from carrying any public liability insurance as he considers desirable; however, Owners' policies may not adversely affect or diminish any coverage under any of the Association's insurance policies. Duplicate copies of Owners' insurance policies shall be deposited with the Association on request. If any loss intended to be covered by the Association's insurance occurs and the proceeds payable are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of the Owner's insurance to the Association, to the extent of such reduction, for application to the same purposes as the reduced proceeds are to be applied.

8.4 NOTICE OF EXPIRATION REQUIREMENTS. If available, each of the Association's insurance policies must contain a provision that the policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without at least ten (10) days' prior written notice to the Board, to Declarant and to the City, and to each Owner and Mortgagee, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity insurance shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to any insurance trustee named pursuant to Section 8.6 and to each Fannie Mae servicer who has filed a written request with the carrier for such notice.

8.5 INSURANCE PREMIUMS. Premiums for insurance policies obtained by the Association are Common Expenses.

8.6 TRUSTEE FOR POLICIES. The Association is trustee of the interests of all named insureds under the Association's insurance policies. Unless an insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made. All insurance proceeds under any such policies provided for in Section 8.1 must be paid to the Board as trustees. The Board has the authority to negotiate loss settlements with insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 9.4. The Board is authorized to make a settlement with any insurer for less than full insurance coverage for any damage so long as the Board acts in accordance with the standard of care established in Section 4.3.1(b). Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures are binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement and any successor to such trustee, who shall have exclusive authority to negotiate losses under any insurance policy and to perform such other functions necessary to accomplish this purpose.

8.7 ACTIONS AS TRUSTEE. Except as otherwise specifically provided in this Declaration, the Board has the exclusive right to bind the Association and the Owners in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of

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all policies of fire and casualty insurance kept by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who requested them in writing.

8.8 ANNUAL INSURANCE REVIEW. The Board shall review the Association's insurance policies at least annually to determine the amount of the casualty and fire insurance referred to in Section 8.1. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements in the Community except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, before each such annual review.

8.9 REQUIRED WAIVER. All of the Association's insurance policies insuring against physical damage must provide, if reasonably possible, for waiver of:

8.9.1 Subrogation of claims against the Owners and tenants of the Owners;

8.9.2 Any defense based on coinsurance;

8.9.3 Any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association;

8.9.4 Any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured;

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

8.9.6 Notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium;

8.9.7 Any right to require any assignment of any Mortgage to the insurer;

8.9.8 Any denial of an Owner's claim because of negligent acts by the Association or other Owners; and

8.9.9 Prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

ARTICLE IX DESTRUCTION OF IMPROVEMENTS

9.1 RESTORATION OF THE COMMUNITY. Except as otherwise authorized by the Owners, if any portion of the Community which the Association is responsible for maintaining is destroyed, the Association shall restore the same to its former condition as promptly as practical. The Association shall use the proceeds of its insurance for reconstruction or repair of the Community unless otherwise authorized in this Declaration. The Board shall prepare or obtain the

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documents necessary for commencing such reconstruction as promptly as practical. The Community shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Architectural Review Committee have been approved by at least sixty-seven percent (67%) of the Owners. If the insurance proceeds amount to at least ninety-five percent (95%) of the estimated cost of restoration and repair, the Board shall levy a Reconstruction Assessment to provide the additional funds necessary for such reconstruction. If the insurance proceeds amount to less than ninety-five percent (95%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("*Conditions to Reconstruction*") have been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Community is approved by the Owners; and (b) within one (1) year after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("*Reconstruction Certificate*"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than ninety-five percent (95%) of the estimated cost of restoration and repair, then the Board shall proceed as provided in Section 9.2.

9.2 SALE OF THE COMMUNITY AND RIGHT TO PARTITION. No Owner shall have the right to partition of his interest in the Condominium and there shall be no judicial partition of the Community, or any part thereof, except as provided in Section 1359(b) of the California Civil Code. For purposes of Subsection 4 of Section 1359(b), partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 9.1 have failed to occur; (b) within six (6) months after the date on which destruction occurred, restoration or repair has not actually commenced; and (c) the Owners of at least sixty-seven percent (67%) of the Condominiums in the Community approve the partition. In such event, the Association shall prepare, execute and Record, as promptly as practical, the certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Community for the benefit of the Owners and execute such other documents and instruments as may be necessary for the Association to consummate the sale of the Community at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately before such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Community. The Board is authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. However, the balance then due on any valid Mortgage of Record shall be first paid in order of priority before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing in this Declaration prevents partition of a co-tenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the Condominiums and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Community and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

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9.3 **INTERIOR DAMAGE.** With the exception of any casualty or damage covered by insurance kept by the Association, restoration and repair of any damage to the interior of any individual Residence, including all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Residence so damaged. If a determination to rebuild the Community after partial or total destruction is made, as provided in this Article, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Review Committee as provided in this Declaration.

9.4 **NOTICE TO OWNERS AND LISTED MORTGAGEES.** The Board, immediately on having knowledge of any damage or destruction affecting a Unit or a material portion of the Common Property, shall promptly notify all Owners and Mortgagees, insurers and guarantors of first Mortgages on Condominiums in the Community who have filed a written request for such notice with the Board.

ARTICLE X EMINENT DOMAIN

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

10.1 **PROPERTY CONDEMNATION.** If (a) there is a taking of an interest in all or part of the Community such that the ownership, operation and use of the Community in accordance with this Declaration is substantially and adversely affected, and (b) within one hundred twenty (120) days after the effective date of the taking the Owners of Units (i) not taken, or (ii) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition before the taking (collectively, the "*Remaining Units*") do not by affirmative vote of at least one-third (1/3) of their voting power approve the continuation of the Community and the repair, restoration and replacement to the extent feasible of the Association Property and the Remaining Units, then the Board shall proceed with the sale of that portion of the Community which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 9.2.

10.2 **CONDEMNATION OF COMMON PROPERTY.** If there is a taking of (a) the Common Area or any interest therein (other than the taking of an undivided interest therein taken as a result of the taking of a Condominium), or (b) the Association Property (other than Exclusive Use Area) or any interest therein, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

10.3 **CONDEMNATION OF EXCLUSIVE USE AREA.** If there is a taking of all or any portion of an Exclusive Use Area, the award in condemnation shall be paid to the Owner of the Condominium to which the taken Exclusive Use Area was appurtenant; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

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10.4 CONDEMNATION OF CONDOMINIUMS. If there is a taking of a Condominium, the award in condemnation shall be paid to the Owner of the Condominium; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

10.5 CONDEMNATION OF PORTIONS OF UNITS.

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

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

10.5.3 Major Takings. If neither Section 10.5.1 nor 10.5.2 applies to a taking of any Unit, then the award in condemnation shall be paid to the Owners of the taken Units; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units and appurtenant Exclusive Use Areas shall become part of the Association Property, and the Owners of such taken Units, by acceptance of the award allotted to them in taking proceedings, relinquish (a) to the other Owners, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area, and (b) to the Association, the remaining portions of the Units and the appurtenant Exclusive Use Areas. Each Owner relinquishing his interest in the Common Area pursuant to this Section shall, at the Board's request and at the Association's expense, execute and acknowledge such deeds and other instruments which the Board considers necessary or convenient to evidence such

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relinquishment. Each Owner of a taken Unit or Residence is not liable for Assessments under this Declaration which accrue on or after the date such Owner accepts his condemnation award.

10.6 PORTIONS OF AWARDS IN CONDEMNATION NOT COMPENSATORY FOR VALUE OF REAL PROPERTY. Those portions of awards in condemnation which do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

10.7 NOTICE TO OWNERS AND MORTGAGEES. The Board, on learning of any taking affecting a Unit or a material portion of the Community, or any threat thereof, shall promptly notify all Owners and those Mortgagees, insurers and guarantors of Mortgages on Condominiums in the Community who have filed a written request for such notice with the Association

ARTICLE XI RIGHTS OF MORTGAGEES

11.1 GENERAL PROTECTIONS. No amendment or violation of this Declaration defeats or renders invalid the rights of the Mortgagee under any Mortgage encumbering one (1) or more Condominiums made in good faith and for value, provided that after the foreclosure of any such Mortgage such Condominium(s) will remain subject to this Declaration. For purposes of this Declaration, "first Mortgage" means a Mortgage with first priority over other Mortgages or Deeds of Trust on a Condominium, and "first Mortgagee" means the Mortgagee of a first Mortgage. For purposes of any provisions of the Restrictions which require the vote or approval of a specified percentage of first Mortgagees, such vote or approval is determined based on one (1) vote for each Condominium encumbered by each such first Mortgage

11.2 ADDITIONAL RIGHTS. To induce VA, FHA, Freddie Mac, Ginnie Mae and Fannie Mae to participate in the financing of the sale of Condominiums, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of this Declaration or any other of the Restrictions, these added provisions control):

11.2.1 Notices. Each Mortgagee, insurer and guarantor of a Mortgage encumbering one (1) or more Condominiums, on filing a written request for notification with the Board, is entitled to written notice from the Association of: (a) any condemnation or casualty loss which affects either a material portion of the Community or the Condominium(s) securing the Mortgage; (b) any delinquency of sixty (60) days or more in the performance of any obligation under the Restrictions, including the payment of Assessments or charges owed by the Owner(s) of the Condominium(s) securing the Mortgage, which notice each Owner consents to and authorizes; (c) a lapse, cancellation, or material modification of any insurance policy kept by the Association; and (d) any proposed action of the Association which requires consent by a specified percentage of first Mortgagees who have submitted a written request to the Association for notice of such proposed action.

11.2.2 Right of First Refusal. Each Owner, including each first Mortgagee of a Mortgage encumbering any Condominium who obtains title to such Condominium pursuant to (a) the remedies provided in such Mortgage, (b) foreclosure of the Mortgage, or (c) deed or assignment

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in lieu of foreclosure, is exempt from any "right of first refusal" created or purported to be created by the Restrictions.

11.2.3 Unpaid Assessments. Each first Mortgagee of a Mortgage encumbering any Condominium who obtains title to such Condominium pursuant to judicial or nonjudicial foreclosure of such Mortgage shall take title to such Condominium free of any claims for unpaid Assessments or charges against such Condominium which accrued before the time such Mortgagee acquires title to such Condominium.

11.2.4 Approvals. Unless at least sixty-seven percent (67%) of the first Mortgagees or sixty-seven percent (67%) of the Owners have given their prior written approval, the Association may not:

- (a) by act or omission seek to abandon or terminate the Community; or
- (b) change the method of determining the obligations, Assessments, dues or other charges which may be levied against any Owner; or
- (c) partition or subdivide any Condominium; or
- (d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property. (The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Property under this Declaration, the granting of exclusive easements to Owners over the Common Property to conform the boundaries of the Common Property to the as-built location of authorized Improvements and any grant made in connection with any lawful lot line adjustment are not transfers within the meaning of this clause); or
- (e) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, the exterior appearance or the maintenance of the Units or the Common Property; or
- (f) fail to keep Fire and Extended Coverage insurance on insurable Common Property as provided in Article VIII; or
- (g) use hazard insurance proceeds for losses to any Condominium property (i.e., Improvements to the Units or Common Property) for other than the repair, replacement or reconstruction of such Condominium property, subject to the provisions of Article IX; or
- (h) change the pro rata interest or obligations of any Condominium to levy Assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Condominium in the Common Area

11.2.5 Association Records. All Mortgagees, insurers and guarantors of first Mortgages, on written request to the Association may:

- (a) examine current copies of the Association's books, records and financial statements and the Restrictions during normal business hours;

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(b) require the Association to submit an annual audited financial statement for the preceding Fiscal Year if one is available, or have one prepared at the expense of the requesting entity if such statement is not otherwise prepared by the Association;

(c) receive written notice of all meetings of Owners; and

(d) designate in writing a representative authorized to attend all meetings of Owners.

11.2.6 Material Changes. All Mortgagees, insurers and guarantors of first Mortgages, on written request, shall be given thirty (30) days' written notice before the effective date of (a) any proposed material amendment to the Restrictions or Condominium Plans; (b) any termination of an agreement for professional management of the Community following any decision of the Owners to assume self-management of the Community; and (c) any proposed termination of the Community as a condominium Community.

11.2.7 Reserves. The Reserve Fund described in Article VII must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by special Assessments.

11.2.8 Fidelity Insurance. The Board shall secure fidelity insurance for any person handling Association funds, including, but not limited to, employees of the professional Manager.

11.2.9 Contracts. The Board may enter into such contracts or agreements on behalf of the Association as are required to satisfy the guidelines of VA, FHA, Freddie Mac, Fannie Mae or Ginnie Mae or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Condominiums. Each Owner agrees that it will benefit the Association and the Owners, as a class of potential Mortgage borrowers and potential sellers of their residential Condominiums, if such agencies approve the Community as a qualifying subdivision under their respective policies, rules and regulations. Each Owner authorizes his Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Condominium.

11.2.10 Professional Management. When professional management has been required by a Mortgagee, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and the Mortgagees of at least fifty-one percent (51%) of the first Mortgages of Condominiums in the Community.

11.2.11 Payment of Taxes. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Property, and the Association shall immediately reimburse first Mortgagees making such payments.

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ARTICLE XII ENFORCEMENT

12.1 ENFORCEMENT OF RESTRICTIONS. All disputes arising under the Restrictions, other than those described in Section 12.4 or regulated by Civil Code Section 1375, shall be resolved as follows.

12.1.1 Violations Identified by the Association. If the Board determines that there is a violation of the Restrictions, then the Board shall give written notice to the responsible Owner identifying (a) the condition or violation complained of, and (b) the length of time the Owner has to remedy the violation including, if appropriate, the length of time the Owner has to submit plans to the Architectural Review Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Architectural Review Committee. If an Owner does not perform such corrective action as is required by the Board within the allotted time, the Board, after Notice and Hearing, may remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. If the violation involves nonpayment of any Assessment, then the Board may collect such delinquent Assessment pursuant to the procedures established in Section 12.2.

12.1.2 Violations Identified by an Owner. If an Owner alleges that another Person is violating the Restrictions (other than nonpayment of any Assessment), the complaining Owner must first submit the matter to the Board for Notice and Hearing before the complaining Owner may resort to alternative dispute resolution, as required by Sections 1369.510 *et seq.* of the California Civil Code, or litigation for relief.

12.1.3 Legal Proceedings. Failure to comply with any of the terms of the Restrictions by any Person is grounds for relief which may include an action to recover damages, injunctive relief, foreclosure of any lien, or any combination thereof; however, the procedures established in Sections 1363.810 and 1369.510 *et seq.* of the California Civil Code and in Sections 12.1.1 and 12.1.2 must first be followed, if they apply.

12.1.4 Additional Remedies. After Notice and Hearing, the Board may impose any of the remedies listed in Section 7.4 of the Bylaws. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, the Board may assess against a Person, after Notice and Hearing, for the failure of such Person to comply with the Restrictions. After Notice and Hearing, the Board may direct the officers of the Association to Record a notice of noncompliance (if allowed by law) against the Condominium owned by any Owner who has violated any provision of this Declaration. The notice shall include a legal description of the Condominium and shall specify the provision of the Declaration that was violated, the violation committed, and the steps required to remedy the noncompliance. Once the noncompliance is remedied or the noncomplying Owner has taken such other steps as reasonably required by the Board, the Board shall direct the officers of the Association to Record a notice that the noncompliance has been remedied.

12.1.5 No Waiver. Failure to enforce any provision of this Declaration does not waive the right to enforce that provision, or any other provision of this Declaration.

12.1.6 Right to Enforce. The Board, any Owner and the Master Association may enforce the Restrictions as described in this Article, subject to Sections 1363.810 and 1369.510 *et seq.*

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of the California Civil Code. Each Owner and the Master Association have a right of action against the Association for the Association's failure to comply with the Restrictions. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

12.1.7 Limit on Expenditures. The Association may not incur litigation expenses, including attorneys' fees, or borrow money to fund litigation, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Association first obtains the consent of the Owners (excluding the voting power of any Owner who would be a defendant in such proceedings), and, if applicable, complies with the requirements of Sections 1363.810 and 1369.510 *et seq.* of the California Civil Code. Such approval is not necessary if the legal proceedings are initiated (a) to enforce the use restrictions contained in Article II, (b) to enforce the architectural and landscaping control provisions contained in Article V, (c) to collect any unpaid Assessments levied pursuant to the Restrictions, or (d) as a cross-complaint in litigation to which the Association is already a party. If the Association decides to use or transfer reserve funds or borrow funds to pay for any litigation, the Association must notify the Owners of the decision by mail. Such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the reserve funds will be replaced or the loan will be repaid, and a proposed budget for the litigation. The notice must state that the Owners have a right to review an accounting for the litigation which will be available at the Association's office. The accounting shall be updated monthly. If the Association action to incur litigation expenses or borrow money to fund litigation concerns construction defects relating to the Association Property then the voting requirements of both Sections 4.5.2 and 12.1.7 must be met.

12.2 NONPAYMENT OF ASSESSMENTS.

12.2.1 Delinquency. Assessments are delinquent if not paid within fifteen (15) days after the due date established by the Association. Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges bear interest at the maximum rate permitted by law commencing thirty (30) days after the due date until paid. The Association may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 1366(d)(2). The Association need not accept any tender of a partial payment of an Assessment and all costs and attorneys' fees attributable thereto. Acceptance of any such tender does not waive the Association's right to demand and receive full payment.

12.2.2 Creation and Release of Lien.

(a) **Priority of Lien.** All liens levied in accordance with this Declaration shall be prior and superior to (i) any declaration of homestead Recorded after the Recordation of this Declaration, and (ii) all other liens, except (1) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority or seniority over other Mortgages) made in good faith and for value and Recorded before the date on which the "Notice of Delinquent Assessment" (described in this Section) against the respective Condominium was Recorded.

(b) **Prerequisite to Creating Lien.** Before the Association may place a lien on an Owner's Condominium to collect a past due Assessment, the Association shall send written notice ("Notice of Intent to Lien"), at least thirty (30) days prior to recording of such lien, to the Owner by certified mail which contains the following information: (i) the fee and penalty

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procedure of the Association, (ii) an itemized statement of the charges owed by the Owner, including the principal owed, any late charges, any interest, and the method of calculation, any attorneys' fees, (iii) the collection practices used by the Association, (iv) a statement that the Association may recover reasonable costs of collecting past due Assessments, (v) a statement that the Owner has the right to inspect the Association's records, pursuant to California Corporations Code Section 8333, (vi) the following statement in 14-point boldface type or all capital letters: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION," (vii) a statement that the Owner shall not be liable to pay the charges, interest and costs of collection if it is determined the Assessment was paid on time to the Association, and (viii) a statement that the Owner has the right to request a meeting with the Board, as provided by California Civil Code Section 1367.1(c) and Section 12.2.2(d) below.

(c) *Dispute by Owner.* An Owner may dispute the Notice of Intent to Lien by submitting to the Board a written explanation of the reasons for the Owner's dispute. The Board shall respond in writing to the Owner within fifteen (15) days of the date of the postmark of the explanation, if the explanation is mailed within fifteen (15) days of the postmark of the Notice of Intent to Lien.

(d) *Owner's Right to Request Meeting.* An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt noticed in Section 12.2.2(b) above. The Association shall provide the Owner with the standards for payment plans, if any exist. The Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days of the date of the postmark of the Notice of Intent to Lien, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more members to meet with the Owner.

(e) *Notice of Delinquent Assessment.* The lien becomes effective on Recordation by the Board or its authorized agent of a Notice of Delinquent Assessment ("Notice of Delinquent Assessment") as provided in Section 1367 or 1367.1 of the California Civil Code. The Notice of Delinquent Assessment must identify (i) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and Recording the Notice of Delinquent Assessment, (ii) the amount of collection costs incurred, including reasonable attorneys' fees, (iii) a sufficient description of the Condominium that has been assessed, (iv) the Association's name and address, (v) the name of the Owner of the Condominium that has been assessed, and (vi) if the lien is to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent and must be mailed in the manner required by Section 2924b of the California Civil Code to the Owner of record of the Condominium no later than ten (10) calendar days after Recordation. The lien relates only to the individual Condominium against which the Assessment was levied and not to the Properties as a whole.

(f) *Exceptions.* Assessments described in Section 1367.1(e) of the California Civil Code and Section 2792.26(c) of the California Code of Regulations may not become a lien against an Owner's Condominium enforceable by the sale of the Condominium under Sections 2924, 2924(b) and 2924(c) of the California Civil Code.

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(g) **Release of Lien.** Within twenty-one (21) days of payment of the full amount claimed in the Notice of Delinquent Assessment, or other satisfaction thereof, the Board shall cause to be Recorded a Notice of Satisfaction and Release of Lien ("**Notice of Release**") stating the satisfaction and release of the amount claimed. The Association shall provide the Owner with a copy of the Notice of Release or any other notice that the full amount claimed in the Notice of Delinquent Assessment has been satisfied. The Board may require the Owner to pay a reasonable charge for preparing and Recording the Notice of Release. Any purchaser or encumbrancer who has acted in good faith and extended value may rely on the Notice of Release as conclusive evidence of the full satisfaction of the sums identified as owed in the Notice of Delinquent Assessment.

12.2.3 Enforcement of Liens. The Board shall enforce the collection of amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration. The lien on a Condominium may be enforced by foreclosure and sale of the Condominium after failure of the Owner to pay any Assessment or installment thereof as provided in this Declaration. The sale shall be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in Mortgages, or in any manner permitted by law. The Association (or any Owner if the Association refuses to act) may sue to foreclose the lien if (a) at least thirty (30) days have elapsed since the date on which the Notice of Delinquent Assessment was Recorded and (b) at least ten (10) days have elapsed since a copy of the Notice of Delinquent Assessment was mailed to the Owner affected thereby. The Association may bid on the Condominium at foreclosure sale, and acquire and hold, lease, mortgage and convey the same. On completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Condominium, and the defaulting Owner shall be required to pay the reasonable rental value for the Condominium during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. A suit to recover a money judgment for unpaid Assessments may be brought without foreclosing or waiving any lien securing the same, but this provision or any suit to recover a money judgment does not affirm the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

12.2.4 Priority of Assessment Lien. Mortgages Recorded before a Notice of Delinquent Assessment have lien priority over the Notice of Delinquent Assessment. Sale or transfer of any Condominium does not affect the Assessment lien, except that the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage extinguishes the lien of such Assessments as to payments which became due before such sale or transfer. No sale or transfer relieves such Condominium from liens for any Assessments thereafter becoming due. No Person who obtains title to a Condominium pursuant to a judicial or nonjudicial foreclosure of the first Mortgage is liable for the share of the Common Expenses, Lofts Special Benefit Expenses or Assessments chargeable to such Condominium which became due before the acquisition of title to the Condominium by such Person. Such unpaid share of Common Expenses, Lofts Special Benefit Expenses or Assessments is a Common Expense collectible from all Owners including such Person. The Association may take such action as is necessary to make any Assessment lien subordinate to the interests of the Department Veterans Affairs of the State of California under its Cal-Vet loan contracts as if the Cal-Vet loan contracts were first Mortgages of record.

12.2.5 Alternative Dispute Resolution. An Owner may dispute the Assessments imposed by the Association if such Owner pays in full (a) the amount of the Assessment in dispute,

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(b) any late charges, (c) any interest, and (d) all reasonable fees and costs associated with preparing and filing a Notice of Delinquent Assessment (including mailing costs and reasonable attorneys' fees not to exceed the maximum amount allowed by law), and states by written notice that such amount is paid under protest, and the written notice is mailed by certified mail not more than thirty (30) days after Recording the Notice of Delinquent Assessment. On receipt of the written notice, the Association shall inform the Owner in writing that the dispute may be resolved through alternative dispute resolution as established in Civil Code Sections 1363.810 and 1369.510 *et seq.* The right of any Owner to use alternative dispute resolution under this Section may not be exercised more than two (2) times in any single calendar year, and not more than three (3) times within any five (5) calendar years unless the Owner and the Association mutually agree to use alternative dispute resolution when this limit is exceeded. An Owner may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Association in the total amount paid under items (a) through (d) above, if it is determined that the Assessment levied by the Association was not correctly levied.

12.2.6 Receivers. In addition to the foreclosure and other remedies granted the Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Condominium, conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Condominium, subject to the right of the Association to collect and apply such rents, issues and profits to any delinquent Assessments owed by such Owner, reserving to the Owner the right, before any default by the Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. On any such default the Association may, on the expiration of thirty (30) days following delivery to the Owner of the "Notice of Delinquent Assessment" described in this Declaration, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described in this Declaration, (a) enter in or on and take possession of the Condominium or any part thereof, (b) in the Association's name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses of operation, to any delinquencies of the Owner, and in such order as the Association may determine. The entering upon and taking possession of the Condominium, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default under this Declaration or invalidate any act done pursuant to such notice.

12.3 ENFORCEMENT OF CERTAIN BONDED OBLIGATIONS.

12.3.1 Consideration by the Board If (a) the Common Property Improvements are not completed before the issuance of a Final Subdivision Public Report for the Community by DRE, and (b) the Association is obligee under a bond or other arrangement ("**Bond**") required by DRE to secure performance of Declarant's commitment to complete such Improvements, then 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 such 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 Property Improvement, then the Board shall be directed to consider and vote on the question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

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12.3.2 **Consideration by the Owners.** A special meeting of Owners for voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or the Board's failure to consider and vote on the question shall be held no fewer than thirty-five (35) nor more than forty-five (45) days after the Board receives a petition for such a meeting signed by Owners representing five percent (5%) of the Association's total voting power. A vote of a majority of the Association's voting power residing in Owners 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 such decision by initiating and pursuing appropriate action in the Association's name.

12.4 **ALTERNATIVE DISPUTE RESOLUTION.**

12.4.1 **Right to Repair Law.** Each Owner, by acceptance of a deed to a Unit, acknowledges that the California State Legislature adopted SB 800, then called the "Right to Repair" bill, in its 2002 legislative session. Effective January 1, 2003, this bill became California Civil Code Sections 895 et seq. ("**Right to Repair Law**"), which among other things established functionality standards relating to original construction intended to be sold as dwelling units. The Right to Repair Law also authorizes a builder of such dwelling units to elect to follow certain pre-litigation procedures in the event of an alleged violation of the Right to Repair Law, which are set forth in California Civil Code Sections 910 - 938.

12.4.2 **Receipt of Written Warranties; Disclaimer; Buyer Waiver of Warranties.** Each Owner, by acceptance of a deed to a Unit, and the Association, upon acceptance thereof, as applicable, acknowledge that DECLARANT HAS PROVIDED SUCH OWNER AND THE ASSOCIATION WITH DECLARANT'S LIMITED WARRANTY AGREEMENT (THE "**KB LIMITED WARRANTY**") AND/OR THE HOME BUILDER'S LIMITED WARRANTY ("**EXPRESS LIMITED WARRANTY**"), AND A HOMESOWNER MAINTENANCE GUIDE (THE "**HOMESOWNER MAINTENANCE GUIDE**"). THE KB LIMITED WARRANTY AND THE EXPRESS LIMITED WARRANTY ARE THE ONLY WARRANTIES OFFERED BY DECLARANT IN CONNECTION WITH THE COMMUNITY OF WHICH THE UNITS AND COMMON PROPERTY (THE "**COMMUNITY**") ARE A PART. TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, HABITABILITY, QUALITY OF CONSTRUCTION, USE, WORKMANSHIP AND FITNESS FOR A PARTICULAR PURPOSE, HAVE BEEN AND ARE HEREBY DISCLAIMED AND EXCLUDED BY DECLARANT, AND THE ASSOCIATION AND EACH OWNER, BY ACCEPTANCE OF A DEED TO A UNIT, SHALL BE DEEMED TO HAVE WAIVED SAME. OTHER THAN THE KB LIMITED WARRANTY AND THE EXPRESS LIMITED WARRANTY, DECLARANT IS MAKING NO OTHER REPRESENTATIONS, PROMISES, OR WARRANTIES OF ANY KIND WITH RESPECT TO ANY UNIT AND/OR THE COMMUNITY. Further, the Association and each Owner, by acceptance of a deed to a Unit, acknowledge that neither the KB Limited Warranty nor the Express Limited Warranty is an "Enhanced Protection Agreement" under the Right to Repair Law and in no way affect the rights and obligations of any parties under the Right to Repair Law. BY ACCEPTANCE OF A GRANT DEED TO A UNIT WITHIN THE COMMUNITY, EACH OWNER AUTHORIZES THE ASSOCIATION TO REGISTER FOR, AND THEREBY ENTER INTO, THE EXPRESS LIMITED WARRANTY AND TO TAKE ANY AND ALL OTHER STEPS NECESSARY TO OBTAIN COVERAGE FOR THE ASSOCIATION UNDER THE EXPRESS LIMITED WARRANTY.

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12.4.3 Maintenance and Preventive Maintenance Requirements. Declarant has provided maintenance and preventive maintenance requirements that pertain to the Units, including without limitation, the Homeowner Maintenance Guide. Notwithstanding the foregoing, Declarant shall have the right, but not the obligation, by written notice to an applicable Owner, to supplement and/or amend such maintenance and preventive maintenance requirements from time to time. Each Owner, by acceptance of a deed to a Unit, acknowledges and agrees that such Owner shall faithfully follow all such maintenance and preventive maintenance requirements and shall cause any tenant or occupant of the Unit to faithfully follow all such requirements.

12.4.4 Obligation to Provide Documents to Subsequent Purchasers And Information To Declarant. As to any documents provided pursuant hereto, or in conjunction herewith, including, without limitation, the Homeowner Maintenance Guide, the KB Limited Warranty and the Express Limited Warranty, each Owner shall provide copies of such documents to any subsequent purchasers upon such Owner's resale of its Unit. Each Owner is obligated to provide Declarant promptly at the time of the sale with the name(s) of any subsequent purchasers upon any such resale of such Owner's Unit.

12.4.5 Recordation of Documents. Declarant may, at Declarant's election, but shall not be obligated to, record against title to any Unit or Common Property (or record notice of the existence of) the KB Limited Warranty, the Express Limited Warranty, the Homeowner Maintenance Guide and such other documents as may be reasonably necessary to effectuate the intent and purposes of the KB Limited Warranty, the Express Limited Warranty, the Homeowner Maintenance Guide.

12.4.6 Consumer Products: Consumer Goods. Neither the KB Limited Warranty nor the Express Limited Warranty covers any appliance, equipment, or other items which are "consumer goods" for purposes of the Magnusson-Moss Warranty Act, 15 U.S. Section 2301, et seq., or which are "consumer goods" for purposes of the Song-Beverly Consumer Warranty Act, California Civil Code Sections 1790, et seq. The only warranties of such consumer products or goods are those which the manufacturer provides to Declarant, who in turn furnishes a copy of such warranties to each Owner and the Association, as applicable. NOTWITHSTANDING THE FOREGOING, DECLARANT DOES NOT ASSUME ANY OBLIGATION TO SERVICE OR REPAIR SUCH PRODUCTS. THEY ARE INCLUDED ON AN "AS IS" BASIS WITH EACH OWNER THEREOF ASSUMING THE ENTIRE COST OF NECESSARY SERVICE, REPAIR, OR REPLACEMENT IN THE EVENT OF DEFECT IN QUALITY OR PERFORMANCE. EACH OWNER THEREOF SHALL FAITHFULLY FOLLOW ALL MAINTENANCE, PREVENTIVE MAINTENANCE AND WARRANTY INFORMATION WITH RESPECT TO SUCH PRODUCTS AND SHALL CAUSE ANY TENANT OR OCCUPANT OF SUCH OWNER'S UNIT TO FAITHFULLY FOLLOW ALL SUCH REQUIREMENTS

12.4.7 Pre-Arbitration Dispute Resolution Procedures.

(a) *Express Limited Warranties.* For all disputes under the KB Limited Warranty, the pre arbitration procedures set forth in the KB Limited Warranty shall apply. For all disputes under the Express Limited Warranty, the pre-arbitration procedures set forth in the Express Limited Warranty shall apply.

(b) *Claims Under Right to Repair Law.* As permitted by Civil Code Sections 895 et seq. of the Right to Repair Law, Declarant hereby notifies each Owner and the

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Association of the existence of the procedures set forth in Sections 910-938 of the Right to Repair Law and further that Declarant, and its affiliated general contractor, if any, elect to follow Civil Code Sections 910-938 regarding any claim for Declarant's alleged violation of the Right to Repair Law. The Right to Repair Law impacts the legal rights of each Owner and the Association. Declarant has provided each Owner and the Association with a copy of the Right to Repair Law. Each Owner shall provide such documents to any successor-in-interest and/or subsequent purchaser of such Owner's Unit. Declarant has provided each Owner and the Association with a blank copy of a Notice of Non-adversarial Procedure, Notice to Successors-In-Interest and Subsequent Purchasers, Notice of Builder's (Declarant's) Agent for Notice Under Civil Code Section 912, which will be recorded against each Owner's Unit (and/or the Community as a whole).

(c) ***Other Disputes; Mediation; Arbitration.*** For all disputes other than under the KB Limited Warranty, the Express Limited Warranty and the Right to Repair Law, Declarant, the Association and each Owner, by acceptance of a deed to a Unit, agree to follow the following procedures:

(i) ***Notification.*** The Owner and/or Association, as applicable, shall provide Declarant with written notice of any matters relating to a dispute as soon as is reasonably possible after such Owner and/or Association, as applicable, become aware, or should have become aware, of such matters and dispute.

(ii) ***Mediation.*** Upon their mutual agreement, Declarant and the applicable Owner and/or Association, as applicable, may agree to voluntary mediation of a dispute before a mutually-agreable neutral mediator, in which case, Declarant shall pay the mediator's fees for a one-half day mediation session. A decision to mediate or not to mediate by either party is without prejudice to either party's rights.

(iii) ***Cooperation; Access; Repair.*** Each Owner and/or the Association shall provide Declarant and its representatives, contractors, and others as Declarant may request, with prompt, reasonable cooperation, which may, for example, include access to the Unit and/or applicable Common Property, in order to facilitate Declarant's investigation regarding the dispute and the opportunity to resolve, repair and/or correct any condition that is the subject of the dispute.

(iv) **ARBITRATION OF DISPUTES.**

(1) ANY AND ALL CLAIMS, CONTROVERSIES, BREACHES, OR DISPUTES (EACH A "*DISPUTE*") BY OR BETWEEN AN OWNER, THE ASSOCIATION AND/OR DECLARANT, EXCEPT FOR DISPUTES WHICH ARE SUBJECT TO ARBITRATION PURSUANT TO THE ARBITRATION AGREEMENTS CONTAINED IN THE EXPRESS LIMITED WARRANTY OR THE KB HOME LIMITED WARRANTY, ARISING OUT OF OR RELATED TO, THE COMMUNITY, OR ANY TRANSACTION RELATED THERETO, WHETHER SUCH DISPUTE IS BASED ON CONTRACT, TORT, STATUTE, OR EQUITY, INCLUDING, WITHOUT LIMITATION, ANY DISPUTE OVER (1) BREACH OF CONTRACT, (2) NEGLIGENT OR INTENTIONAL MISREPRESENTATION OR FRAUD, (3) NONDISCLOSURE, (4) BREACH OF ANY ALLEGED DUTY OF GOOD FAITH AND FAIR DEALING, (5) ANY CLAIM RELATED TO CONSTRUCTION OR INSTALLATION OF ANY IMPROVEMENTS, GRADING, OR ANY WORK OR SERVICES PERFORMED BY OR ON BEHALF OF DECLARANT ON OR

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IN CONNECTION WITH THE COMMUNITY, INCLUDING, WITHOUT LIMITATION, CLAIMS OF ANY ALLEGED DESIGN OR CONSTRUCTION DEFECT, OR (6) ANY OTHER MATTER ARISING OUT OF OR RELATED TO THE INTERPRETATION OF ANY TERM OR PROVISION OF THIS DECLARATION, ANY AGREEMENT BETWEEN SUCH PARTIES, OR ANY DEFENSE GOING TO THE FORMATION OR VALIDITY OF ANY SUCH AGREEMENT, OR ANY PROVISION OF THIS DECLARATION, INCLUDING, WITHOUT LIMITATION, ALLEGATIONS OF UNCONSCIONABILITY, FRAUD IN THE INDUCEMENT, OR FRAUD IN THE EXECUTION, SHALL BE ARBITRATED PURSUANT TO THE FEDERAL ARBITRATION ACT AND SUBJECT TO THE PROCEDURES SET FORTH IN THIS SECTION. THIS ARBITRATION AGREEMENT SHALL BE DEEMED TO BE A SELF-EXECUTING ARBITRATION AGREEMENT. ANY DISPUTE CONCERNING THE INTERPRETATION OR THE ENFORCEABILITY OF THIS DECLARATION OR ANY AGREEMENT BETWEEN THE PARTIES, INCLUDING, WITHOUT LIMITATION, REVOCABILITY OR VOIDABILITY FOR ANY CAUSE, ANY CHALLENGES TO THE ENFORCEMENT OR THE VALIDITY OF THIS DECLARATION OR ANY SUCH AGREEMENT, OR THIS SECTION, OR THE SCOPE OF ARBITRABLE ISSUES UNDER THIS SECTION, AND ANY DEFENSE RELATING TO THE ENFORCEMENT OF THIS SECTION, INCLUDING, WITHOUT LIMITATION, WAIVER, ESTOPPEL, OR LACHES, SHALL BE DECIDED BY AN ARBITRATOR IN ACCORDANCE WITH THIS SECTION AND NOT BY A COURT OF LAW.

(2) ALL SUCH DISPUTES SHALL BE SUBMITTED TO BINDING ARBITRATION BY AND PURSUANT TO THE RULES AND PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") IN EFFECT AT THE TIME THE REQUEST FOR ARBITRATION IS SUBMITTED. IN THE EVENT AAA IS FOR ANY REASON UNWILLING OR UNABLE TO SERVE AS THE ARBITRATION SERVICE, THE PARTIES SHALL SELECT ANOTHER REPUTABLE ARBITRATION SERVICE. IF THE PARTIES ARE UNABLE TO AGREE ON AN ALTERNATIVE SERVICE, THEN EITHER PARTY MAY PETITION ANY COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE COMMUNITY IS LOCATED TO APPOINT SUCH AN ALTERNATIVE SERVICE, WHICH SHALL BE BINDING ON THE PARTIES. THE RULES AND PROCEDURES OF SUCH ALTERNATIVE SERVICE IN EFFECT AT THE TIME THE REQUEST FOR ARBITRATION IS SUBMITTED SHALL BE FOLLOWED.

(3) GENERAL ARBITRATION PROVISIONS.

a. Declarant, the Association, and each Owner, by acceptance of a deed to a Unit, expressly agree and acknowledge that this Declaration and matters involving the Community involve and concern interstate commerce and is governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect and as the same may from time to time be amended, to the exclusion of any different or inconsistent state or local law, ordinance, regulation, or judicial rule. Accordingly, any and all Disputes shall be arbitrated - which arbitration shall be mandatory and binding - pursuant to the Federal Arbitration Act.

b. To the extent that any state or local law, ordinance, regulation, or judicial rule shall be inconsistent with any provision of the rules of the

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arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding

c. This Section shall inure to the benefit of, and be enforceable by, Declarant's contractors, subcontractors, agents, vendors, suppliers, design professionals, insurers, and any other person whom an Owner or the Association contends is responsible for all or any portion of a Dispute.

d. In the event any Dispute is submitted to arbitration, each party shall bear its own attorneys' fees and costs (including expert costs) for the arbitration.

e. The arbitrator shall be authorized to provide all recognized remedies available in law or in equity for any cause of action that is the basis of the arbitration. The decision of the arbitrator shall be final and binding. An application to confirm, vacate, modify, or correct an award rendered by the arbitrator shall be filed in any court of competent jurisdiction in the county in which the Community is located

f. The participation by any party in any judicial or other proceeding relating to any matter arbitrable hereunder shall not be asserted or accepted as a reason to delay or to refuse to participate in arbitration hereunder, or to refuse to enforce this Section.

g. The fees to initiate the arbitration shall be advanced by Declarant. Subsequent fees and costs of the arbitration and/or the arbitrator shall be borne equally by the parties to the arbitration; provided, however, that the fees and costs of the arbitration and/or the arbitrator ultimately shall be borne as determined by the arbitrator.

h. The arbitrator appointed to serve shall be a neutral and impartial individual.

i. The venue of the arbitration shall be in the county where the Community is located unless the parties agree in writing to another location

j. If any provision of this Section shall be determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

k. EACH OWNER, BY ACCEPTANCE OF A DEED TO A UNIT, AND THE ASSOCIATION, AGREE TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS SECTION ENTITLED "ARBITRATION OF DISPUTES" DECIDED BY NEUTRAL, BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND CALIFORNIA ARBITRATION LAW, TO THE EXTENT CALIFORNIA LAW IS NOT INCONSISTENT WITH THE FEDERAL ARBITRATION ACT, AND SUCH PARTIES ARE GIVING UP ANY RIGHTS THEY MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. SUCH PARTIES ARE GIVING UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS SECTION ENTITLED "ARBITRATION OF DISPUTES" IF ANY

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OWNER, THE ASSOCIATION OR DECLARANT REFUSES TO SUBMIT TO ARBITRATION, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND CALIFORNIA LAW, TO THE EXTENT CALIFORNIA LAW IS NOT INCONSISTENT WITH THE FEDERAL ARBITRATION ACT.

(v) Bench Trial Waiver Of Jury Trial. IN THE EVENT THE FOREGOING ARBITRATION PROVISION IS HELD NOT TO APPLY AND/OR IS HELD INVALID, VOID OR UNENFORCEABLE FOR ANY REASON, ALL DISPUTES RELATING TO ANY UNIT, THE COMMON PROPERTY, AND/OR THE COMMUNITY, SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE COMMUNITY IS LOCATED, WITHOUT A JURY. THE JUDGE IN SUCH COURT OF COMPETENT JURISDICTION SHALL HAVE THE POWER TO GRANT ALL LEGAL AND EQUITABLE REMEDIES AND AWARD DAMAGES. EACH OWNER, BY ACCEPTANCE OF A DEED TO A UNIT, THE ASSOCIATION AND DECLARANT EACH SHALL BE DEEMED TO HAVE WAIVED AND SHALL NOT ASSERT ANY CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTE, INCLUDING, WITHOUT LIMITATION, DISPUTES RELATING TO DESIGN AND CONSTRUCTION DEFECTS NOT SUBJECT TO ARBITRATION UNDER THE EXPRESS LIMITED WARRANTY AND/OR THE KB HOME LIMITED WARRANTY, MISREPRESENTATION OR DECLARANT'S FAILURE TO DISCLOSE MATERIAL FACTS. SUCH MUTUAL WAIVER OF JURY TRIAL SHALL BE BINDING UPON THE RESPECTIVE SUCCESSORS AND ASSIGNS OF SUCH PARTIES AND UPON ALL PERSONS AND ENTITIES ASSERTING RIGHTS OR CLAIMS OR OTHERWISE ACTING ON BEHALF OF ANY SUCH PARTIES AND/OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

12.4.3 Notices. Any notice, claim or request for information pursuant to California Civil Code Section 895 et seq., and any successor statutes or laws, shall be submitted to:

KB HOME
Attention: Dave Simons, Vice-President
Legal and Consumer Affairs
10990 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90024

This contact information is subject to change. The name and address of Declarant's agent under California Civil Code Section 912(e) is also available at the Office of the California Secretary of State. To ensure that a notice pursuant to California Civil Code Section 895 et seq., and any successor statutes or laws, is delivered to Declarant at its correct address, Owner shall confirm the current name and address of Declarant's agent with the Secretary of State before delivering such notice. This information can be provided by a written request to:

California Secretary of State
Special Filings Unit
P.O. Box 942877
Sacramento, California 94277
or by telephone at (916) 653-3984.

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All other notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by registered or certified mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid. Any such notice shall be directed to the address of the party to whom intended as follows:

If to Declarant: KB HOME Greater Los Angeles
27240 Tumberry Lane, Suite 100
Valencia, CA 91355

If to an Owner: To the street address of the Unit

ARTICLE XIII DURATION AND AMENDMENT

13.1 **DURATION.** This Declaration shall continue in full force unless a declaration of termination satisfying the requirements of an amendment to this Declaration established in Section 13.2 is Recorded.

13.2 **TERMINATION AND AMENDMENT.**

13.2.1 **Board Approved Amendments.** The Board may amend this Declaration and any Supplemental Declaration, without the consent of the Owners or the Mortgagees, by Recording a written instrument signed by two officers of the Association certifying that the Board approved the amendment in order to (i) conform this Declaration to applicable law, (ii) correct typographical errors, and (iii) change any exhibit to this Declaration or portion of an exhibit to conform to as-built conditions. So long as Declarant owns any portion of the Community, the Board must obtain Declarant's consent to any amendment the Board approves pursuant to this Section.

13.2.2 **Further Approvals Required.** Notwithstanding anything to the contrary contained in this Declaration, Sections 1.1.8, 1.1.36, 1.1.43, 4.2, 4.2.12, 4.2.13, 4.4.2, 4.4.3, 4.5.2 and 12.4 of this Declaration shall not be amended without the vote or approval by written ballot of at least (a) fifty-one percent (51%) of the voting power of the Members of the Association other than Declarant, and (b) at least fifty-one percent (51%) of the Mortgagees.

13.2.3 **Amendment by Declarant.** Declarant has the power to amend this Declaration and any Supplemental Declaration, as authorized in Section 15.7.

13.2.4 **Other Amendments.** For amendments not described in Sections 13.2.1 or 13.2.2, notice of the subject matter of the proposed amendment to this Declaration or any Supplemental Declaration in reasonably detailed form must be included in the notice of any Association meeting or election at which a proposed amendment is to be considered. To be effective, a proposed amendment must be adopted by the vote, in person or by proxy, or written consent of Owners representing not less than (i) sixty-seven percent (67%) of the voting power of each Class of the Association and (ii) sixty-seven percent (67%) of the Association's voting power represented by Owners other than Declarant, provided that the specified percentage of the Association's voting power necessary to amend a specific provision of this Declaration may not be

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less than the percentage of affirmative votes prescribed for action to be taken under the provision that is the subject of the proposed amendment

13.2.5 Mortgagee Consent. In addition to the notices and consents required by Section 13.2.1, the Mortgagees of fifty-one percent (51%) of the first Mortgages on all the Condominiums in the Community who have requested the Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees must approve any amendment to this Declaration which is of a material nature, as follows:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Mortgagees, insurers or guarantors of first Mortgages.

(b) Any amendment which would require a Mortgagee after it has acquired a Condominium through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing before such foreclosure

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

(d) Any amendment relating to (i) the insurance provisions in Article VIII, (ii) the application of insurance proceeds in Article IX, or (iii) the disposition of any money received in any taking under condemnation proceedings.

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

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

(g) Any amendment concerning:

- (i) Voting rights;
- (ii) Rights to use the Common Property;
- (iii) Reductions in reserves for maintenance, repair and replacement of the Common Property;
- (iv) Responsibility for maintenance and repairs;
- (v) Redefinition of boundaries of any Unit;
- (vi) Reallocation of interests in the Common Area or rights to its use;
- (vii) Convertibility of Common Property into Units or Units into Common Property;
- (viii) Imposition of restrictions on leasing of Units;

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(ix) Establishment of self-management by the Association if professional management has been required by the Restrictions or any Mortgagee of a first Mortgage;

(x) Expansion or contraction of the Community or addition, annexation or deannexation of real property to or from the Community;

(xi) Increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment liens, or the priority of such liens; or

(xii) Restoration or repair of the Community (after damage or partial condemnation) in a manner other than that specified in this Declaration.

13.2.6 Termination Approval. Termination of this Declaration requires the approval required by Section 13.2.3. No such termination is effective unless it is also approved in advance either by fifty-one percent (51%) of the Mortgagees of the first Mortgages on all Condominiums in the Community who have submitted a written request to the Association that they be notified of proposed actions requiring the consent of a specified percentage of such Mortgagees (if termination is proposed due to substantial destruction or condemnation of the Community) or by sixty-seven percent (67%) of such Mortgagees (if termination is for reasons other than such substantial destruction or condemnation).

13.2.7 Notice to Mortgagees. Each Mortgagee of a first Mortgage on a Condominium in the Community which receives proper written notice of a proposed amendment or termination of this Declaration or any Supplemental Declaration with a return receipt requested is deemed to have approved the amendment or termination if the Mortgagee fails to submit a response to the notice within thirty (30) days after the Mortgagee receives the notice.

13.2.8 Certificate A copy of each amendment must be certified by at least two (2) Association officers. The amendment becomes effective when a Certificate of Amendment is Recorded. The certificate, signed and sworn to by two (2) Association officers that the requisite number of Owners and Mortgagees have approved the amendment, when Recorded, is conclusive evidence of that fact. The Association shall keep in its files for at least four (4) years the record of all such approvals. The certificate reflecting any termination or amendment which requires the written consent of any of the Mortgagees of first Mortgages must include a certification that the requisite approval of such first Mortgagees was obtained

13.2.9 Master Approval. All amendments to this Declaration must be approved in writing in advance by the "Declarant" defined in the Master Declaration. The Declarant under the Master Declaration may assign its right to approve amendments to this Master Declaration to the Master Association by a written assignment.

ARTICLE XIV GENERAL PROVISIONS

14.1 MERGERS OR CONSOLIDATIONS. In a merger or consolidation of the Association with another association, its Community, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the Community, rights and obligations of another association may, by operation of law, be added to the Community,

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rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community, together with the covenants and restrictions established on any other property, as one (1) plan.

14.2 NO PUBLIC RIGHT OR DEDICATION. Nothing in this Declaration is a gift or dedication of all or any part of the Community to the public, or for any public use.

14.3 NOTICES. Except as otherwise provided in this Declaration, notice to be given to an Owner must be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one (1) or more co-Owners, or any general partner of a partnership owning a Condominium, constitutes delivery to all Owners. Personal delivery of such notice to any officer or agent for the service of process on a corporation or limited liability company constitutes delivery to the corporation or limited liability company. Such notice may also be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address has been furnished, to the street address of such Owner's Condominium. Such notice is deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Owners or of the Board, in which case the notice provisions of the Bylaws control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed and circulated to all Owners.

14.4 CONSTRUCTIVE NOTICE AND ACCEPTANCE. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Condominium or other portion of the Community does consent and agree, and shall be conclusively deemed to have consented and agreed, in every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to these restrictions is in the instrument by which such person acquired an interest in the Community.

ARTICLE XV DECLARANT'S RIGHTS AND RESERVATIONS

If there is a conflict between any other portion of the Restrictions and this Article, this Article shall control.

15.1 CONSTRUCTION RIGHTS. Declarant has the right to (a) subdivide or resubdivide the Community, (b) complete or modify Improvements to and on the Common Property or any portion of the Community owned solely or partially by Declarant, (c) alter Improvements and Declarant's construction plans and designs, (d) modify Declarant's development plan for the Community, including the Units and Common Property therein, and constructing Residences of larger or smaller sizes, values, and of different types, and (e) construct such additional Improvements as Declarant considers advisable in the course of development of the Community so long as any Condominium in the Community remains unsold. Declarant may temporarily erect barriers or close and restrict access to portions of the Common Property when reasonably necessary to allow Declarant to exercise the rights reserved in this Section so long as an Owner's access to his Condominium is not eliminated.

15.2 SALES AND MARKETING RIGHTS. Declarant may use any Condominiums owned or leased by Declarant in the Community as model home complexes and real estate sales,

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resale or leasing offices for Condominiums located in the Community, or for homes constructed by Declarant or an affiliated entity and located within Playa Vista ("Other Homes"). Declarant's rights under this Declaration include, but are not limited to, the right to install and maintain within the Association Property such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary to conduct Declarant's business of completing the work and disposing of the Condominiums, or the Other Homes, by sale, resale, lease or otherwise.

15.3 CREATING ADDITIONAL EASEMENTS. At any time before acquisition of title to a Condominium in the Community by a purchaser from Declarant, Declarant has the right to establish on that Condominium additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as Declarant determines are reasonably necessary to the Community's proper development and disposal.

15.4 ARCHITECTURAL RIGHTS. Declarant and any Person to whom Declarant may assign all or a portion of its exemption under this Declaration need not seek or obtain Architectural Review Committee approval of any Improvements constructed anywhere in the Community by Declarant or such Person. Declarant may exclude portions of the Community from jurisdiction of the Architectural Review Committee in an applicable Supplemental Declaration. Declarant may, at its option, establish an additional Architectural Review Committee for any area exempted from the jurisdiction of the Architectural Review Committee.

15.5 USE RESTRICTION EXEMPTION. Declarant and any Person to whom Declarant may assign all or a portion of its exemption under this Declaration is exempt from the restrictions established in Article II.

15.6 ASSIGNMENT OF RIGHTS. Declarant may assign its rights under the Restrictions to any successor in interest to any portion of Declarant's interest in the Community by a written assignment.

15.7 AMENDMENTS. No amendment may be made to this Article without the prior written approval of Declarant. At any time before the first Close of Escrow in the Community, Declarant may unilaterally amend or terminate all or a portion of this Declaration by Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant. For so long as Declarant owns any portion of the Community, Declarant may unilaterally amend all or a portion of this Declaration and any Supplemental Declaration by Recording a written instrument signed by Declarant to (a) conform this Declaration to the rules, regulations or requirements of VA, FHA, DRE, Fannie Mae, Ginnie Mae or Freddie Mac, (b) amend Article III, (c) amend any of the Exhibits to this Declaration that depict portions of the Community that have not been subject to a Close or Escrow or conveyed to the Association, as applicable, (d) amend those portions of the Exhibits to this Declaration that depict Exclusive Use Area parking spaces assigned to Condominiums provided that if Declarant is not the Condominium Owner, the amendment is also executed by the Owner of the Condominium for which an Exclusive Use Area parking space assignment is being amended, (e) comply with any City, County, State or Federal laws or regulations, (f) correct any typographical errors, and (g) supplement this Declaration with provisions which pertain to rights and obligations of Declarant, the Association or Owners arising under Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code. There may be changes in the law which apply to the Community as an ongoing residential development prior to Declarant's conveyance of the last Unit in the Community. Declarant intends to comply with California Civil Code Section 895 et seq. which became effective January 1, 2003,

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and any successor statutes or laws. Owners shall reasonably cooperate with Declarant to execute any supplements or amendments to this Declaration which Declarant deems necessary for the implementation of California Civil Code Section 895 et seq., and any successor statutes or laws, or for any other changes in law relating to or affecting the Community.

15.8 EXERCISE OF RIGHTS. Each Owner grants an irrevocable, special power of attorney to Declarant to execute and Record all documents and maps necessary to allow Declarant to exercise its rights under this Article.

15.9 USE OF ASSOCIATION PROPERTY. Declarant and its prospective purchasers of Condominiums are entitled to the nonexclusive use of the Association Property without further cost for access, ingress, egress, use or enjoyment, to (a) show the Community to prospective purchasers, and (b) dispose of the Community as provided in this Declaration. Declarant, and prospective purchasers, are also entitled to the nonexclusive use of any portions of the Association Property which are private streets, drives and walkways for ingress, egress and accommodating vehicular and pedestrian traffic to and from the Community. The use of the Association Property by Declarant may not unreasonably interfere with the use thereof by the other Owners.

15.10 PARTICIPATION IN ASSOCIATION. The Association shall provide Declarant with written notice of the transfer of any Condominium and all notices and other documents to which a Mortgagee is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefor. Commencing on the date on which Declarant no longer has an elected representative on the Board, and continuing until the later to occur of the date on which Declarant no longer owns a Condominium in the Community, the Association shall provide Declarant with written notice of all meetings of the Board as if Declarant were an Owner and Declarant shall be entitled to have a representative present at all such Board meetings ("*Declarant's Representative*"). The Declarant's Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

15.11 DECLARANT APPROVAL OF ACTIONS.

15.11.1 General Rights. Until Declarant no longer owns a portion of the Community, Declarant's prior written approval is required for any amendment to the Restrictions which would impair or diminish Declarant's rights to complete the Community or sell or lease dwellings therein.

15.11.2 Limit on Actions. Until Declarant no longer owns any Condominiums in the Community, the following actions, before being undertaken by the Association, must first be approved in writing by Declarant:

- (a) Any amendment or action requiring the approval of first Mortgagees;
- (b) The annexation to the Community of real property;
- (c) The levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Common Property by Declarant;

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- (d) Any significant reduction of Association maintenance or other services;
- (e) Any modification or termination of any provision of the Restrictions benefiting Declarant; or
- (f) Any change to Section 12.4 or this Article 15.

15.12 MARKETING NAME. The Community shall be marketed under the general name "Lofts at Playa Vista and Park Houses at Playa Vista." Declarant may change the marketing name of the Community at any time in Declarant's sole discretion. Declarant shall notify the DRE of any change in or addition to the marketing name or names of the Community.

15.13 SPECIAL POWER OF ATTORNEY. Each Owner, by accepting and recording a Grant Deed to a Condominium in the Community, is deemed to constitute and irrevocably appoint Declarant, for so long as Declarant owns all or any portion of the Community as Owner's Attorney-in-Fact, for Owner and for each of Owner's mortgagees, optionees, Owners, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and each Owner is deemed thereby to have conveyed to Declarant a special power of attorney coupled with an interest authorizing Declarant to act as each Owner's attorney in fact to prepare, execute, acknowledge and record any amendment to or restatement of a Condominium Plan, as Declarant deems to be reasonably necessary in order to correct errors, to conform to as-built conditions, or to bring the Condominium Plan into compliance with any City, County, State or Federal laws or regulations. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

[SIGNATURES ON FOLLOWING PAGE]

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**[SIGNATURE PAGE TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND
RESERVATION OF EASEMENTS FOR LOFTS AT PLAYA VISTA AND PARK HOUSES AT PLAYA
VISTA]**

This Declaration is dated for identification purposes 7/1, 2005

CONCERT PARK SOUTH VENTURE LLC,
a Delaware limited liability company

By: KB Home Greater Los Angeles Inc.,
a California corporation
its Managing Member

By:

Thomas DiPrima

Name:

Thomas DiPrima

Title:

Division President

Declarant

STATE OF CALIFORNIA

COUNTY OF Los Angeles

ss.

On July 1, 2005, before me, Karen A DeFevers, Notary Public,
personally appeared Thomas DiPrima, personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is
subscribed to the within instrument and acknowledged to me that he/she executed the same in
his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity
upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Karen A. DeFevers
Notary Public in and for said State



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SUBORDINATION

The undersigned as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated July 2, 2003, and recorded on July 10, 2003, as Instrument No. 03-1963425, in Official Records of Los Angeles County, California (the "*Deed of Trust*"), which Deed of Trust is by and between Concert Park South Venture LLC, a Delaware limited liability company, as Trustor, and Stewart Title of California, Inc., a California corporation, as Trustee, and Playa Capital Company, LLC, a Delaware limited liability company, as Beneficiary, expressly subordinates said Deed of Trust and its beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as amended or restated ("*Declaration*"), the Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Playa Vista, as amended or restated ("*Master Declaration*") and defined in the Declaration, to any Supplemental Declaration as amended or restated ("*Supplemental Master Declaration*") and Recorded pursuant to the provisions of Article XVI of the Master Declaration, and to all easements to be conveyed to the Master Association or to the Association in accordance with the Master Declaration, the Declaration, or any Supplemental Master Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Community by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Master Declaration, the Declaration, and any applicable Supplemental Master Declaration, which shall remain in full force and effect.

Dated: July 19, 2005

PLAYA CAPITAL COMPANY, LLC,
a Delaware limited liability company

By: Randy Johnson

Print Name: Randy Johnson

Title: Sr. V.P./CFO

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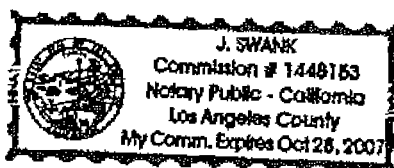
STATE OF CALIFORNIA

COUNTY OF Los Angeles

ss.

On July 19, 2005, before me, Judy Swank, Notary Public, personally appeared Randy Johnson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument

WITNESS my hand and official seal.



Judy Swank
Notary Public in and for said State

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SUBORDINATION

The undersigned as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated September 17, 2003, and recorded on September 18, 2003, as Instrument No. 03-2749341, in Official Records of Los Angeles County, California (the "*Deed of Trust*"), which Deed of Trust is by and between Concert Park South Venture LLC, a Delaware limited liability company, as Trustor, and Stewart Title of California, Inc., a California corporation, as Trustee, and California National Bank, a national banking association, as Beneficiary, expressly subordinates said Deed of Trust and its beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as amended or restated ("*Declaration*"), the Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Playa Vista, as amended or restated ("*Master Declaration*") and defined in the Declaration, to any Supplemental Declaration as amended or restated ("*Supplemental Master Declaration*") and Recorded pursuant to the provisions of Article XVI of the Master Declaration, and to all easements to be conveyed to the Master Association or to the Association in accordance with the Master Declaration, the Declaration, or any Supplemental Master Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Community by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Master Declaration, the Declaration, and any applicable Supplemental Master Declaration, which shall remain in full force and effect.

Dated: 7/5/05, 200

CALIFORNIA NATIONAL BANK,
a national banking association

By: Denise K. Schulz

Print Name: DENISE K. SCHULZ

Title: S.V.P.

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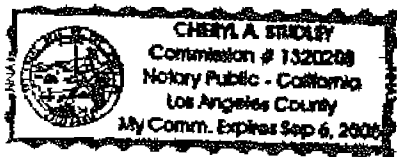
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

} ss.

On July 5, 2005, before me, CHERYL STUBLEY, NOTARY PUBLIC, personally appeared DENISE KAY SCHULZ, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Cheryl A. Stubley
Notary Public in and for said State

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EXHIBIT A
ARTICLES OF INCORPORATION OF THE ASSOCIATION

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State of California
Secretary of State



I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY - 2 2005

A handwritten signature of Bruce McPherson in cursive script.

BRUCE McPHERSON
Secretary of State

ARTICLES OF INCORPORATION
OF
PH&L COMMUNITY ASSOCIATION,
A California Nonprofit Mutual Benefit Corporation

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

APR 26 2005

I

The name of this corporation ("*Corporation*") is PH&L COMMUNITY ASSOCIATION.

II

- A. This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law.
- B. The specific purpose of this Corporation is to operate a homeowners association within the meaning of Section 237014 of the California Revenue and Taxation Code and Section 528 of the Internal Revenue Code and to manage a common interest development under the Davis-Stirling Common Interest Development Act.

III

The Corporation's initial agent for service of process is Mr. Ronald Martzel, 27240 Turnberry Lane, Suite 100, Valencia, California 91355.

IV

- A. The Corporation shall have and exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Mutual Benefit Corporation Law may now or hereafter have or exercise, provided that the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of the Corporation.
- B. No part of the activities of this Corporation shall consist of lobbying or propaganda, or otherwise attempting to influence federal, state or local legislation of any type. This Corporation shall not participate in or intervene in any political campaign (including publishing or distributing statements) on behalf of or in opposition to any candidate for political office or any proposed legislation.

V

- A. The classes of Membership and the voting and other rights and privileges of Members shall be as set forth in the Bylaws.
- B. So long as there are both Class A and Class B Memberships, amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of

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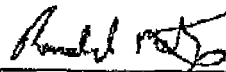
the Board of Directors of the Corporation, and (ii) Members representing a bare majority of the voting power of both Class A and Class B.

- C. After conversion of the Class B Membership to Class A Membership, amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, (ii) a bare majority of the total voting power of the Class A Membership, and (iii) Members representing a bare majority of the voting power of the Class A Membership other than the subdivider of the Community.

VI

The Corporation has no managing agent. The Corporation does not have a corporate office. The common interest development is located at the intersection of Pacific Promenade and Seabluff Drive, Los Angeles, California 90094-0000.

The undersigned, who is the incorporator of the Corporation, has executed these Articles of Incorporation on April 8, 2005.



Ronald Mertz, Incorporator



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EXHIBIT B
BYLAWS OF THE ASSOCIATION

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BYLAWS
OF
PH&L COMMUNITY ASSOCIATION

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CERTIFICATE OF SECRETARY

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BYLAWS

OF

PH&L COMMUNITY ASSOCIATION

ARTICLE I

PLAN OF CONDOMINIUM OWNERSHIP

1.1 DEFINITIONS AND INTERPRETATION. Unless otherwise provided in these Bylaws, the capitalized terms used in these Bylaws have the same meanings as in the Declaration. These Bylaws shall be interpreted in accordance with Section 1.2.1 to 1.2.4 of the Declaration.

1.2 NAME. The name of the corporation is PH&L Community Association. The principal office of the Association shall be located in the County.

1.3 APPLICATION. These Bylaws apply to the residential condominium project known as PH&L, located in the County. All Persons who use the facilities of the Community in any manner, are subject to the regulations in these Bylaws and in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for PH&L, Recorded in the Official Records of the County against the Community. Use of any Condominium in the Community signifies acceptance and ratification of these Bylaws.

ARTICLE II

BOARD OF DIRECTORS

2.1 NUMBER. The Board shall initially consist of five (5) Directors each of whom, except for those appointed and serving as first Directors, must be Owners or representatives of Declarant. The Board may, upon majority vote, elect to decrease the number of Directors to three (3) Directors (i) upon the conveyance under a Final Subdivision Public Report of the last Condominium owned by Declarant in the Community to an Owner, or (ii) at any time prior to such conveyance if the prior written consent of the Declarant has been obtained.

2.2 QUALIFICATIONS FOR HOLDING OFFICE.

2.2.1 Qualifications for Nominees to Office.

(a) Other than Declarant appointees, only Owners who meet the following criteria are qualified to be elected to the Board of Directors:

(b) The Owner must be in compliance with the Restrictions for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors. To be in compliance, the Owner must correct, within five (5) days of receipt of notice, any violation of the Restrictions for which the Owner has been determined to be responsible pursuant to applicable due process requirements.

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(c) The Owner must be current in the payment of all Assessments for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors.

2.2.2 Qualifications for Holding Office. In addition, to remain qualified to serve on the Board of Directors, an Owner who has been elected to the Board of Directors must:

(a) Attend no less than six (6) Board meetings, regular or special, within a twelve (12) month period and not more than two (2) consecutive, regularly scheduled Board meetings;

(b) Comply with every duly approved action of the Board;

(c) Comply with the Restrictions and correct, within five (5) days of receipt of notice, any violation of the Restrictions for which that Director has been determined to be responsible pursuant to applicable due process requirements;

(d) Not be more than three (3) months in arrears in the payment of any Assessment;

(e) Refuse any type of gain, such as money, services, products, gifts or gratuities of a significant value, as determined by a majority vote of the Directors who meet all of the required qualifications to serve as such, which gain is offered in relation to the Owner's service as a Director. In addition, the Owner must disclose such offers at an open meeting of the Board. Compensation for services duly approved by the Board and unrelated to duties as a Director or Officer of the Association, and reimbursement of expenses associated with services to the Association, do not constitute prohibited gain within the meaning of this subsection; and

(f) Not act in a manner determined by a majority vote of the Directors to be grossly detrimental to the general safety, health or welfare of the Association and its members.

2.3 ELECTION.

2.3.1 General Procedure. At each annual meeting of the Owners, the Owners shall elect new Directors to fill vacancies on the Board. If an annual meeting is not held, or all positions on the Board are not filled at the annual meeting, the vacancies may be filled in accordance with the procedure set in Section 2.6.

2.3.2 Voting. Voting shall be by secret written ballot. An Owner may cumulate his votes for any candidate for the Board in any election in which more than two (2) Directors are to be elected if (a) the candidate's name has been placed in nomination before the voting, and (b) an Owner has given notice at the meeting before the voting of such Owner's intent to cumulate votes. If an Owner cumulates his votes, such Owner may cast a number of votes equal to the Owner's share of the voting power multiplied by the number of Directors to be elected.

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2.4 TERM OF OFFICE. Each Director shall hold office until the earlier to occur of (a) the end of the Director's term of office after a successor has been elected, or (b) his death, resignation, removal or judicial adjudication of mental incompetence. Until the holding of the first annual meeting, the Board shall consist of those Directors who are appointed by Declarant. Thereafter, election to the Board shall be by secret ballot. The candidates receiving the highest number of votes shall be deemed elected. The term of office of the Directors shall be two (2) years and elections shall be held on a staggered basis as provided for below. At the first annual meeting, the three (3) Directors receiving the highest number of votes shall serve for a term of three (3) years and the remaining two (2) Directors receiving the next highest number of votes shall serve for a term of two (2) years. After expiration of the initial terms, all terms shall be for a term of two (2) years. Successor Directors shall be elected at the next annual meeting corresponding with the expiration of the terms. All Directors shall hold office until their respective successors are elected. Except as otherwise provided in the Declaration and the Bylaws, elections to the Board shall be in accordance with the provisions of the California Corporations Code. The term of office of each Director elected or appointed to the Board for any other reason shall be the balance of the unserved term. Any person serving as a Director may be reelected. There is no limit on the number of terms which a Director may serve.

2.5 SPECIAL ELECTION. So long as a majority of the voting power of the Association resides in the Declarant, or as long as there are two outstanding classes of membership in the Association, two (2) of the Directors (the "*Specially Elected Directors*") shall be elected solely by the votes of the Class A Members other than Declarant. The election of the Specially Elected Directors shall take place along with the regular election of Directors. At such meeting of Owners, nominations for the Specially Elected Director shall be made from the floor. When nominations have been closed, the special election shall take place. Declarant shall not have the right to participate in or vote in such special election (although Declarant or Declarant's representatives may be present), and the candidates receiving the highest number of votes up to the number of Specially Elected Directors to be elected shall be deemed to be the Specially Elected Directors, and their term shall be the same as that of any other Director. Unless Owners (excluding Declarant) holding a majority of all voting rights (excluding any voting rights held by Declarant) assent by vote or written consent, such Specially Elected Directors cannot be removed. In case of the death, resignation, or removal of a Specially Elected Director, the provisions set forth in this Section respecting the election of a Specially Elected Director shall apply as to the election of a successor. Except as provided in these Bylaws, the provisions of these Bylaws and of the Articles and the Declaration applicable to Directors, including their election and removal, shall apply to a Specially Elected Director.

2.6 VACANCIES. Vacancies on the Board may be filled by a majority of the Directors, though less than a quorum, and each Director so elected shall hold office until such Director's successor is elected at an annual meeting of Owners, or at a special meeting called for that purpose; provided, however that a Director elected by Declarant will be replaced only by Declarant. A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any Director or in case the authorized number of Directors is increased by an amendment to these Bylaws. If the Owners fail, at any time, to elect the full number of the authorized Directors, a vacancy or vacancies shall be deemed to exist. The Owners may at any time elect Directors to fill any vacancy not filled by the Directors

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and may elect the additional Directors at the meeting at which an amendment of these Bylaws is voted authorizing an increase in the number of Directors.

2.7 RESIGNATION. If any Director tenders his or her resignation to the Board, the Board shall have the power to elect a successor to take office at such time as the resignation shall become effective; provided, however, that a Director elected by Declarant will be replaced only by Declarant. No reduction of the number of Directors shall have the effect of removing any Director from office prior to the expiration of his or her term of office.

2.8 REMOVAL OF DIRECTORS. Except as provided for in Section 2.5, at any meeting of the Owners, any individual Director or the entire Board may be removed before the expiration of their terms of office with or without cause by vote of Owners representing a majority of the Association's voting power (including votes attributable to Declarant).

However, if the entire Board is not removed as a group pursuant to a single vote, no individual Director may be removed if the number of votes cast against removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting. If any Directors are removed, new Directors may be elected at the same meeting. However, any Director elected to office solely by the votes of Owners other than Declarant pursuant to Section 2.5 may be removed only by the vote of at least a simple majority of the Association's voting power represented by Owners other than Declarant. Any Director elected to office solely by votes of Declarant may only be removed by Declarant, and the vacancy filled only by a Director elected by the votes of Declarant. The Board, by majority vote of the Directors who meet all of the qualifications to be a Director, may declare vacant the office of any Director not appointed by Declarant who, while in office, fails to meet the qualification criteria set forth in Section 2.2.

2.9 COMPENSATION. Directors may not receive any compensation for their services as Directors unless such compensation is first approved by Owners representing at least a majority of the Association's voting power. However, (a) nothing in these Bylaws precludes any Director from serving the Association in some other capacity and receiving compensation therefor, (b) any Director may be reimbursed for actual expenses incurred in performance of Association duties, and (c) no officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation for service as a Director of the Association.

2.10 POWERS AND DUTIES. The Board has the powers and duties necessary to administer the Association's affairs. All the Association's powers shall be exercised by the Board except those powers specifically reserved to the Owners.

2.11 SPECIAL POWERS AND DUTIES. Without limiting the scope of the Board's general powers and duties, the Board is granted the following powers and duties:

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2.11.1 Officers, Agents and Employees. The power and duty to select, appoint and remove all Association officers, agents and employees, to prescribe such powers and duties for them as may be consistent with law and with the Restrictions, to fix their compensation, to require from them such security for faithful service as the Board considers advisable, and to contract to provide them with such indemnification as the Board determines is appropriate.

2.11.2 Contracts. The power to enter into contracts. This includes contracts (a) for maintenance, landscaping, and common utilities services, (b) materials, supplies and other Common Expenses relating to the Condominiums, (c) employing personnel necessary to manage the Community, including legal and accounting services, and (d) paying for Improvements on the Association Property. The Board may not enter into any contract with a term in excess of one (1) year, without the vote or written consent of Owners representing at least a majority of the Association's voting power, except for the following:

(a) a contract with a public utility company for a term that does not exceed the shortest term for which the public utility company will contract at the regulated rate if the rates charged for the materials or services are regulated by the California Public Utilities Commission;

(b) prepaid casualty or liability insurance policies of not more than three (3) years' duration provided that the policies permit short-term cancellation by the Association;

(c) agreements for Telecommunications Services and Telecommunications Facilities that meet the requirements of Section 2.11.13;

(d) contracts in which the Association enters into litigation or any alternative dispute resolution procedure when the Association's obligation to pay for services is set, in whole or in part, on a contingency basis, only if they are (i) contracts for collection of assessments or other accounts receivable, (ii) contracts involving evaluation of services, or (iii) contracts with a total amount to be paid by the Association not in excess of Forty Thousand Dollars (\$40,000.00);

(e) contracts with service providers selected by the Master Association to obtain trash removal, security, and other services the Master Association determines should be obtained from a single service provider by all "Subassociations" defined in the Master Declaration;

(f) agreements for sale, lease or installation of burglar alarm and fire alarm equipment and related services with terms not in excess of five (5) years, provided that Declarant does not have a direct or indirect ownership interest in the supplier of such services or equipment equal to or greater than ten percent (10%);

(g) a contract approved by the DRE,

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(h) a contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause or penalty or other obligation on ninety (90) days written notice of termination to the other party;

(i) a management contract with a term not to exceed three (3) years, the terms of which have been approved by the VA or FHA; or

(j) lease agreements for laundry room fixtures and equipment with terms not in excess of five (5) years, provided that Declarant does not have a direct or indirect ownership interest in the lessor of such fixtures and equipment equal to or greater than ten percent (10%).

2.11.3 Enforcement. The power to enforce the Restrictions and any agreements entered into by the Association and to impose sanctions against Owners for violating the Restrictions.

2.11.4 Principal Office, Place of Meetings, Seal. The power but not the duty to move the Association's principal office from one location to another in the County; to designate any place in the County for holding any meetings of Owners consistent with the provisions of Section 4.5; and to adopt and use a corporate seal and to alter the form of such seal.

2.11.5 Assessments. The power and duty to fix and levy Assessments and identify the due date for payment of Assessments. The Board may incur Common Expenses. The Association's funds shall be held in trust for the Owners.

2.11.6 Insurance. The power and duty to contract and pay for insurance in accordance with the Declaration, covering and protecting against such damages or injuries as the Board considers advisable (which coverage may include medical expenses of persons injured on the Association Property). The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on the Association's behalf.

2.11.7 Delegation. The power but not the duty to delegate its powers according to law.

2.11.8 Bylaws. The power and duty to adopt these Bylaws.

2.11.9 Records. The power and duty to keep a complete record of Association acts and corporate affairs.

2.11.10 Sale of Property. The power but not the duty to sell property of the Association. Approval from at least a majority of the Association's voting power must be obtained before the Association sells, in any Fiscal Year, property having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for that Fiscal Year.

2.11.11 Manager. The power to engage a professional Manager for the Association at a compensation established by the Board to perform such duties and services as the Board authorizes.

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2.11.12 Agreements with Declarant. The power but not the duty to negotiate and enter into agreements with Declarant.

2.11.13 Telecommunications Contracts. The power to enter into, accept an assignment of, or otherwise cause the Association to comply with an exclusive Telecommunications Services or Telecommunications Facilities contract in a form mandated by the Master Association to be signed by all Subassociations.

2.12 DISTRIBUTION OF INFORMATION. The Board shall distribute the following financial information to all Owners (and any Beneficiary, insurer and guarantor of a first Mortgage on request), regardless of the number of Owners or the amount of assets of the Association:

2.12.1 Budget. A pro forma operating budget for each Fiscal Year consisting of at least the following information must be distributed not less than forty-five (45) nor more than sixty (60) days before the beginning of the Fiscal Year:

(a) Estimated revenue and Common Expenses computed on an accrual basis.

(b) A summary of the Association's reserves based on the most recent review or study conducted pursuant to Section 1365.5 of the California Civil Code, which must be printed in bold type and include all of the following:

(i) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component of the Association Property for which the Association is responsible.

(u) As of the end of the Fiscal Year for which the study is prepared:

(A) The current estimate of the amount of cash reserves necessary to restore or maintain the major components of the Association Property for which the Association is responsible ("**Estimated Reserves**").

(B) The current amount of accumulated cash reserves actually set aside to restore or maintain the major components of the Association Property for which the Association is responsible ("**Actual Reserves**").

(iii) The percentage that the Actual Reserves is of the Estimated Reserves.

(c) A statement of whether the Board has determined or expects that the levy of one or more Capital Improvement or Reconstruction Assessments will be required to repair, replace, or restore any major component of the Association Property for which the Association is responsible or to provide adequate reserves therefor.

(d) A general statement setting forth the procedures used by the Board in calculating and establishing reserves to defray the costs of repair and replacement

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of, or additions to, major components of the Association Property and facilities for which the Association is responsible.

The Board may distribute a summary of the Budget instead of the Budget itself, so long as the Board complies with the provisions of Section 1365(c) of the California Civil Code.

2.12.2 Financial Report. A report consisting of the following must be distributed within one hundred twenty (120) days after the close of the Fiscal Year:

- (a) A balance sheet as of the end of the Fiscal Year,
- (b) An operating (income) statement for the Fiscal Year,
- (c) A statement of changes in financial position for the Fiscal Year,
- (d) Any information required to be reported under Section 8322 of the California Corporations Code,
- (e) For any Fiscal Year in which the Association's gross income exceeds \$75,000, a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy, and
- (f) A statement of the place where the names and addresses of the current Owners are located.

If the report referred to in Section 2.12.2 is not prepared by an independent accountant, it must be accompanied by the certificate of an authorized Association officer stating that the statement was prepared from the Association's books and records without independent audit or review.

2.12.3 Insurance Information. The Association shall distribute to all Owners a summary of the Association's property, general liability, and earthquake and flood insurance policies within sixty (60) days before the beginning of the Fiscal Year, that includes all of the following information: (a) the name of the insurer, (b) the type of insurance, (c) the limits of coverage, and (d) the amount of the deductibles, if any.

(a) The Association shall, as soon as reasonably practical, notify the Owners by first-class mail if any of the policies described above have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described above, the Association shall immediately notify the Owners if replacement coverage will not be in effect by the date the existing coverage will lapse.

(b) To the extent that any of the information required to be disclosed is specified in the insurance policy declaration page, the Association may meet its

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obligation to disclose that information by making copies of that page and distributing it to all Owners.

(c) The summary distributed above shall contain, in at least 10-point boldface type, the following statement:

"This summary of the Association's policies of insurance provides only certain information, as required by subdivision (e) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions in the actual policies of insurance. Any Association member may, on request and provision of reasonable notice, review the Association's insurance policies and, on request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association keeps the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur in or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

2.12.4 Enforcement Policies. In addition to financial statements, the Board shall annually distribute within sixty (60) days before the beginning of the Fiscal Year a statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of Assessments, including the recording and foreclosing of liens against Condominiums

2.12.5 Assessment and Foreclosure Notice.

(a) The Association shall distribute the written notice described in subsection (b) to each member of the Association during the sixty (60) day period immediately preceding the beginning of the Association's Fiscal Year. The notice shall be printed in at least 12-point type.

(b) The notice required by this Section shall read as follows:

NOTICE

ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to

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liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND NONJUDICIAL FORECLOSURE

The failure to pay association assessments may result in the loss of an owner's property without court action, often referred to as nonjudicial foreclosure. When using nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the lien is not paid. Assessments become delinquent 15 days after they are due, unless the governing documents of the association provide for a longer time. (Sections 1366 and 1367.1 of the Civil Code)

In a nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code)

The association must comply with the requirements of Section 1367.1 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 1367.1 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail. Among these documents, the association must send a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 1367.1 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 1367.1 of the Civil Code)

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The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Sections 1367 and 1367.1 of the Civil Code)

An owner may dispute an assessment debt by giving the board of the association a written explanation, and the board must respond within 15 days if certain conditions are met. An owner may pay assessments that are in dispute in full under protest, and then request alternative dispute resolution. (Sections 1366.3 and 1367.1 of the Civil Code)

An owner is not liable for charges, interest and costs of collection, if it is established that the assessment was paid properly on time. (Section 1367.1 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exist. (Section 1367.1 of the Civil Code)

The board of the directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)

2.12.6 Accounts On at least a quarterly basis, the Board shall: (a) cause to be completed and review a current reconciliation of the Association's operating and reserve accounts, (b) review the current Fiscal Year's actual reserve revenues and expenses compared to the Budget for the then current Fiscal Year, (c) review the income and expense statement for the Association's operating and reserve accounts, (d) review the most current account statements prepared by the financial institutions where the Association keeps its operating and reserve accounts, and (e) fulfill any additional duties established by Civil Code Section 1365.5. The signatures of either (i) two (2) Directors, or (ii) one (1) Director and

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one (1) Association officer (who is not also a Director) are required for the withdrawal of money from the Association's reserve accounts. As used in this Subsection, the term "reserve accounts" means Budgeted funds that the Board has designated for use to defray the future repair and replacement of, or additions to, those major components of the Association Property which the Association is obligated to maintain.

2.12.7 Reserve Study. The Board shall cause a study of the reserve account requirements of the Community to be conducted in accordance with Section 1365 5(e) of the California Civil Code. As used in this Subsection, "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components of the Association Property which the Association is obligated to maintain.

2.13 MEETINGS.

2.13.1 Organization Meeting. The first regular meeting of a newly elected Board must be held within ten (10) days of election of the Board, at such place as is fixed and announced by the Directors at the meeting at which such Directors were elected, to organize, elect officers and transact other business. No notice is necessary to the newly elected Directors to hold such meeting; provided that (a) a majority of the whole Board is present when the time and place are announced at the annual meeting and (b) the meeting is held on the same day and at the same place as the annual meeting of the Owners at which the newly constituted Board was elected.

2.13.2 Regular Meetings. Regular meetings may be held at such time and place in the Community as is determined by a resolution adopted by a majority of a quorum of the Directors; however, regular meetings must be held no less frequently than quarterly. Notice of the time and place of regular meetings of the Board shall be given to each Director at least four (4) days before the date of the meeting. Notices may be given personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means or posted at a prominent place or places in the Association Property.

2.13.3 Special Meetings. Special meetings may be called by the President or by any two (2) Directors by posting notice at least four (4) days before such meeting at a prominent place or places in the Association Property or on four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The notice must state the time, place and the purpose of the meeting.

2.13.4 Executive Sessions. The Board may convene in executive session to discuss and vote upon personnel matters, litigation, matters relating to the formation of contracts with third parties, Owner discipline or to meet with an Owner, upon the Owner's request regarding the Owner's payment of Assessments, as specified in Civil Code Sections 1367 or 1367.1. The nature of business to be considered in executive session must first be announced in an open session and must be generally noted in the minutes of the immediately-following meeting that is open to the entire membership.

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2.13.5 Other Meetings. Any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate on any item of business scheduled to be heard by the Board, except those matters that may be discussed in executive session, shall constitute a meeting of the Board. All Owners shall have the right to attend any regular, special or other meeting of the Board, except an executive session. Owners who are not Directors may not participate in any deliberation or discussion at such meetings unless authorized by a vote of a majority of a quorum of the Board. However, at each Board meeting, except for executive sessions, the Board must set aside time for Owners to speak, subject to reasonable limits imposed by the Board.

2.13.6 Notice to Owners. Generally, if a meeting of the Board is not a regular or special meeting, Owners shall be given notice of the time and place of the meeting at least four (4) days before the meeting. Notice required by this Section shall be given by posting the notice in a prominent place or places in the Association Property, and by mail to any Owner who had requested notification of Board meetings by mail, at the address requested by the Owner. Notice may also be given by mail or delivery of the notice to each Condominium in the Community, or by newsletter or other similar means of communication. If there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impractical to provide notice to the Owners, then an emergency meeting of the Board may be called by the President or any two other members of the Board without providing notice to the Owners.

2.13.7 Waiver of Notice. Before or at any meeting of the Board, any Director may, in writing, waive personal notice of such meeting. Attendance by a Director at any Board meeting waives the requirement of personal notice. If all Directors are present at a Board meeting, no notice to Directors is required and any business may be transacted at such meeting. The transactions of any Board meeting, however called and noticed or wherever held, are valid as though had at a meeting duly held after regular call and notice, if (a) a quorum is present, (b) notice to the Owners of such meeting was posted as provided in Sections 2.13.2, 2.13.3 or 2.13.6, and (c) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. The Secretary shall file all such waivers, consents and approvals with the Association's records or make them a part of the minutes of the meeting.

2.14 ACTION WITHOUT MEETING. The Board may act without a meeting if all Directors consent in writing to such action. Written consents must be filed with the minutes of the Board. Each action by written consent has the same effect as a unanimous vote of such Directors. Within three (3) days after the written consents of all Directors have been obtained, an explanation of any action taken by unanimous written consent without a meeting must be either (a) posted by the Board in a prominent place or places in the Association Property, or (b) communicated to the Owners by other means the Board determines to be appropriate.

2.15 QUORUM AND ADJOURNMENT. Except as otherwise expressly provided in these Bylaws, at all meetings of the Board, a majority of the Directors constitutes a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present, are the acts of the Board. Ar

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any meeting of the Board when less than a quorum is present, the majority of those present may adjourn the meeting to another time. At any such reconvened meeting, any business which might have been transacted at the meeting as originally called, may be transacted without further notice if a quorum is present.

2.16 **COMMITTEES.** The Board may by resolution establish such committees as it desires, and may establish the purposes and powers of each such committee created. The resolution establishing the committee must (a) provide for the appointment of its members and a chairman, (b) state the purposes of the committee, and (c) provide for reports, termination and other administrative matters as the Board considers appropriate.

ARTICLE III OFFICERS

3.1 **DESIGNATION.** The Association's principal officers are a President, a Vice President, a Secretary, and a Treasurer, all elected by the Board. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as it determines to be necessary. Officers other than the President need not be Directors. Any person may hold more than one office. The Board shall appoint an alternate Delegate to represent the Owners in affairs of the Master Association, as required by the Bylaws of the Master Association.

3.2 **ELECTION OF OFFICERS.** The Board shall annually elect the Association's officers at the new Board's organization meeting. Each officer shall hold his office at the pleasure of the Board, until he resigns or is removed, is otherwise disqualified to serve or a successor is elected and qualified to serve.

3.3 **REMOVAL OF OFFICERS.** On an affirmative vote of a majority of the entire Board, any officer may be removed, either with or without cause, and a successor elected at any meeting of the Board. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified therein. Unless specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective.

3.4 **COMPENSATION.** No officer may receive any compensation for services performed in the conduct of the Association's business unless such compensation is approved by the vote or written consent of Owners representing at least a majority of the Association's voting power; however (a) nothing in these Bylaws precludes any officer from serving the Association in some other capacity and receiving compensation therefor, and (b) any officer may be reimbursed for actual expenses incurred in the performance of Association duties. Appointment of any officer does not create contractual rights of compensation for services performed by such officer. No officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation for service as an officer of the Association.

3.5 **PRESIDENT.** The President is the chief executive officer of the Association and shall (a) preside at all Association and Board meetings, (b) have the general powers and duties which are usually vested in the office of the President of a corporation,

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including but not limited to the power to appoint committees from among the Owners as the President decides is appropriate to assist in the conduct of the Association's affairs, and (c) subject to the control of the Board, have general supervision, direction and control of the Association's business. The President is ex officio a member of all standing committees and has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.6 VICE PRESIDENT. The Vice President shall take the President's place and perform the President's duties whenever the President is absent, disabled, fails or refuses to act. If neither the President nor the Vice President is available to perform the President's duties, the Board shall appoint another member of the Board to do so on an interim basis. The Vice President has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.7 SECRETARY. The Secretary shall (a) keep the minutes of all meetings of the Board and of the Association at the Association's principal office or at such other place as the Board may order, (b) keep the Association's seal in safe custody, (c) have charge of such books and papers as the Board may direct, (d) in general, perform the duties incident to the office of Secretary, (e) give, or cause to be given, notices of meetings of the Owners and of the Board required by these Bylaws or by law to be given, (f) keep a record book of Owners, listing the names, mailing addresses and telephone numbers of Owners, as furnished to the Association ("*Membership Register*"), and (g) record in the Membership Register the termination or transfer of ownership by any Owner, together with the date of the transfer. The Secretary has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.8 TREASURER. The Treasurer is the Association's chief financial officer and is responsible for Association funds. The Treasurer shall (a) keep, or cause to be kept, full and accurate accounts and tax and business records of the Association, including accounts of all assets, liabilities, receipts and disbursements, (b) be responsible for the deposit of all funds in the name of the Association in such depositories as the Board designates, (c) disburse the Association's funds as ordered by the Board, and (d) render to the President and Directors, on request, an account of all transactions as Treasurer and of the Association's financial condition. The Treasurer has such other powers and duties as may be prescribed by the Board or these Bylaws.

ARTICLE IV OWNERS

4.1 VOTING RIGHTS.

4.1.1 General Voting Rights. The Association has two (2) classes of Membership, as described in the Declaration. The Class A and Class B Memberships are voting Memberships. Except as provided in Section 2.5, any provision of the Bylaws which requires the vote or written consent of a specified percentage of the Association's voting power before action may be undertaken (i.e., other than actions requiring merely the vote or written consent of a majority of a quorum) requires the approval of such specified percentage of (a) the Class A Membership and the Class B Membership (so long as a Class B Membership exists), and (b) both the Association's total voting power and the Association's

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voting power represented by Owners other than Declarant. Whenever a reference is made in these Bylaws or the Declaration to the Association's voting power, it is a reference to the voting power of the Class A and Class B Memberships.

4.1.2 Vote to Initiate Construction Defect Claims. Subject to any contrary provisions of the Declaration and these Bylaws, if any, the Board may institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation or administrative proceedings in matters pertaining to (a) enforcement of the Restrictions, or (b) damage to the Association Property; provided, however that no representative of Declarant on the Board shall vote on the initiation of any claim under California Civil Code Section 895 et seq., and any successor statutes or laws, such that from and after the first annual meeting of the Owners of the Association, Declarant shall have no control over the Association's ability to decide whether to initiate a claim under such statutory provisions and in the event of such a vote, the affirmative vote of the two non-Declarant representatives on the Board shall be binding so long as a quorum of the Board is present at any meeting where such vote is taken.

4.2 MAJORITY OF QUORUM. Unless otherwise provided in the Restrictions, any action which may be taken by the Association may be taken by a majority of a quorum of the Association's voting power.

4.3 QUORUM. Except as otherwise provided in these Bylaws, the presence in person or by proxy of at least twenty-five percent (25%) of the Association's voting power constitutes a quorum of the Membership. Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, despite the withdrawal of enough Owners to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of a quorum. If a meeting is actually attended, in person or by proxy, by Owners having less than one-third (1/3) of the Association's voting power, then no matter may be voted on except matters which were generally described in the notice of the meeting. No action by the Owners on any matter is effective if the votes cast in favor are fewer than the minimum number of votes required by the Restrictions to approve the action.

4.4 PROXIES. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary in advance of each meeting. Every proxy is revocable and automatically ceases after completion of the meeting for which the proxy was filed. Any form of proxy or written ballot distributed by any Person to the Owners must afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted on, except it is not mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice. The proxy must also identify the person authorized to exercise the proxy and the length of time it will be valid. No proxy is valid with respect to a vote on any matter described in Section 7613(g) of the California Corporations Code unless the general nature of the proposal was described in the proxy.

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4.5 **PLACE OF MEETINGS OF OWNERS.** Meetings of the Owners shall be held in the Community, or such other suitable place as proximate thereto as practical and convenient to the Owners, as designated by the Board.

4.6 **ANNUAL MEETINGS OF OWNERS.** The first annual meeting of Owners shall be held within six (6) months after the Close of Escrow for the sale of the first Condominium in Phase 1. Thereafter, the annual meetings shall be held on or about the anniversary date of the first annual meeting. Each first Mortgagee may designate a representative to attend all annual meetings.

4.7 **SPECIAL MEETINGS OF OWNERS.** The Board shall call a special meeting of the Owners (a) as directed by resolution of a majority of a quorum of the Board, (b) by request of the President of the Association, or (c) on receipt of a petition signed by Owners representing at least five percent (5%) of the Association's total voting power. The Secretary shall give notice of any special meeting within twenty (20) days after adoption of such resolution or receipt of such request or petition. The notice must state the date, time and place of the special meeting and the general nature of the business to be transacted. The special meeting must be held not less than thirty-five (35) nor more than ninety (90) days after adoption of such resolution or receipt of such request or petition. No business may be transacted at a special meeting except as stated in the notice. Each first Mortgagee may designate a representative to attend all special meetings.

4.8 **NOTICE.** The Secretary shall send to each Owner of record, and to each first Mortgagee who has filed a written request for notice with the Secretary, a notice of each annual or special meeting. The notice must be sent by first-class mail, at least ten (10) but not more than thirty (30) days before the meeting. The notice must state the purpose for the meeting as well as the day, hour and place where it is to be held. The notice may establish time limits for speakers and nominating procedures for the meeting. The notice must specify those matters the Board intends to present for action by the Owners, but, except as otherwise provided by law, any proper matter may be presented for action at the meeting. The notice of any meeting at which Directors are to be elected must include the names of all nominees when the notice is given to the Owners. The mailing of a notice, postage prepaid, in the manner provided in this Section, shall be considered notice served, forty-eight (48) hours after the notice has been deposited in a regular depository of the United States mail. Such notice must be posted in a conspicuous place on the Association Property and is deemed served on an Owner on posting if no address for such Owner has been furnished to the Secretary.

Notwithstanding any other provision of these Bylaws, approval by the Owners of any of the following proposals, other than by unanimous approval of those Owners entitled to vote, is not valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice: (a) removing a Director without cause, (b) filling vacancies on the Board, (c) approving a contract or transaction between the Association and one or more Directors, or between the Association and any entity in which a Director has a material financial interest, (d) amendment of the Articles, or (e) electing to wind up and dissolve the Association.

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4.9 RECORD DATES. The Board may fix a date in the future as a record date for determining which Owners are entitled to notice of any meeting of Owners. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for notice to Owners, the record date for notice is the close of business on the business day preceding the day on which notice is given. In addition, the Board may fix a date in the future as a record date for determining the Owners entitled to vote at any meeting of Owners. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for determining Owners entitled to vote, Owners on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

4.10 ADJOURNED MEETINGS. If a quorum is not present at the time and place established for a meeting, a majority of the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the original meeting date, at which meeting the quorum requirement is the presence in person or by proxy of Owners holding at least twenty-five percent (25%) of the Association's voting power. Such an adjourned meeting may be held without the notice required by these Bylaws if notice thereof is given by announcement at the meeting at which such adjournment is taken.

4.11 ORDER OF BUSINESS. Meetings of Owners must be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. The order of business at all meetings of the Owners is as follows: (a) roll call to determine the voting power represented at the meeting, (b) proof of notice of meeting or waiver of notice, (c) reading of minutes of preceding meeting, (d) reports of officers, (e) reports of committees, (f) election of inspector of election (at annual meetings or special meetings held for such purpose), (g) election of Directors (at annual meetings or special meetings held for such purpose), (h) unfinished business, and (i) new business.

4.12 ACTION WITHOUT MEETING. Except for election of Directors, any action which may be taken at a meeting of the Owners may be taken without a meeting by written ballot of the Owners. Ballots must be solicited in the same manner as provided in these Bylaws for giving of notice of meetings to Owners. Such solicitations must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received to be counted. The form of written ballot must afford an opportunity to specify a choice between approval and disapproval of each matter and must provide that, where the Owner specifies a choice, the vote shall be cast in accordance therewith. Receipt within the time period specified in the solicitation of (i) ballots which equal or exceed the quorum which would be required if the action were taken at a meeting, and (ii) approvals which equal or exceed the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast, constitutes approval by written ballot.

4.13 CONSENT OF ABSENTEES. The actions taken at any meeting of Owners, however called and noticed, are valid as though taken at a meeting duly held after

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regular call and notice, if (a) a quorum is present either in person or by proxy, and (b) either before or after the meeting, each of the Owners not present in person or by proxy signs (i) a written waiver of notice, (ii) a consent to the holding of such meeting, or (iii) an approval of the minutes thereof. The Secretary shall file all such waivers, consents or approvals with the corporate records or make them a part of the minutes of the meeting.

4.14 MINUTES, PRESUMPTION OF NOTICE. Minutes or a similar record of the proceedings of meetings of Owners, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters described therein. A recitation in the minutes executed by the Secretary that proper notice of the meeting was given constitutes prima facie evidence that such notice was given.

ARTICLE V AMENDMENTS

These Bylaws may be amended by the vote or written consent of Owners representing at least (a) a majority of the voting power of each class of the Owners, and (b) a majority of the Association's voting power represented by Owners other than Declarant; provided that the specified percentage of each class of Owners necessary to amend a specific provision of these Bylaws may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. These Bylaws may be amended by a majority of the entire Board, (i) at any time before the Close of Escrow for the sale of the first Condominium, or (ii) if the amendment is within the Board's power to adopt without Owner approval pursuant to the California Corporations Code and either (a) the proposed amendment conforms the Bylaws to California law or the requirements of VA, FHA, DRE, FNMA, GNMA or FHLMC, or (b) the proposed amendment corrects a typographical error in the Bylaws. Any amendment to these Bylaws which materially affects matters listed in Article XI or Section 13.2 of the Declaration must be approved by the Beneficiaries of that percentage of first Mortgages on the Condominiums which is specified in the affected provision of Article XI or Section 13.2 of the Declaration, respectively. If an amendment to these Bylaws materially affects matters listed in both Article XI and Section 13.2 of the Declaration, the amendment must be approved pursuant to the requirements of both Article XI and Section 13.2. All amendments to these Bylaws must be approved in writing in advance by the "Declarant" defined in the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Playa Vista recorded on February 7, 2000, as Instrument No. 00-0187083, and amended by a First Amendment thereto, recorded on March 26, 2001, as Instrument No. 01-0481376, a Second Amendment thereto, recorded on November 26, 2002, as Instrument No. 02-2875170, and a Third Amendment thereto, recorded on November 26, 2002, as Instrument No. 02-2875171, all of Official Records, Los Angeles County, California, as further amended or restated ("*Master Declaration*"). The Declarant under the Master Declaration may assign its right to approve amendments to these Bylaws to the Playa Vista Parks and Landscape Corporation, a California nonprofit public benefit corporation ("*Master Association*"), by a written assignment. Notwithstanding anything to the contrary contained in these Bylaws, Sections 2.1, 2.4, 2.5, 2.6, 2.7 and 4.1.2 of these Bylaws shall not be amended without the vote or approval by written ballot of at least (a) ninety percent (90%) of the voting power of the Owners of the Association other than Declarant, and (b) at least ninety percent (90%) of the Mortgagees.

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ARTICLE VI MISCELLANEOUS

6.1 **CHECKS, DRAFTS AND DOCUMENTS.** All checks, drafts, orders for payment of money, notes and other evidences of indebtedness issued in the name of or payable to the Association must be signed or endorsed in the manner and by the person or persons the Board designates by resolution, subject to the requirements of Section 2.12.6 for withdrawing money from the Association's reserve accounts.

6.2 **CONFLICTS.** If any of these Bylaws conflict with any laws of the State of California, such conflicting Bylaws shall be void on final court determination to such effect, but all other Bylaws shall remain in full force. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

6.3 **EXECUTION OF DOCUMENTS.** The Board may authorize any officer or agent to enter into any contract or execute any instrument in the name and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent, committee member or employee may bind the Association by any contract, pledge the Association's credit, or render the Association liable for any purpose in any amount.

6.4 **AVAILABILITY OF ASSOCIATION DOCUMENTS.**

6.4.1 **Records Maintenance.** The Association shall keep at its principal office (or at such other place in or near the Community as the Board may prescribe) the Restrictions and the Association's books of account, minutes of meetings of Owners, the Board and committees, and the Membership Register (collectively, the "*Association Documents*"), each of which shall be made available for inspection and copying by any Owner or the Owner's duly appointed representative for a purpose reasonably related to the Owner's interest as an Owner.

6.4.2 **Limits on Availability.** The Board may establish reasonable rules regarding (a) notice to be given to the custodian of the Association Documents by the Owner desiring to make the inspection, (b) hours and days of the week when such an inspection may be made, and (c) payment of the cost of copying any of the Association Documents requested by an Owner; provided that every Director may at any reasonable time inspect all Association Documents and the physical properties owned or controlled by the Association, and make extracts and copies of documents.

6.4.3 **Time of Availability.** The minutes, minutes that are proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board (other than an executive session) must be available to Owners within thirty (30) days of the meeting. The minutes, proposed minutes or summary minutes must be distributed to any Owner on request and on reimbursement of the Association's cost in making that distribution.

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6.4.4 **Distribution to Owners.** No later than ten (10) days after the Association receives written request from any Owner, the Association shall provide to that Owner a copy of each of the documents listed in California Civil Code Section 1368(a) that have been requested by the Owner. Owners must be notified in writing when the budget required in Section 2.12.1 is distributed or at the time of any general mailing to the entire Association Membership of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

6.5 **FISCAL YEAR.** The Board shall select the Association's Fiscal Year. The Fiscal Year is subject to change as the Board determines.

ARTICLE VII NOTICE AND HEARING PROCEDURE

7.1 **INITIAL COMPLAINT.** Persons who believe a violation of the Restrictions has occurred may file a complaint with a Person designated by the Board on a form approved by the Board. The Board will commence the enforcement process. In its discretion, the Board may issue one or two violation letters to the Person alleged to have committed the violation ("*respondent*") or set a hearing described in Section 7.2 below. The Board may direct the Manager to assist the Board in any of the steps the Board chooses to take in enforcing the Restrictions except that decisions made at hearings must be made by the Board.

7.2 **SCHEDULING HEARINGS.** A hearing before the Board to determine whether a sanction should be imposed may be initiated by the Board after receipt of at least one complaint. To initiate a hearing, the Board must deliver to the respondent a notice which includes the following:

7.2.1 **Complaint.** A written statement setting forth in ordinary and concise language the acts or omissions with which the respondent is charged,

7.2.2 **Basis for Violation.** A reference to the specific provisions of the Restrictions which the respondent is alleged to have violated,

7.2.3 **Hearing Schedule.** The date, time and place of the scheduled hearing, and

7.2.4 **Sanctions.** A list of sanctions which may be imposed at the hearing.

The date for the hearing may be no less than fifteen (15) days after the date the notice of hearing is mailed or delivered to the respondent. The respondent is entitled to attend the hearing, submit a statement of defense to the Board in advance of the hearing, or present a statement of defense and supporting witnesses at the hearing. If the respondent does not attend the hearing, the respondent waives these rights.

7.3 **CONDUCT OF HEARING.** The Board shall conduct the hearing in executive session, affording the respondent a reasonable opportunity to be heard. Before a sanction is effective, proof of notice and the invitation to be heard must be placed in the minutes of the meeting. Such proof is adequate if a copy of the notice together with a

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statement of the date and manner of delivery is entered by the Association officer or Board member who mailed or delivered such notice. The record of the meeting must contain a written statement of the results of the hearing and the sanction, if any, imposed.

7.4 IMPOSITION OF SANCTIONS. After affording the respondent an opportunity for a hearing before the Board, the Board may impose any one or more of the following sanctions: (a) levy a Special Assessment as authorized in the Declaration, (b) suspend or condition the right of any respondent who is not a Declarant to use any facilities the Association owns, operates or maintains commencing on a date in the future selected by the Board, (c) suspend the voting privileges of any respondent who is not a Declarant, (d) enter upon a Condominium to perform maintenance which, according to the Declaration, is the responsibility of the respondent, or (e) record a notice of noncompliance if allowed by law. Any suspension of Membership privileges may not be for a period of more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues. Written notice of any sanctions to be imposed must be delivered to the respondent personally, by any system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means, via first class mail or certified mail return receipt requested, or any combination of the foregoing. No action against the respondent arising from the alleged violation may take effect less than five (5) days after the hearing. No sanction imposed on the Declarant may interfere with Declarant's exercise of the rights reserved in Article XV of the Declaration.

7.5 LIMITS ON REMEDIES. The Board's failure to enforce the Restrictions does not waive the right to enforce them. The remedies provided by the Restrictions are cumulative and not exclusive. However, any individual Owner must exhaust all available internal Association remedies prescribed by the Restrictions before that Owner may resort to a court of law for relief with respect to any alleged violation of the Restrictions by another Owner.

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CERTIFICATE OF SECRETARY

I, the undersigned, certify that:

1. I am the duly elected and acting Secretary of PH&L COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation ("*Association*"); and
2. The Bylaws of the Association were restated in their entirety prior to the first Close of Escrow by the Board of Directors in a Consent of Directors dated April 26, 2005. The foregoing Bylaws comprising 23 pages are the Bylaws of the Association.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the seal of the Association effective this 26th day of April, 2005.


David Kuman, Secretary

(SEAL)

08/11/05

EXHIBIT C
INITIAL PARKING AREA REGULATIONS

PARKING RULES & REGULATIONS

These Parking Rules & Regulations have been adopted by the Board of Directors of the Association, pursuant to Section 2.5 of the Declaration.

"THREE DAY RULE"

No vehicle may be parked in the Association Property, Exclusive Use Area garages or Exclusive Use Area subterranean parking spaces for more than three (3) days during any thirty (30) day period, except for (a) vehicles having a valid, properly displayed temporary parking permit issued by the Board of Directors or its designee, and (b) Authorized Vehicles owned, operated or controlled by an Owner, the Owner's family, tenants or guests, which are parked in that Owner's Exclusive Use Area parking space(s) or garage.

TEMPORARY PARKING PERMITS

A temporary parking permit may be issued by the Board of Directors or its designee to accommodate (a) Owners' needs while they move into or out of the Community, (b) occasional guests (where the vehicle cannot be parked in the Exclusive Use Area parking space or garage of the Condominium the guest is visiting) whose stay is expected to exceed three (3) days, (c) vehicles belonging to contractors for Owners while the contractors perform services at the Community, and (d) other temporary conditions. The permit must be displayed on the vehicle for which the permit has been issued in conformance with written display instructions which shall accompany the permit. The term of each temporary parking permit shall not exceed seven (7) days. Permits may be renewed by the Board. The term of the temporary parking permit shall run concurrently with any days of parking allowed by the Three Day Rule which are remaining when the permit is issued. Temporary parking permits do not guarantee that parking spaces are reserved or available for permittees.

PARKING ONLY IN DESIGNATED SPACES

No person shall park any vehicle in any portion of the Association Property except in an Exclusive Use Area parking space, garage or other parking space designated for such use by the Association. ANY VEHICLE IN VIOLATION OF THIS RULE MAY BE TOWED AWAY AT THE VEHICLE OWNER'S EXPENSE WITHOUT NOTICE

DEBRIS AND FLUIDS

No person may allow any debris or fluid, except clean water, from any parked or moving vehicle, to be deposited on any Association Property pavement, including Exclusive Use Areas.

AUTHORIZED VEHICLE AND DECLARATION RESTRICTIONS

Nothing in these Parking Rules & Regulations shall in any way modify the definition of Authorized Vehicle or other terms of the Parking and Vehicular Restrictions forth in Article II of the Declaration. Terms not defined in these rules shall have the meanings given them in the

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Declaration. In the event of a conflict between the terms of these Parking Rules & Regulations and the Declaration, the Declaration shall control.

Generally, an Authorized Vehicle is any passenger vehicle including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Any vehicle parked within the Association Property which is not an Authorized Vehicle, may be towed away at the vehicle owner's expense at the discretion of the Board of Directors or its designee.

GUEST PARKING AREAS

As noted in the Declaration, the Board may designate portions of the garage as Guest Parking Areas. Guest Parking Areas are intended to be reserved primarily for use by guests of residents in the Community. Owners are generally prohibited from parking in the Guest Parking Areas, however, the Board has the power to make exceptions to this restriction.

NOTICE AND ENFORCEMENT

Each Owner is responsible for informing the Owner's family, tenants, and guests of parking regulations. Any vehicle found in violation of a parking rule shall be marked with a written notice of violation if it is the first instance of such violation by that vehicle. Upon each subsequent violation of the same parking rule by that vehicle and at the discretion of the Board of Directors or its designee, the vehicle may be towed away at the vehicle owner's expense.

In addition to towing, the Board of Directors may impose a Special Assessment against an Owner and the Owner's Condominium for all expenses incurred by the Association in connection with a violation of these Parking Rules & Regulations by any vehicle owned, operated, or controlled by that Owner and that Owner's family, tenants or guests.

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EXHIBIT D
EXCLUSIVE USE AREA PARKING SPACES AND STORAGE SPACES

The exclusive use areas for parking purposes are the areas shown on the following drawing that are numbered from 1 to 68, 70 to 98, and 100 to 128.

The areas numbered 69, 99 and 129 to 147 are guest parking spaces that are part of the Association Property.

The unnumbered parking spaces shown on this Exhibit are also part of the Association Property.

Storage areas are also shown on the following drawing. They are identified with the letter "S" and a number.

The garages identified on the following drawing are parts of the Loft Units, as designated on the Condominium Plan.

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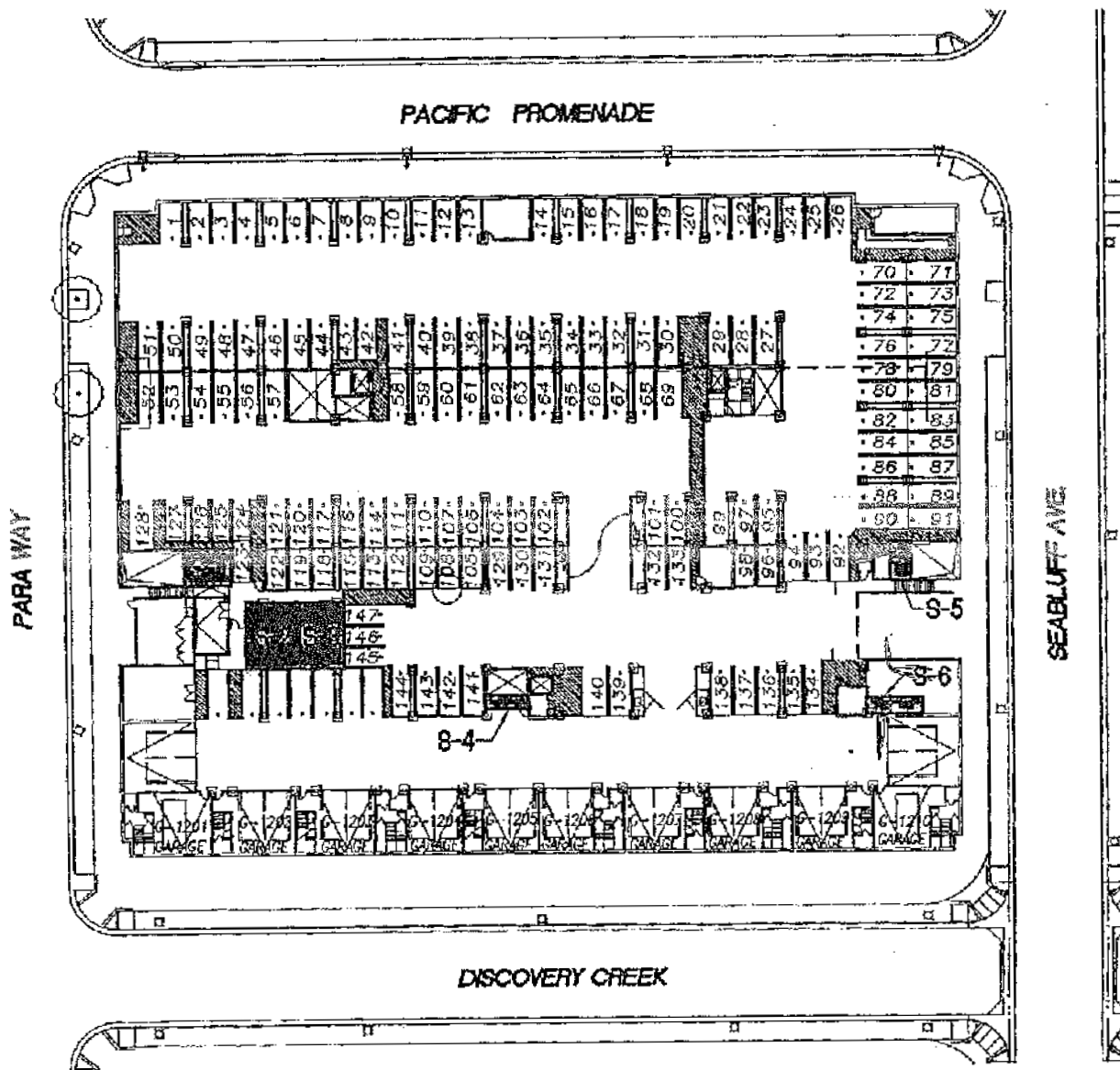
EXHIBIT "D" **LOFTS AND PARK HOUSES AT PLAYA VISTA** **EXCLUSIVE USE AREAS**

PARKING SPACES & STORAGE SPACES

LEGEND



STORAGE COMPARTMENTS



KB HOME
 27240 TURNBERRY LANE, SUITE 100
 VALENCIA, CA. 91355

THE KEITH COMPANIES
 19 TECHNOLOGY DRIVE
 IRVINE, CA 92618
 949.923.6000

TKC

| | |
|----------------------|------------|
| DATE | 06/30/2005 |
| APPROX. UNIT SQ FTG. | |
| SHEET 1 OF 1 | |

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| 5/16/2005 | SPACE # | PARKING SPACE ASSIGNMENTS | | SPACE # | PARKING SPACE ASSIGNMENTS |
|-----------|---------------------------|---------------------------|------------|---------------------------|---------------------------|
| | 1 | Unit # 101 | | 29 | Unit # 408 |
| | 2 | Unit # 101 | | 30 | Unit # 408 |
| | 3 | Unit # 102 | | 31 | Unit # 205 |
| | 4 | Unit # 102 | | 32 | Unit # 205 |
| | 5 | Unit # 216 | | 33 | Unit # 410 |
| | 6 | Unit # 216 | | 34 | Unit # 410 |
| | 7 | Unit # 202 | | 35 | Unit # 108 |
| | 8 | Unit # 202 | | 36 | Unit # 108 |
| | 9 | Unit # 215 | | 37 | Unit # 106 |
| | 10 | Unit # 215 | | 38 | Unit # 313 |
| | 11 | Unit # 214 | | 39 | Unit # 313 |
| | 12 | Unit # 214 | | 40 | Unit # 203 |
| | 13 | Unit # 107 | | 41 | Unit # 203 |
| | 14 | Unit # 107 | | 42 | Unit # 200 |
| | 15 | Unit # 213 | | 43 | Unit # 200 |
| | 16 | Unit # 213 | | 44 | Unit # 217 |
| | 17 | Unit # 212 | | 45 | Unit # 217 |
| | 18 | Unit # 212 | | 46 | Unit # 103 |
| | 19 | Unit # 208 | | 47 | Unit # 103 |
| | 20 | Unit # 208 | | 48 | Unit # 104 |
| | 21 | Unit # 211 | | 49 | Unit # 104 |
| | 22 | Unit # 211 | | 50 | Unit # 100 |
| | 23 | Unit # 210 | | 51 | Unit # 100 |
| | 24 | Unit # 210 | | 52 | Unit # 300 |
| | 25 | Unit # 209 | | 53 | Unit # 300 |
| | 26 | Unit # 209 | | 54 | Unit # 317 |
| | 27 | Unit # 409 | | 55 | Unit # 317 |
| | 28 | Unit # 409 | | 56 | Unit # 417 |
| | PARKING SPACE ASSIGNMENTS | | | PARKING SPACE ASSIGNMENTS | |
| | SPACE # | | | SPACE # | |
| | 57 | Unit # 417 | tdm w/ 84 | 85 | Unit # 412 |
| | 58 | Unit # 400 | tdm w/ 87 | 86 | Unit # 310 |
| | 59 | Unit # 400 | | 87 | Unit # 310 |
| | 60 | Unit # 403 | tdm w/ 88 | 88 | Unit # 307 |
| | 61 | Unit # 403 | | 89 | Unit # 307 |
| | 62 | Unit # 185 | tdm w/ 91 | 90 | Unit # 207 |
| | 63 | Unit # 303 | | 91 | Unit # 207 |
| | 64 | Unit # 303 | | 92 | Unit # 208 |
| | 65 | Unit # 309 | | 93 | Unit # 208 |
| | 66 | Unit # 309 | | 94 | Unit # 106 |
| | 67 | Unit # 485 | tdm w/ 98 | 95 | Unit # 304 |
| | 68 | Unit # 485 | | 96 | Unit # 304 |
| | 69 | HANDICAP SPACE | tdm w/ 98 | 97 | Unit # 201 |
| tdm w/ 71 | 70 | Unit # 312 | | 98 | Unit # 201 |
| | 71 | Unit # 312 | | 99 | HANDICAP SPACE |
| tdm w/ 73 | 72 | Unit # 311 | | 100 | Unit # 308 |
| | 73 | Unit # 311 | | 101 | Unit # 308 |
| tdm w/ 76 | 74 | Unit # 306 | | 102 | Unit # 305 |
| | 75 | Unit # 306 | | 103 | Unit # 305 |
| tdm w/ 77 | 76 | Unit # 204 | | 104 | Unit # 105 |
| | 77 | Unit # 204 | tdm w/ 106 | 105 | Unit # 414 |
| tdm w/ 79 | 78 | Unit # 407 | | 106 | Unit # 414 |
| | 79 | Unit # 407 | tdm w/ 108 | 107 | Unit # 413 |
| tdm w/ 81 | 80 | Unit # 406 | | 108 | Unit # 413 |
| | 81 | Unit # 406 | tdm w/ 110 | 109 | Unit # 404 |
| tdm w/ 83 | 82 | Unit # 411 | | 110 | Unit # 404 |
| | 83 | Unit # 411 | tdm w/ 112 | 111 | Unit # 415 |
| tdm w/ 85 | 84 | Unit # 412 | | 112 | Unit # 415 |

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| | SPACE # | PARKING SPACE ASSIGNMENTS | | SPACE # | PARKING SPACE ASSIGNMENTS |
|-----------|---------|------------------------------|--|---------|---------------------------|
| tdm w/114 | 113 | Unit # 402 | | 141 | GUEST PARKING |
| | 114 | Unit # 402 | | 142 | GUEST PARKING |
| tdm w/115 | 115 | Unit # 401 | | 143 | GUEST PARKING |
| | 116 | Unit # 401 | | 144 | GUEST PARKING |
| tdm w/116 | 117 | Unit # 416 | | 145 | GUEST PARKING |
| | 118 | Unit # 416 | | 146 | GUEST PARKING |
| tdm w/120 | 119 | Unit # 316 | | 147 | GUEST PARKING |
| | 120 | Unit # 316 | | | |
| tdm w/122 | 121 | Unit # 301 | | | |
| | 122 | Unit # 301 | | | |
| tdm w/124 | 123 | Unit # 302 | | | |
| | 124 | Unit # 302 | | | |
| | 125 | Unit # 315 | | | |
| | 126 | Unit # 315 | | | |
| | 127 | Unit # 314 | | | |
| | 128 | Unit # 314 | | | |
| | 129 | GUEST PARKING | | | |
| | 130 | GUEST PARKING | | | |
| | 131 | GUEST PARKING | | | |
| | 132 | GUEST PARKING | | | |
| | 133 | GUEST PARKING | | | |
| | 134 | GUEST PARKING | | | |
| | 135 | GUEST PARKING | | | |
| | 136 | GUEST PARKING | | | |
| | 137 | GUEST PARKING | | | |
| | 138 | GUEST PARKING | | | |
| | 139 | GUEST PARKING | | | |
| | 140 | GUEST PARKING HANDICAP SPACE | | | |

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EXHIBIT E
DESCRIPTION OF LOFTS SPECIAL BENEFIT AREA ASSESSMENT
COMPONENTS

1. Condominiums sharing the Lofts Special Benefit Area Improvements or services include the following:

Units 100-108, 200-217, 300-317, 400-417 as shown on the Condominium Plan.

2. Lofts Special Benefit Area Assessment Component includes the following sub-components:

Proportionate Share Sub-component:

Electricity (interior lights, building lights, 2 elevators)
Custodial Services
Minor repairs shared with base budget
Pest control shared with base budget
Window washing
Trash chute maintenance
Lofts Special Benefit Area administrative costs
Elevator Maintenance
Interior Paint
Stair Railing
A portion of the revenue from retail pursuant to Mutual Benefit Agreement

Proportionate Share Sub-Component: The proportionate share sub-component of the Lofts Special Benefit Area Assessment Component chargeable to each Condominium located in the Lofts Special Benefit Area shall be a fraction, the numerator of which is the number one (1) and the denominator of which is the total number of Condominiums located in or authorized to be created in such Lofts Special Benefit Area.

Variably Assessed Sub-component:

Domestic gas (boiler)
Electricity (boiler pumps)
Domestic water
Boiler maintenance
Boiler reserve

Variably Assessed Sub-component: The variably assessed sub-component of the Lofts Special Benefit Area Assessment Component shall be allocated and assessed against all Condominiums in the Lofts Special Benefit Area in proportion to the base square footage ("*Unit Size*") of the Unit. The share of the variably assessed sub-component allocated to each Unit (the "*Variable Sub-Component Assessment*") shall be determined as follows:

1. Add the total of the budgeted monthly variably assessed sub-component to arrive at the total monthly "*Variable Sub-Component Cost*."

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2. Divide the monthly Variable Sub-Component Cost by the aggregate Unit Size of all Condominiums in the Lofts Special Benefit Area, to determine the monthly *"Variable Sub-Component Cost Factor."*
3. Multiply the Variable Sub-Component Cost Factor by the Unit Size to determine the Variable Sub-Component Assessment portion of the Lofts Special Benefit Area Assessment Component for each Condominium Unit.

Unit Size: The Unit Size of each Unit shall be the square footage stated below. The Unit Size is only an approximation of the actual interior footage of each Unit. Actual square footage will vary from the Unit Size, but any such variance shall not be considered in calculating the Variable Sub-Component Assessment.

| Unit Size | Units |
|-----------|--|
| 1039 | 101, 104, 107, 201, 204, 207, 210, 213, 216, 301, 304, 307, 310, 313, 316, 401, 404, 407, 410, 413 and 416 |
| 1235 | 102, 106, 202, 206, 211, 212, 214, 215, 302, 306, 311, 312, 314, 315, 402, 406, 411, 412, 414 and 415 |
| 1354 | 100, 108, 200, 208, 209, 217, 300, 308, 309, 317, 400, 408, 409 and 417 |
| 1357 | 103, 105, 203, 205, 303, 305, 403, 405 |

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EXHIBIT F
ELEMENTS OF VARIABLE ANNUAL ASSESSMENT

Variable Common Expense. The Variable Common Expenses will be the costs of all insurance premiums, paint reserve and roof reserve.

Variable Assessment: The Variable Common Expense (defined above) component of the General Assessments Component shall be allocated and assessed against all Condominiums in proportion to the base square footage ("**Unit Size**") of the Unit. The share of the Variable Common Expenses allocated to each Unit (the "**Variable Assessment**") shall be determined as follows:

1. Add the total of the budgeted monthly Variable Common Expenses (described above) to arrive at the total monthly "**Variable Cost**."
2. Divide the monthly Variable Cost by the aggregate Unit Size of all Condominiums for which Annual Assessments have commenced, to determine the monthly "**Variable Cost Factor**."
3. Multiply the Variable Cost Factor by the Unit Size for which Annual Assessments have commenced to determine the Variable Assessment portion of the Annual Assessment for each Condominium Unit.

Unit Size: The Unit Size of each Unit shall be the square footage stated below. The Unit Size is only an approximation of the actual interior footage of each Unit. Actual square footage will vary from the Unit Size, but any such variance shall not be considered in calculating the Variable Assessment.

| Unit Size | Units |
|-----------|---|
| 3,351 | 1202, 1203, 1205, 1207, 1209 |
| 3,470 | 1201, 1204, 1208, 1210 |
| 3,493 | 1206 |
| 1,039 | 101, 104, 107, 201, 204, 207, 210, 213, 216, 301, 304, 307, 310, 313, 316, 401, 404, 407, 410, 413 and 416 |
| 1,235 | 102, 106, 202, 206, 211, 212, 214, 215, 302, 306, 311, 312, 314, 315, 402, 406, 411, 412, 414 and 415 |
| 1,384 | 100, 108, 200, 208, 209, 217, 300, 308, 309, 317, 400, 408, 409 and 417 |
| 1,357 | 103, 105, 203, 205, 303, 305, 403, 405 |

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EXHIBIT G

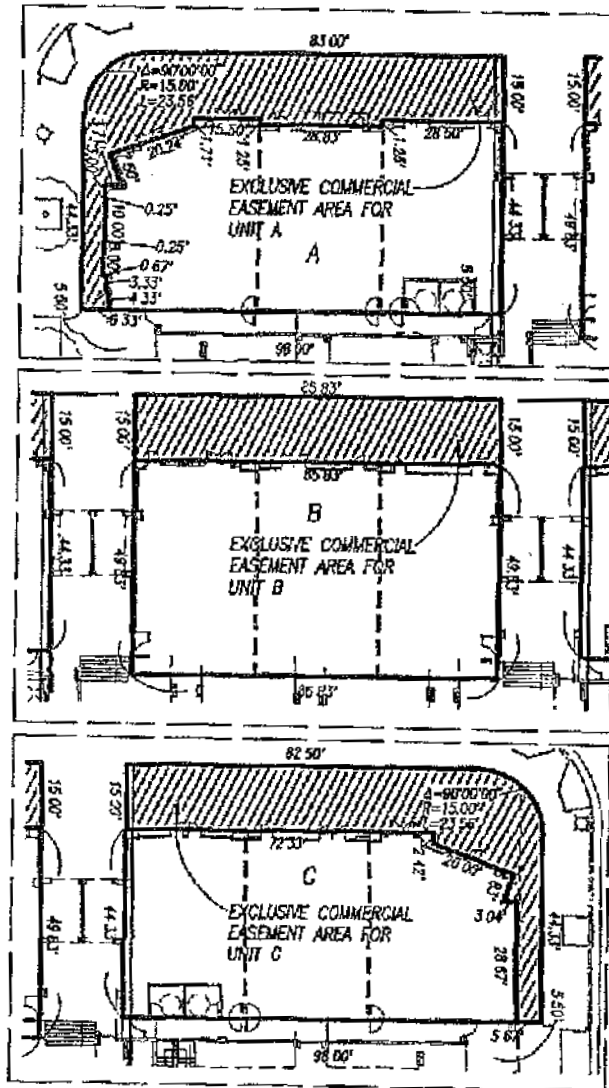
**DEPICTION OF EXCLUSIVE COMMERCIAL EASEMENT AREAS OVER THE
ASSOCIATION PROPERTY**

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EXHIBIT 'G' **LOFTS AND PARK HOUSES AT PLAYA VISTA** **EXCLUSIVE COMMERCIAL EASEMENT AREAS**



LEGEND



INDICATES EXCLUSIVE COMMERCIAL EASEMENT AREA FOR THE UNITS INDICATED AS RESERVED IN THE CONDOMINIUM PLAN FOR "LOFTS AT PLAYA VISTA & PARK HOUSES AT PLAYA VISTA" RECORDED CONCURRENTLY HERewith.

KB HOME
 27240 TURNBERRY LANE, SUITE 100
 VALENCIA, CA. 91355

THE KEITH COMPANIES
 19 TECHNOLOGY DRIVE
 IRVINE, CA 92618
 949.923.6000

TKC

DATE
 06/30/2005
 APPROX UNIT SQ. FTG.
 SHEET 1 OF 1

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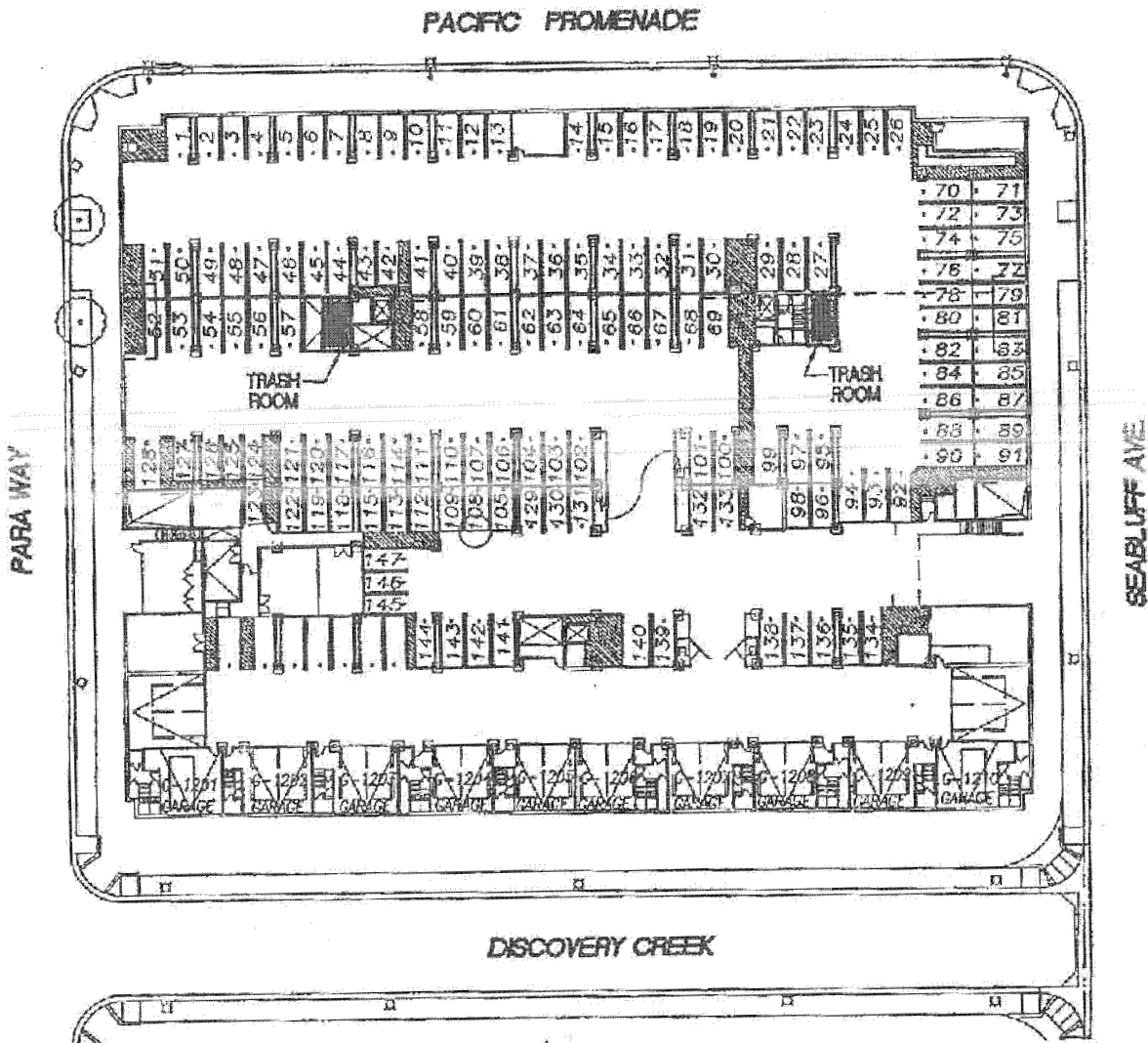
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EXHIBIT "G" **LOFTS AND PARK HOUSES AT PLAYA VISTA** **EXCLUSIVE COMMERCIAL EASEMENT AREAS**

TRASH ROOMS

LEGEND

INDICATES EXCLUSIVE COMMERCIAL EASEMENT AREA FOR THE UNITS INDICATED AS RESERVED IN THE CONDOMINIUM PLAN FOR "LOFTS AT PLAYA VISTA & PARK HOUSES AT PLAYA VISTA" RECORDED CONCURRENTLY HERewith.



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EXHIBIT H
MUTUAL BENEFIT AGREEMENT

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RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

JACKSON, DeMARCO, TIDUS &
PECKENPAUGH (SPE)
2030 Main Street, 12th Floor
Irvine, CA 92614

(Space Above For Recorder's Use)

**MUTUAL BENEFIT AGREEMENT
BETWEEN OWNERS OF MIXED USE BUILDING
(PLAYA VISTA COMMUNITY; RESIDENTIAL/COMMERCIAL)
(Shops at Concert Park – P300)**

This Mutual Benefit Agreement between Owners of Mixed Use Building (this "*Agreement*") is entered into pursuant to Civil Code Section 1468 between CRESCENT BAY PARK, LLC, a Delaware limited liability company (the "*Commercial Owner*") and CONCERT PARK SOUTH VENTURE LLC, a Delaware limited liability company (the "*Residential Owner*") concerning that certain real property located within the Playa Vista master planned community, more particularly described on *Exhibit A* attached hereto (the "*Property*").

RECITALS

A. Prior to the date hereof, the Residential Owner, as owner of the Property, has developed and constructed on the Property a mixed-use structure containing multiple buildings (each, a "*Building*"), a subterranean parking garage (the "*Garage*") and various outdoor landscaping areas, accessways, and other common areas (collectively, the "*Project*"). Prior to the date hereof, the Property was annexed to and encumbered by the Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Playa Vista, as amended or restated, which was recorded in the Official Records on February 7, 2000, as Instrument No. 00-0187083 and amended by (1) a First Amendment thereto recorded on March 26, 2001, as Instrument No. 01-0481376; (2) a Second Amendment thereto recorded on November 26, 2002, as Instrument No. 02-2875170; and (3) a Third Amendment thereto recorded on November 26, 2002, as Instrument No. 02-2875171 (collectively, the "*Master Declaration*").

B. In connection with development of the Project, the Residential Owner has further subdivided the Property by recordation in the Official Records of Los Angeles County, California (the "*Official Records*") of (1) a condominium plan (the "*Residential Condominium*")

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Plan") showing the Residential Area of the Project (as such term is defined below) and (2) a condominium plan (the "*Commercial Condominium Plan*" and collectively with the Residential Condominium Plan, the "*Condominium Plans*") showing the Commercial Area of the Project (as such term is defined below). Unless otherwise defined herein, the capitalized terms contained in this Agreement shall have the meanings given them in the Master Declaration and the Condominium Plans.

C. Pursuant to the Condominium Plans, the Property has been subdivided into the two following areas, all as depicted or described on the applicable Condominium Plan:

(i) the "*Residential Area*," as more particularly described on *Exhibit B* attached hereto, which includes (A) residential Condominium dwelling units (the "*Residential Condominiums*") (B) exclusive use easements appurtenant to each Residential Condominium (such as for patios, decks, balconies, air conditioning compressor pads or parking spaces) (the "*Residential Exclusive Use Easements*"), (C) certain undivided interests in the Common Area (Residential), and (D) the Garage and all other portions of the Project, including the land and air within the boundaries of the Property, available for the common use and enjoyment of the owners and occupants of the Residential Condominiums but expressly excluding the Commercial Area described below (the "*Residential Association Area*"); and

(ii) the "*Commercial Area*" as more particularly described on *Exhibit C* attached hereto, which is comprised of (A) condominium units (the "*Commercial Condominiums*"), (B) exclusive use easements over portions of the Residential Association Area (including trash areas within the Garage) appurtenant to each Commercial Condominium (the "*Commercial Exclusive Use Easement Areas*"), (C) certain undivided interests in the Common Area (Commercial), and (D) certain portions of the Building adjacent to the Commercial Condominiums for the exclusive use of the Commercial Condominiums (the "*Commercial Association Area*").

D. Following the recordation of this Agreement, the Residential Owner will be conveying the Commercial Area to the Commercial Owner. In connection therewith, the Commercial Area will be deannexed from the Master Declaration. The Commercial Area and Residential Area, although legally separate real property interests, are commonly-located within single Buildings and share certain building components. The physical relationship between the Commercial Area and the Residential Area requires mutual cooperation and allocation of responsibilities between the Commercial Owner and the Residential Owner regarding the use and maintenance thereof.

E. The Commercial Owner and the Residential Owner now wish to enter into this Agreement to provide for the following: (i) the imposition of certain covenants and restrictions on the use and occupancy of the Residential Area and Commercial Area; (ii) the performance of the Shared Maintenance Obligations (defined in Section 3(c) below) by the Residential Owner for the benefit of both the Residential Owner and the Commercial Owner; (iii) the reimbursement by the Commercial Owner of a portion of the Shared Expenses (as defined in Section 4(a) below) incurred by the Residential Owner in performance of the Shared Maintenance Obligations; (iv) the creation of certain rights of entry and easements appurtenant

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to the Commercial Area and Residential Area; and (v) other purposes as set forth below. The Residential Owner, the Commercial Owner and their successors and assigns are referred to in this Agreement collectively as the "*Parties*" and individually as a "*Party*." The Commercial Owner and the Residential Owner intend that this Agreement be a covenant running with the land pursuant to Section 1468 of the California Civil Code.

R. The terms and conditions of this Agreement shall commence upon the recordation of this Agreement in the Official Records.

AGREEMENT

The Parties confirm the accuracy of the foregoing recitals and agree as follows:

1. Formation of Owners Associations and Transfer of Obligations.

(a) **Residential Area.** Prior to the first Close of Escrow of a Residential Condominium, the Residential Owner shall (i) form a residential homeowners association (the "*Residential Subassociation*"), (ii) cause the Residential Area to be encumbered by and annexed to a Subordinate Declaration (as described in the Master Declaration) and any other declaration of covenants, conditions and restrictions that the Residential Owner may deem appropriate to record against the Residential Area setting forth covenants, conditions and restrictions governing operation of the Residential Subassociation and ownership, occupancy, use and maintenance of the Residential Area (the Master Declaration, Subordinate Declaration and all other declarations are hereinafter collectively the "*Residential Declaration*"), and (iii) convey ownership of the Residential Association Area to the Residential Subassociation. Concurrently with the conveyance of the Residential Association Area to the Residential Subassociation, all of the Residential Owner's rights and responsibilities set forth in this Agreement shall be deemed automatically transferred and assigned to the Residential Subassociation and upon acceptance of the conveyance of the Residential Association Area, the Residential Subassociation shall be deemed to have assumed such rights and responsibilities.

(b) **Commercial Area.** Prior to the transfer of one (1) or more but not all of the Commercial Condominiums to an entity unrelated to the Commercial Owner (such that the Commercial Condominiums are owned by two or more separate entities), the Commercial Owner shall form a commercial owners association (the "*Commercial Association*"). The Commercial Owner may transfer its rights and responsibilities under this Agreement to the Commercial Association at any time after the formation thereof, but shall not be required to transfer its obligations until the Commercial Condominiums are owned by two or more separate entities as contemplated above. In addition to this Agreement, the Commercial Area will be made subject to one or more declarations of covenants, conditions and restrictions, either prior to or concurrently with the formation of the Commercial Association, governing operation of the Commercial Subassociation and ownership, occupancy, use and maintenance of the Commercial Area (collectively, the "*Commercial Declaration*").

2. **Use Restrictions.** No part of the Commercial Area or Residential Area shall be used for any purpose inconsistent with applicable ordinances of the City and County of Los Angeles (collectively, the "*City*").

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(a) **Restrictions on use of Residential Area.** Neither the Residential Owner nor any persons entitled to use or occupy any part of the Residential Area under any lease, deed, license or other arrangement and their respective employees, agents, visitors, contractors and invitees ("*Residential Permittees*") may permit, or cause to be permitted, any activities or conduct which materially, adversely and unreasonably affects or interferes with the Commercial Area or the operation of any business therein, including without limitation, watering plants in a manner that permits such water to enter the Commercial Area, shaking rugs, or otherwise releasing water, dirt, dust and other substances outside of windows or from Residential Condominiums or Residential Exclusive Use Areas located above the Commercial Area.

(b) **Restrictions on use of Commercial Area.** Neither the Commercial Owner nor any persons entitled to use or occupy any part of the Commercial Area under any lease, deed, license or other arrangement and their respective employees, agents, visitors, contractors and invitees ("*Commercial Permittees*") may permit, or cause to be permitted, (i) the operation of any adult businesses (including without limitation, adult bookstores, escort services, gentlemen's clubs and tattoo parlors), arcades, dance clubs or bars (provided, however, that the foregoing shall not be deemed to prohibit the incidental sale of alcoholic beverages in conjunction with the operation of a restaurant or other food service business), or (ii) the installation of moving signs or lighted signs that permit the unreasonable escape of light or noise into any Residential Condominium. In addition, businesses operating within the Commercial Area shall be subject to the following limitations on hours of operation: (a) no business within the Commercial Area may be open for business between the hours of 12:01 a.m. and 5:59 a.m. (provided that this restriction shall not prevent 24-hour use of automated teller machines, overnight customer drop boxes or similar facilities); (b) no deliveries to the Commercial Area shall be permitted before 8:00 a.m. or after 7:00 p.m., and (c) no outdoor patios or eating areas within the Commercial Exclusive Use Basement Areas may be used by Commercial Permittees after 10:00 p.m. on Sundays through Thursdays or 11:00 PM on Fridays and Saturdays. Without limiting the foregoing, no live or recorded music may be permitted to emanate from any Commercial Condominiums after 10:00 P.M. in such a manner as to cause such music to be heard at unreasonable levels from within the Residential Condominiums adjacent thereto; provided, however, that the foregoing restriction shall not apply if the occupants of all Residential Condominiums located immediately above or adjacent to (so as to share common walls or floors with) the Commercial Condominium from which such music emanates consent to the playing of live or recorded music from such Commercial Condominium after 10:00 P.M. For purposes of this Agreement, Residential Permittees and Commercial Permittees shall hereinafter be collectively referred to as the "*Permittees*."

(c) **Increased Insurance Premiums.** Neither Party, nor its Permittees nor any member of the Commercial Association or the Residential Subassociation shall possess or sell from any portion of the Property any merchandise or substance or perform any activity in relation to the use of the Property which would (i) cause the actual or threatened cancellation of any insurance maintained by the Residential Subassociation and Commercial Owner or Commercial Subassociation, as applicable, covering each parties respective portion of the Property, or (ii) increase the premiums for such insurance over the rates which would otherwise apply, unless responsible Party pays for the amount of the increase in insurance costs.

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3. **Maintenance and Operational Obligations.**

(a) **Commercial Maintenance Obligations.** The Commercial Owner, at its sole cost and expense, shall maintain, repair and replace the components within the Commercial Area designated or depicted on *Exhibit D* attached hereto, including without limitation, the following (the "**Commercial Maintenance Obligations**"): (i) the interior of each Commercial Condominium (between the unfinished surface of the top of the podium deck and the unfinished surface of the bottom of the first floor plate), excluding any gas, water and waste pipes, ducts, chutes, conduits, wires or other utility installations that extend into the Commercial Condominiums that serve the Residential Area, which the Residential Owner shall maintain, repair and replace at Residential Owner's sole costs and expense; (ii) the exterior surface of the Building (Commercial Owner shall clean and keep free of dirt and dust only) in the area between the lateral extension of the upper and lower Commercial Condominium boundary (the unfinished surface of the top of the podium deck and the unfinished surface of the bottom of the first floor plate) (iii) all landscaping and walkways within the Commercial Exclusive Use Easement Areas appurtenant to the Commercial Condominiums and the sidewalks abutting said Commercial Exclusive Use Easement Areas; (iv) lighting within the Commercial Area and the Commercial Exclusive Use Basement Areas adjacent thereto; (v) trash containers serving the Commercial Area which are to be located within the Garage; (vi) trash chutes that serve the Commercial Area and drop into such separate Garage trash rooms; (vii) vertical shafts or other exterior ventilation shafts which contain utilities or ventilation primarily serving the Commercial Area, (viii) windows and doors located in the Commercial Area; (ix) all utilities primarily serving the Commercial Area (including points of penetration for utility improvements primarily serving the Commercial Area); (x) roof-mounted mechanical equipment primarily serving the Commercial Area, and (xi) any other components of the Property that are directly adjacent to and primarily serve the Commercial Area that are not the responsibility of the Residential Owner. The Commercial Maintenance Obligations shall be performed in conformance with good business practices and in compliance with all applicable building codes and laws. In performing its obligations under this Section 3(a), the Commercial Owner shall not take any action that materially, adversely or unreasonably affects the structural integrity of the Residential Area nor interferes with any of the utilities serving the Residential Area.

(b) **Shared Maintenance Obligations.** The Residential Owner shall perform the functions, provide the services and maintain those portions of the Property described on *Exhibit E* attached hereto ("**Shared Maintenance Obligations**") in conformance with good business practices and in compliance with all applicable building codes and laws. The Shared Maintenance Obligations shall be performed as a Shared Expense (defined in Section 4(a) below) of the Commercial Owner and the Residential Owner. The Residential Owner shall prepare and deliver to the Commercial Owner no later than October 1 of each calendar year, an operational and maintenance plan (the "**Maintenance Plan**") for performing the Shared Maintenance Obligations for the following calendar year. The Maintenance Plan shall include the specifications for maintenance of all portions of the Property that are part of the Shared Maintenance Obligations. The Commercial Owner shall review, approve or disapprove the Maintenance Plan within thirty (30) days after delivery thereof, which approval shall not be unreasonably withheld. Any dispute relating to the Maintenance Plan shall be resolved pursuant to the dispute resolution procedure set forth in Section 9 of this Agreement.

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(c) **Residential Maintenance Obligations.** The Residential Owner shall maintain, repair and replace all portions of the Property other than those portions that the Commercial Owner is obligated to maintain pursuant to Section 3(a) above and that are not designated as Shared Maintenance Obligations pursuant to Section 3(b) above (the "*Residential Maintenance Obligations*") at its sole cost and expense. The Residential Maintenance Obligations shall be performed by the Residential Owner in conformance with good business practices and in compliance with all applicable building codes and laws. The Residential Owner shall not materially, adversely or unreasonably affect the structural integrity of the Commercial Area nor interfere with any of the utilities serving the Commercial Area in performing its obligations under this Section 3(c).

(d) **Pest Control.** The Commercial Owner and Residential Owner shall perform their own pest control except where a combined effort is necessary or desirable. The Commercial Owner shall conduct a regular program of pest control to control rodents, vermin and other pests as required by all applicable health regulations of the City. If the Residential Owner elects or is required to fumigate the Building for termites or conduct other pest control that would potentially adversely affect the business uses in the Commercial Area, the Residential Owner shall provide Commercial Owner with at least thirty (30) days notice prior to any such treatment and shall consult with the Commercial Owner regarding the scheduling thereof and commercially-reasonable methods of conducting such fumigation efforts in a manner so as to reduce adverse effects on the business uses within the Commercial Area.

(e) **Cooperation.** The Commercial Owner and the Residential Owner shall cooperate with one another in good faith in the performance of their respective obligations under this Section 3.

4. Shared Expenses/Examination of Records.

(a) **Shared Expenses.** No later than October 1 of each calendar year, Residential Owner shall prepare and deliver to Commercial Owner, for its review, approval or disapproval (which approval shall not be unreasonably withheld) a budget showing the expenses necessary to perform the anticipated Shared Maintenance Obligations ("*Shared Expenses*") for the following calendar year. Upon approval of the budget for each calendar year, Commercial Owner shall reimburse the Residential Owner for six and four-tenths percent (6.4%) of the Shared Expenses ("*Commercial Owner's Proportionate Share*") in twelve (12) equal monthly payments, commencing on January 1st of each year. If the Residential Owner at any time, because of unanticipated expenses, reasonably determines that the budgeted expenses set forth in an approved budget will not be adequate to pay the actual Shared Expenses for a calendar year, the Residential Owner will deliver a revised budget to the Commercial Owner for its further review and approval or disapproval and the revised budget, after approval by the Commercial Owner (which approval shall not be unreasonably withheld), shall be the basis for the payments to be made by the Commercial Owner for the remainder of the calendar year. On or before the end of each calendar year, the Residential Owner shall make an accounting of the Shared Expenses actually and reasonably incurred for the previous calendar year and shall refund to the Commercial Owner any payments delivered by the Commercial Owner pursuant to this Section 3(a) in excess of the Commercial Owner's proportionate share of the Shared Expenses actually and reasonably incurred by the Residential Owner. Any dispute relating to the budget or the

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amount of Shared Expenses actually incurred by the Commercial Owner shall be resolved pursuant to the dispute resolution procedure set forth in Section 10 of this Agreement.

(b) **Examination of Records.** The Commercial Owner may, from time to time, examine and make copies of records of the Residential Owner pertaining to the Shared Expenses for a particular calendar year dating back not more than three (3) years, which rights of examination shall be the same as those held by an owner of a Residential Condominium as set forth in the Residential Declaration or as otherwise provided by applicable law. This right of examination must be exercised during reasonable business hours at the principal records office of the Residential Owner and on reasonable prior notice to the Residential Owner. If the audit discloses any overcharge in the Shared Expenses, the Residential Owner shall promptly reimburse (within thirty (30) days) the Commercial Owner for his share for any overcharge; and if the overcharge exceeds five percent (5%) of the actual Shared Expenses, the Residential Owner shall reimburse the Commercial Owner for the reasonable costs of the examination of the records of the Shared Expenses.

5. **Building Structural Repairs and Expenses.** If either the Commercial Owner or the Residential Owner determines that the structural elements of the Building affecting any portion of the Commercial Area or Residential Area require repair or reinforcement that will affect the other Party's property, the Party making such a determination shall notify the other Party in writing of its determination and the Parties shall thereafter, within thirty (30) days, jointly adopt a plan for the investigation of the need for such structural repair or reinforcement and, if necessary, the design and implementation of the repairs or reinforcement. If the Parties are not able to agree on such a plan or the need or extent of any such repairs or restoration, the matter shall be determined as provided in Section 10 of this Agreement.

6. **Easements.**

(a) **Easements for the Benefit of the Commercial Area.** The Commercial Owner and the Commercial Permittees shall benefit from, and there are hereby established and granted for the benefit of the Commercial Owner and the Commercial Permittees, the following easements appurtenant to the Commercial Area:

(i) **Commercial Maintenance Obligation Easements.** Nonexclusive easements under, through and across those portions of the Residential Association Area (including the Garage) reasonably necessary for the purpose of performing the Commercial Maintenance Obligations, subject to reasonable and nondiscriminatory rules and regulations imposed on the Residential Association Area by the Residential Owner and further subject to the rights of the Residential Owner to operate, maintain and repair the Residential Association Area.

(ii) **Access Easements.** Nonexclusive easements under, through and across those portions of the Residential Association Area approximately as shown on *Exhibit F* attached hereto, which are located (i) between public streets and the Commercial Area as reasonably necessary for the purpose of ingress to and egress from the Commercial Area, (ii) between the Commercial Area and the Garage as reasonably necessary for access to trash containers located therein, and (iii) between the Commercial Area and the roof of the Buildings

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in which the Commercial Area is located for access to Utilities and antennae described in Section 6(iii) and Section 6(iv), respectively.

(iii) **Utility Easements.** Nonexclusive easements under, through, and across the Residential Association Area (including the Garage) for access, ingress and egress, installation, maintenance, removal, and replacement of water drainage systems or structures, water mains, sewers, fire sprinkler system lines, telephones, electrical and communications conduits or systems, gas mains and other utilities and services, for the installation, maintenance, removal and replacement of heating, ventilation and air conditioning systems, and vents and shafts installed to contain one or more of the foregoing, for the modification or upgrading of any of the foregoing, and for the installation of any new utilities equipment or services required by any Permittee of the Commercial Area (collectively the "Utilities"). All Utilities required to be located within the Residential Association Area shall be located entirely within the walls, vents or shafts of the Building or within ducts or conduits customarily provided for such Utilities, except (A) heating, air conditioning and ventilation units and water boiler may be located on the roof of the Building (subject to load capacities, reasonable sound mitigation and screening), (B) Utilities may be installed within conduits located on the ceiling and walls of the Garage, but only to the extent that such Utilities are installed in a manner which complies with all applicable laws and do not otherwise materially interfere with use of the Garage by the Residential Association or its Permittees, (C) Utilities, grease traps and similar facilities may be located underground within set-back areas surrounding the Building and (D) Utilities may be located in ventilation or exhaust shafts on the exterior of the Building along the two internal corridors between the Commercial Condominiums. The Commercial Owner may cause the mounting or installation of additional ventilation or exhaust shafts on the exterior of the Building along the two internal corridors between the Commercial Condominiums and the placement of Utilities within those shafts. If the Commercial Owner must cause the installation of any Utilities across the Residential Association Area (1) such Utilities shall be located in a manner so as to minimize any adverse affect on use of the Residential Association Area, (2) the affected portion of the Residential Association Area must be replaced or repaired to its original condition following the installation of the Utilities and (3) the Commercial Owner must pay for all costs associated with such work. The Commercial Owner shall notify the Residential Owner prior to installing any utilities within Exclusive Use Areas appurtenant to the Commercial Condominiums. The Residential Owner shall have the right to review and reasonably approve plans for installation of Utilities within any portion of the Residential Association Area other than the Exclusive Use Areas appurtenant to the Commercial Condominiums, provided, however, that such approval may only be withheld or conditioned to the extent reasonably necessary for the protection and preservation of the Residential Association Area.

(iv) **Easements for Antennae.** Nonexclusive easements under, over, across and through those portions of the Residential Association Area located within Buildings containing Commercial Area (including the roof of such Buildings) for access, ingress and egress, installation, maintenance, removal, and replacement of one or more antennae for the receipt or transmission of telecommunications, video, audio or other data signals. Commercial Owner shall have the right to place any antennae on the roof of the Building containing Commercial Area that does not exceed thirty-nine inches (39") in diameter without obtaining the approval of the Residential Owner. The Residential Owner shall have the right to (A) review

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and approve (which approval shall not be unreasonably withheld) the placement of any antenna that exceeds thirty-nine inches (39") in diameter, within fifteen (15) days after delivery of a request for said approval by Commercial Owner, (B) designate a reasonable location for such antenna provided that such location does not adversely impact the performance of such antenna or materially increase the cost of installing and operating such antenna to the Commercial Owner or its Permittees and (C) impose screening or such other requirements on installation of such antenna as may be reasonably necessary for protection and preservation of the Residential Association Area.

(v) **Exclusive Use Easements.** Without limiting the foregoing, Residential Owner shall, upon conveyance of the Residential Association Area to the Residential Association, reserve certain exclusive use easements over the Residential Association Area for the benefit of the Commercial Area for the use of (1) outdoor patio and dining areas and trash collection areas as more particularly set forth on the Condominium Plans, and (2) ventilation and utility shafts which exclusively serve the Commercial Area. Residential Owner shall convey such exclusive use easements to the Commercial Owner concurrently with conveyance of the Commercial Area thereto.

(vi) **No Unreasonable Interference With Easements Over the Residential Association Area.** Except as may be reasonably and temporarily necessary in connection with such construction, maintenance, or repair work as may be undertaken and performed in accordance with this Agreement, no walls, fences, or barriers of any sort or kind shall be constructed or maintained on any portions of the Residential Association Area subject to the foregoing easements that would prevent or impair the use or exercise of any of the easements granted herein on the terms set forth herein. Notwithstanding the foregoing, the Residential Owner may install security gates or other limited access measures restricting access by the general public to the Residential Association Area provided that the Residential Owner supplies the Commercial Owner with such access keys, codes, passes or other devices or information as may be reasonably necessary to permit the Commercial Owner and its Permittees to use or exercise of any of the easements granted herein.

(b) **Easements for the Benefit of the Residential Area.** The Residential Owner and the Residential Permittees shall benefit from, and there are hereby established and reserved for the benefit of the Residential Owner and the Residential Permittees, the following easements appurtenant to the Residential Area:

(i) **Residential Maintenance Obligations.** Nonexclusive easements under, through and across the Commercial Association Areas as reasonably necessary for the purpose of performing the Residential Maintenance Obligations (but not within the Commercial Condominiums), subject to reasonable and nondiscriminatory rules and regulations imposed on the Commercial Area by the Commercial Owner and to the rights of the Commercial Owner to operate, maintain and repair the Commercial Area. Residential Owner's rights under this easement are subject to the obligation not to unreasonably interfere with the use or operation of businesses in the Commercial Area.

(ii) **Shared Maintenance Obligations.** Nonexclusive easements for ingress and egress in, through, on and over (A) those portions of the Commercial

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Association Area as reasonably necessary for the purpose of maintaining those items listed in the Shared Maintenance Obligations, and (B) the Commercial Condominiums to the extent reasonably necessary to maintain the building systems and structural elements of the Buildings; provided however, that, except in emergency circumstances, such right to enter into any Commercial Condominium may only be exercised upon three (3) business days prior notice to the occupant thereof. Without limiting the foregoing, the Residential Owner's use of any of the foregoing access easements shall remain at all times subject to such reasonable and nondiscriminatory rules and regulations imposed on the Commercial Area by the Commercial Owner and to the rights of the Commercial Owner to operate, maintain and repair the Commercial Area. Residential Owner's rights under this easement are further subject to the obligation not to unreasonably interfere with the use or operation of businesses in the Commercial Area.

(iii) **Utility Easements.** Nonexclusive easements under, over, across and through the Commercial Association Area for the installation, maintenance, removal, and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, electrical and communications conduits or systems, gas mains and other utilities and services and for the installation, maintenance, removal and replacement of heating, ventilation and air conditioning systems (collectively the "*Utilities*"). If the Residential Owner must cause the installation of a Utility across the Commercial Association Area, (A) such Utilities shall be located in a manner so as to minimize any adverse affect on use of the Commercial Association Area, (B) the affected portion of the Commercial Association Area must be replaced or repaired to its original condition following the installation of the Utilities and (C) the Residential Owner must pay for all costs associated with such work. The Commercial Owner shall have the right to review and reasonably approve plans for installation of utilities within any portion of the Commercial Association Area, provided, however, that such approval may only be withheld or conditioned to the extent reasonably necessary for the protection and preservation of the Commercial Association Area.

(iv) **Permitted Encroachments.** Subject to Section 2(a) hereof, a nonexclusive easement for encroachment of bay windows, awnings, eaves, canopies and balconies which may encroach into or upon the airspace over the Commercial Exclusive Use Easement Areas appurtenant to the Commercial Condominiums.

(v) **No Unreasonable Interference With Easements Over the Commercial Area.** Except as may be reasonably and temporarily necessary in connection with such construction, maintenance, or repair work as may be undertaken and performed in accordance with this Agreement, no walls, fences, or barriers of any sort or kind shall be constructed or maintained on the Commercial Association Area, which shall prevent or unreasonably impair the use or exercise of any of the easements reserved herein.

(c) **Limitations.** The rights of the Commercial Owner, the Residential Owner or the Permittees over the Property shall be subject to all covenants, conditions, restrictions, easements, reservations, rights and rights-of-way, recorded now or in the future against the Property; provided, however, that no such documents shall unreasonably impair the easement rights of the Parties under this Section 6.

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7. Insurance.

(a) **Property Casualty Insurance.** The Residential Owner shall purchase and maintain standard form fire insurance with extended coverage endorsements as written in California, by one or more insurance companies with a rating of at least A-/IX by Best Insurance Reports, insuring the structure of the Building and such insurance shall be in an amount not less than one hundred percent (100%) of the actual replacement cost thereof. This casualty insurance shall extend solely to the core and shell of the Commercial Area and shall not be required to provide coverage to the interior improvements of the Commercial Condominiums (including fixtures). The costs of the Property Casualty Insurance shall be a Shared Expense (defined in Section 4(a)). Notwithstanding the foregoing, the Commercial Owner and/or its Permittees shall be solely responsible for obtaining insurance coverage for the replacement and/or repair of improvements, trade fixtures and personal property located within the Commercial Condominiums.

(b) **General Liability Insurance.** The Residential Owner shall purchase and maintain a policy or policies of bodily injury and property damage liability insurance with combined single limits of at least Two Million and no/100 Dollars (\$2,000,000.00), which minimum amount shall be subject to increase on not less than an annual basis based on the increase, if any, in the Consumer Price Index for the Metropolitan Los Angeles Area. Such policy or policies shall be maintained with insurance companies rated not less than A-/IX by Best Insurance Reports. The Commercial Owner, the Residential Owner, their Permittees and any of their lenders or property managers shall be named as additional insureds in said policies, insuring against any liability arising out of the maintenance, use or occupancy of the Property. The costs of the General Liability Insurance shall be a Shared Expense (defined in Section 4(a)). The Commercial Owner and/or Permittee of any Commercial Condominium shall have the right to obtain and maintain such additional General Liability Insurance as such party may deem advisable but the maintenance of such additional General Liability Insurance shall not release the Commercial Owner from paying its proportionate share of the cost of the General Liability Insurance maintained by the Residential Owner as a Shared Expense.

(c) **Waivers of Subrogation; Certificates; No Cancellation or Reduction Without Notice.** The Residential Owner and the Commercial Owner, on their behalf and on behalf of their Permittees, waive, to the extent of such insurance proceeds as each may actually receive, all rights of recovery as they might have against each other and their respective Permittees and insurers with respect to all perils covered by whatever casualty insurance is in effect from time to time. The Residential Owner and the Commercial Owner further agree that all insurance policies to be maintained for any portion of the Residential Association Area or Commercial Association Area, whether pursuant to this Agreement or otherwise, shall provide for waiver of rights of subrogation to the extent available on commercially reasonable terms. All insurance policies to be maintained under this Agreement shall further provide that the insurance provided thereby will not be canceled or the coverage reduced below the amount stated therein without at least sixty (60) days' notice to the Commercial Owner. The Residential Owner shall provide to the Commercial Owner proper certificates evidencing the coverages required under this Section 7.

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8. **Damage and Restoration.** In the event of damage to or destruction of the Commercial Area, or to portions of the Residential Association Area over which the Commercial Owner and Commercial Permittees have any easement rights, the following provisions shall apply:

(a) **Obligation of Residential Owner.** Subject to Section 8(c) below, upon the occurrence of any damage or destruction to the Project, the Residential Owner shall restore damaged or destroyed areas in the Project to at least as good a condition as such areas were in immediately prior to such damage or destruction as soon as reasonably practicable following such damage or destruction. All work required in connection with such repair and restoration (the "*Restoration Work*") shall be performed in a good and workmanlike manner and shall conform to and comply with the all applicable governmental requirements and the provisions of the Playa Vista Design Guidelines. The Commercial Owner shall have the right to review and approve the plans and specifications for the Restoration Work affecting the Commercial Area or the Buildings within which the Commercial Area or any portion thereof may be located; provided, however, that such approval may not be unreasonably withheld to the extent that such plans and specifications substantially conform to the original plans and specifications for construction of the core and shell of the Commercial Area and any Commercial Exclusive Use Areas appurtenant thereto or to the extent of any nonconformance with such original plans and specifications, otherwise comply with applicable law and the Playa Vista Design Guidelines and do not materially adversely change the use, occupancy and value of the Commercial Area over the condition thereof existing prior to the date of such damage or destruction. The Commercial Owner shall pay its proportionate share (determined as set forth in Section 8(b) below) of any deductible payable by the Residential Owner in connection with the cost of such Restoration Work; provided however, that the Commercial Owner shall have no obligation to pay any portion of the cost of such Restoration Work for which insurance proceeds are not available due to a breach of Residential Association's insurance obligations hereunder.

(b) **Obligations of Commercial Owner.** In the event of damage or destruction to any portion of the Buildings in which the Commercial Area is located which renders any of the Commercial Condominiums permanently uninhabitable, but subject to the terms of Section 8(d) below, the Commercial Owner shall reimburse the Residential Owner for a proportionate share of the cost to restore the "core and shell" components of the applicable Building (the "*Restoration Costs*"). The Commercial Owner's proportionate share of Restoration Costs shall be equal to (i) (A) the total Restoration Costs incurred by the Residential Owner to repair the "core and shell" elements of the applicable building divided by (B) the total square footage within such Building (including that portion containing the Commercial Area) multiplied by (ii) the total square footage of Commercial Area within such Building. Except as expressly set forth herein, the Commercial Owner shall have no obligation to pay any portion of the Restoration Costs incurred by the Residential Owner to restore or repair damage to the Residential Area or any portion thereof unless such damage is caused by negligence or intentional misconduct of the Commercial Owner or its Permittees, and then only to the extent of any portion of such repair costs which are not covered by the insurance to be maintained by the Residential Owner pursuant to this Agreement.

(c) **Abandonment of the Project.** In the event that, following damage or destruction to the Property, the Residential Owner (or members of the Residential

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Subassociation, as applicable) elects to abandon the Project and to sell the Project by partition pursuant to Section 1359 of the Cal. Civ. Code and the terms of the Residential Declaration, then subject to the terms of this Section 8(c), the Residential Owner shall have no obligation to restore or repair any damage to the Commercial Area or Commercial Exclusive Use Easement Areas appurtenant thereto and the Commercial Owner's sole remedy shall be to receive (i) its proportionate share of any insurance proceeds or any other damages recovered from third parties, to the extent actually recovered by the Residential Owner in connection such damage or destruction, plus (ii) its proportionate share of the proceeds from such sale of the Property (collectively, the "*Partition Proceeds*"). Notwithstanding the foregoing, for the sole purpose of Section 1359 of the Cal. Civil Code which requires the approval of "owners of separate interests holding in aggregate more than a 50-percent interest in the common area" for a partition of the Property, the Commercial Owner shall be deemed to hold an interest in the Residential Association Area equal to the proportion which the aggregate square footage of the Commercial Condominiums bears to the total square footage of all Residential Condominiums within the Project. For purposes of this Section 8(c), the Commercial Owner's proportionate share of the Partition Proceeds shall be determined based upon the ratio between the fair market value of the Commercial Area prior to the damage and destruction and the total aggregate fair market value of the Project prior to such destruction (collectively, the "*Pre-Destruction Values*"), as determined by mutual agreement of the Residential Owner and the Commercial Owner. In the event that the parties cannot agree on such Pre-Destruction Values, the parties shall each appoint an appraiser who shall mutually appoint a third appraiser and the three appraisers shall determine the Pre-Destruction Values of the Project and the Commercial Area for purposes of determining the Commercial Owner's proportionate share of the Partition Proceeds. Without limiting the foregoing, the Commercial Owner shall have the right of first offer to purchase the Property upon any partition sale thereof, which right shall be exercised within sixty (60) days after written notice by the Residential Owner of the intended partition sale of the Project, and shall be entitled to credit the Commercial Owner's proportionate share of the Partition Proceeds against the purchase price to be paid to the Residential Owner for the sale of the Project.

(d) **Uninsured Loss.** In the event that, following damage or destruction to the Property for which no insurance proceeds are available to fund the required Restoration Work, the Residential Owner (or members of the Residential Subassociation, as applicable) elect to nonetheless impose a Reconstruction Assessment and rebuild the Project, the Commercial Owner shall have no obligation to pay any portion of such uninsured costs for the Restoration Work and may abandon the Commercial Area by delivering a quitclaim deed to the Residential Owner. In such event, the Commercial Owner shall have no further right to any consideration for abandonment of the Commercial Area or to collect damages or other compensation from third parties for any damage thereto (other than the payment of insurance proceeds under insurance coverage maintained by the Commercial Owner), and shall assign to the Residential Owner all right, title and interest in and to any such damages or other compensation.

9. **Approvals and Dispute Resolution.** Except as otherwise specifically provided herein, if any Party having a right of approval hereunder fails to give such approval or specific grounds for disapproval within thirty (30) days of receipt of the request therefor (which shall include such background data as may be necessary to make an informed decision on such request), said Party shall be deemed to have given its approval. Except as otherwise specifically

provided herein, no such approval shall be unreasonably withheld or delayed. If the Parties are not able to agree on any matter which is to be approved by either or both Parties pursuant to this Agreement, the matter shall, upon demand of either Party, be determined by binding arbitration as set forth in Section 14(s) below.

10. Indemnities.

(a) **Commercial Owner's Indemnity Obligations.** Subject to the provisions of Section 10(c) below, Commercial Owner shall protect, indemnify, defend, and hold the Residential Owner harmless from and against all claims, actions, proceedings, expenses, liabilities, loss, damage, and costs (each, an "Indemnified Matter"), including without limitation any reasonable attorneys' fees incurred in connection therewith, arising from or due to the death of or any accident, injury, loss, or damage to any person or loss or damage arising as a result of any of the following: (i) a breach of the Commercial Owner's maintenance obligations hereunder, or (ii) any use of the Residential Association Area by Commercial Permittees pursuant to the easements set forth in Section 6(a) above or otherwise, including, without limitation, any Indemnified Matters for which the Commercial Owner may be entitled to indemnification from any third party pursuant to a lease of any portion of the Commercial Area or under any other agreements entered into by Commercial Owner or tenants thereof relating to use, occupancy and maintenance of the Commercial Area.

(b) **Residential Owner's Indemnity Obligations.** Subject to the provisions of Section 10(c) below, Residential Owner shall protect, indemnify, defend, and hold the Commercial Owner harmless from and against all claims, expenses, liabilities, loss, damage, and costs, including without limitation any actions or proceedings in connection therewith and reasonable attorneys' fees, incurred in connection with, arising from, due to or as a result of the death of or any accident, injury, loss, or damage, to any person or loss or damage arising as a result of a breach of the Residential Owner's maintenance obligations hereunder.

(c) **General Provisions.** Notwithstanding anything to the contrary in this Section 10: (i) neither Party shall be entitled to indemnification for any damage caused by or arising from its gross negligence or willful misconduct or the gross negligence or willful misconduct of its Permittees, and (ii) each Party waives any right of recovery against the other Party and its Permittees for any loss, damage, or injury to the extent the same is actually covered by insurance. For purposes of this Agreement, "gross negligence" shall mean the breach of a duty or standard of care that evidences neglectful conduct exceeding ordinary negligence so as to demonstrate a wanton and reckless disregard of a known duty in conscious disregard of foreseeable adverse consequences and damage.

11. Enforcement and Remedies.

(a) Nonpayment of Shared Expenses by Commercial Owner.

(i) Personal Obligation of Commercial Owner.

Commercial Owner covenants and agrees to pay Commercial Owner's Proportionate Share. All of the Commercial Owner's Proportionate Share, together with interest, costs, and reasonable

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attorneys' fees for the collection thereof, shall be (A) a continuing lien upon the Commercial Area and (B) shall also be the personal obligation of the Commercial Owner.

(ii) **Nonpayment of Commercial Owner's Share.** Any installment of Commercial Owner's Proportionate Share ("*Installment*") shall be delinquent if not paid within twenty-one (21) days of the due date established by this Agreement. If any Installment is not paid within twenty-one (21) days after the due date, such Installment plus all reasonable costs of collection (including attorneys' fees) and late charges, shall bear interest at the maximum rate allowed by California Civil Code Section 1366, commencing twenty-one (21) days from the due date until paid. The Residential Owner may also require Commercial Owner to pay a late charge in accordance with California Civil Code Section 1366(c)(2).

(b) **Other Defaults.** If any Party defaults in the performance of any obligation under this Agreement, and if such default remains uncured thirty (30) days after written notice from the other Party ("*Nondefaulting Party*"), stating with particularity the nature and extent of such default, then Nondefaulting Party shall have the right to (i) perform such obligation on behalf of such defaulting Party and (ii) be reimbursed by such defaulting Party, within thirty (30) days of written demand, for the cost thereof together with interest at the rate of ten percent (10%) per annum. The failure of the Nondefaulting Party to insist, in any one or more cases, upon the strict performance of any provision of this Agreement shall not be construed as a waiver of the future breach of such provision or any other provision of this Agreement.

12. Mortgagee Rights.

(a) **Mortgage Protection.** Notwithstanding all other provisions hereof, no breach of this Agreement, nor the enforcement of any provision hereof shall defeat or render invalid the rights of a Mortgagee or beneficiary ("*Mortgagee*") under any recorded mortgage or deed of trust upon the Commercial Area or the Property, or any part thereof, made in good faith and for value; provided that after such Mortgagee obtains title thereto by judicial foreclosure or by means of the powers set forth in such mortgage, or deed of trust, or by deed in lieu of foreclosure, such property shall remain subject to this Agreement.

(b) **Mortgagee Notification.** Upon written request, any Mortgagee of a Residential Condominium shall be entitled to: (i) reasonably prompt written notice of any default under this Agreement by the Residential Owner or Commercial Owner, (ii) examine the books and records of the Residential Owner relating to expenses which are to be paid by the Commercial Owner, during normal business hours, (iii) ten (10) days prior written notice of any proposed, material amendment of this Agreement, and (iv) written notice of any material damage to or taking of the Property.

(c) **Mortgagee Approval.** Notwithstanding any other provision herein to the contrary, to be effective, (i) any amendment of this Agreement which would alter the Commercial Owner's Proportionate Share or which affects or purports to affect the validity or priority of a mortgage or deed of trust or the rights or protections granted in this Agreement to a Mortgagee or any termination of this Agreement, must be approved in writing by a majority of the Mortgagees of Residential Condominiums at the time of such proposed termination or

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amendment. If the Mortgagee receives a written request to approve termination of this Agreement or a proposed amendment of this Agreement, but does not deliver an approval or state specific grounds for disapproval within thirty (30) days of the Mortgagee's receipt of such request, such Mortgagee shall be deemed to have approved the proposed termination or amendment.

13. **Real Property Taxes and Assessments.** Each Party shall pay, or cause to be paid, when due, all real estate taxes and assessments which may be levied, assessed, or charged by any public authority against such Party's property, the improvements thereon, or any other part thereof. Any portion of such real estate taxes and assessments not separately assessed shall be paid by the Residential Owner and Commercial Owner in proportion to the relative value of the Commercial Area and Residential Area so assessed.

14. **Miscellaneous.**

(a) **No Liability to Residential Unit Owners.** No owner of a Residential Condominium who has purchased their unit pursuant to a Final Subdivision Public Report issued by the California Department of Real Estate shall have any personal liability under this Agreement.

(b) **Davis-Stirling.** It is the intent of the Parties that the California Davis-Stirling Common Interest Development Act (§§1350, *et seq.*, of Civil Code) not be applicable this Agreement or the relationship between the Residential Association and the Commercial Owner.

(c) **Notices.** Except as otherwise provided herein, notice to be given to a Party or Mortgagee must be in writing and may be delivered to the Party or Mortgagee, as applicable, personally or by any system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. Delivery of such notice to one or more co-owners of a parcel to any general partner of a partnership or to a member of a limited liability company, constitutes delivery to all co-owners, the partnership or the limited liability company. Alternatively, notice may be delivered by regular United States mail, postage prepaid, addressed to the Party or Mortgagee at the most recent address furnished by such Party or Mortgagee to the other Party. If a Party does not furnish an address, notice may be sent to the street address of a Party's parcel. Such notice is deemed delivered three (3) business days after the time of such mailing.

(d) **Interpretation.** This Agreement is not intended to create, nor shall it be construed to create, a joint venture, a partnership, or any other similar relationship among any of the parties. The captions of the various provisions of this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents thereof. This Agreement shall be construed in accordance with the laws of the state of California. Time is of the essence in this Agreement.

(e) **Entire Agreement.** This Agreement supersedes all prior written or verbal representations or declarations of the parties with respect to the subject matter hereof. This Agreement may be made only by a written amendment executed by each party hereto;

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provided, however, that from and after formation of the Residential Subassociation or Commercial Association, as applicable, and assumption of the rights and obligations of the Residential Owner or Commercial Owner, as applicable, under this Agreement by such Association, this Agreement may be amended upon the consent of the Board of Directors thereof.

(f) **Remedies Cumulative.** All remedies provided in this Agreement are cumulative. Therefore, notwithstanding the exercise by a Party of any remedy hereunder, such Party shall have recourse to all other remedies as may be available at law or in equity. The failure of a Party to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of any rights or remedies that such Party may have and shall not be deemed a waiver of any subsequent breach or default of any provision hereof by the same or any other Party.

(g) **Covenants Running With Land.** The covenants contained in this Agreement shall constitute covenants running with the land; shall be binding upon, and shall inure to the benefit of, the Commercial Area, the Residential Area, the Property, and any portion thereof or interest therein; and shall be binding upon, and shall inure to the benefit of the Commercial Owner, the Residential Owner and any person having or acquiring any interest therein and their successive owners and assigns; provided, however, the owners of the Residential Condominiums who have purchased their units pursuant to a Final Subdivision Public Report issued by the California Department of Real Estate will have no personal liability under this Agreement and no liens shall attach to said units for a violation of this Agreement. The Commercial Owner shall be relieved of its responsibilities under this Agreement and shall have no further liability hereunder upon the formation of the Commercial Association and the execution of a written assignment of said responsibilities to the Commercial Association under this Agreement.

(h) **Recordation.** This Agreement shall be recorded in the Office of the County Recorder of Los Angeles County and shall be effective upon such recordation.

(i) **Estoppel Certificate.** Each Party to this Agreement shall, within ten (10) days after the written request of any other Party, issue to the requesting Party, or to any prospective Mortgagee or purchaser of such requesting Party's parcel, an estoppel certificate stating (i) whether the Party to whom the request has been directed knows of any default under this Agreement and, if there are known defaults, specifying the nature thereof, (ii) whether, to the best knowledge of such Party this Agreement has been modified or amended in any respect and, if there are known amendments, specifying the nature thereof, and (iii) whether, to the best knowledge of such Party this Agreement is, at that time, in full force and effect.

(j) **Mechanics' Liens.** If a Party to this Agreement (the "*Responsible Party*") shall permit any mechanics' liens to be filed against another Party's parcel (an "*Affected Party*"), the Responsible Party shall either pay the same and have it discharged of record promptly, or take such action as may be required to reasonably and legally object to such lien and the placing of same against such Affected Party's Parcel. In all events, the Responsible Party shall cause the lien to be discharged prior to the entry of judgment for foreclosure of such lien. Upon request of an Affected Party, the Responsible Party shall furnish such security, bond

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or indemnity to and for the benefit of such Affected Party as may be required to permit a title endorsement or title policy to be issued relating to such Affected Party's Parcel without showing thereon the effect of such lien.

(k) **Duration.** This Agreement and each term, easement, covenant, restriction and undertaking contained herein will remain in effect for a term of ninety-nine (99) years, commencing on the first close of escrow for a Residential Condominium to a person or entity unrelated to the Commercial Owner and will automatically be renewed for successive ten (10) year periods thereafter. Notwithstanding the foregoing, this Agreement may be terminated at any time by recording a declaration of termination executed by both the Commercial Owner and the Residential Owner. Termination of this Agreement shall not discharge or excuse any unpaid obligation, and the rights and remedies for collection of such obligation shall survive the Agreement's termination. Notwithstanding any election by the Parties to terminate this Agreement, the easements created hereby which benefit any parcel shall be deemed to exist in perpetuity unless they are quitclaimed, or otherwise terminated and extinguished by the owner of each benefitted parcel.

(l) **Severability.** If any clause, sentence, or other portion of this Agreement shall become illegal, null, or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portions thereof shall remain in full force and effect.

(m) **Attorneys' Fees; Court Costs.** If any action or proceeding is instituted to enforce or interpret any of the provisions of this Agreement or for damages on account of the breach of this Agreement, the prevailing Party in any such action or proceeding shall be entitled to recover from the other Party its reasonable attorneys' fees and costs and expenses of litigation incurred in such action or proceeding.

(n) **Force Majeure.** If any Party or any other person shall be delayed or hindered in or prevented from the performance of any act required to be performed by such person under this Agreement by reason of acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections, terrorist attacks, adverse weather conditions preventing the performance of work as certified to by the licensed architect, engineer, or other individual overseeing the performance of the relevant work, war or other reason beyond such Party's control, then the time for performance of such act shall be extended for a period equal to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such Party.

(o) **Effect of Agreement; Binding Covenants; Equitable Servitudes.** Except as otherwise expressly provided herein, no rights or privileges conferred upon the Parties to this Agreement by this Agreement shall inure to the benefit of any Permittee or other person or entity other than the Commercial Owner, the Residential Owner or their respective successors and assigns, nor shall any such other Party be deemed to be a third party beneficiary of any of the provisions contained herein. Each and all of the restrictions, covenants, and easements of this Agreement (i) shall constitute equitable servitudes which shall apply to and be binding on the Parties hereto and each and all of their respective successors, assigns,

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Mortgagees, and Permittees; and (ii) are imposed pursuant to a general plan for the improvement and use of the Property and are designed for the mutual benefit of the Parties to this Agreement.

(p) **Dispute Resolution; Enforcement.** Any disputes arising under this Agreement shall be resolved by binding arbitration conducted in the City pursuant to the Commercial Arbitration Rules of the American Arbitration Association; provided however, that the use restrictions set forth in Section 2 above may be enforced by any proceeding at law or in equity against any person or entity violating or attempting to violate any of the covenants, conditions and restrictions contained therein to prevent such person or entity from so doing and to recover damages for any such violation. The prevailing Party in any such arbitration, as determined by the arbitrator, shall be entitled to recover from the other Party, its reasonable attorney fees and expenses incurred in the arbitration, including, but not limited to, consultant and expert witness fees, photocopying and telephone charges, deposition costs, travel expenses and investigation expenses.

(q) **Boundaries of Parcels.** In interpreting deeds, subdivision maps, declarations and plans, the existing physical boundaries of the Commercial Area, Residential Area or the Residential Association Area constructed or reconstructed in substantial accordance with the original plans thereof, if such plans are available, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, subdivision map, condominium plan or declaration, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries, as shown on a condominium plan, subdivision map or defined in the deed or declaration, and the boundaries of a building as constructed or reconstructed.

[SIGNATURES ON FOLLOWING PAGE]

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8/9/05

08/11/05

**SIGNATURE PAGE TO AGREEMENT
BETWEEN OWNERS OF MIXED USE BUILDING
(PLAYA VISTA COMMUNITY; RESIDENTIAL/COMMERCIAL)**

CRESCENT BAY PARK, LLC,
a Delaware limited liability company

Address:

5510 Lincoln Boulevard, Suite 100
Playa Vista, CA 90094

By: Crescent Park Investments, LLC, a Delaware
limited liability company, its sole member

By: Playa Capital Company, LLC, a Delaware
limited liability company, its sole member

By: [Signature]
Name: Randy Johnson
Title: Sr. VP/CFO

By: [Signature]
Name: Douglas M. Moreland
Title: Sr. VP.

"Commercial Owner"

CONCERT PARK SOUTH VENTURE LLC, a
Delaware limited liability company

Address:
27420 Turnberry Lane, Suite 100
Valencia, CA 91355

By: KB Home Greater Los Angeles Inc.,
a California corporation,
its Managing Member

By: _____

Name: _____

Title: _____

"Residential Owner"

All signatures must be notarized

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8/9/05

08/11/05

**SIGNATURE PAGE TO AGREEMENT
BETWEEN OWNERS OF MIXED USE BUILDING
(PLAYA VISTA COMMUNITY; RESIDENTIAL/COMMERCIAL)**

CRESCENT BAY PARK, LLC,
a Delaware limited liability company

Address:

5510 Lincoln Boulevard, Suite 100
Playa Vista, CA 90094

By: Crescent Park Investments, LLC, a Delaware
limited liability company, its sole member

By: Playa Capital Company, LLC, a Delaware
limited liability company, its sole member

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

"Commercial Owner"

CONCERT PARK SOUTH VENTURE LLC, a
Delaware limited liability company

Address:
27420 Turnberry Lane, Suite 100
Valencia, CA 91355

By: KB Home Greater Los Angeles Inc.,
a California corporation,
its Managing Member

By: 

Name: Kelly M. Allred

Title: Vice President and Treasurer

"Residential Owner"

All signatures must be notarized

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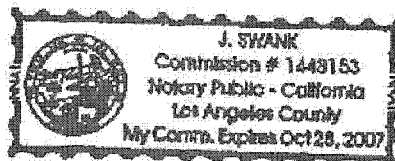
STATE OF CALIFORNIA)

COUNTY OF Los Angeles) ss.

On August 10, 2005, before me, Judy Swank, a Notary Public,
personally appeared Randy Johnson and Douglas M. Moreland,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)



J. Swank
Signature of Notary

STATE OF CALIFORNIA)

COUNTY OF _____) ss.

On _____, 2005, before me, _____,
personally appeared _____ and _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)

Signature of Notary

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STATE OF CALIFORNIA

COUNTY OF

Los Angeles

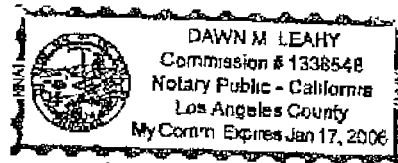
ss.

On August 9, 2005, before me, Dawn M. Leahy, Notary Public
personally appeared Kelly M. Alfred and _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Dawn M. Leahy
Signature of Notary

(SEAL)



STATE OF CALIFORNIA

COUNTY OF _____

ss.

On _____, 2005, before me, _____
personally appeared _____ and _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

(SEAL)

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8/3/05

08/11/05

STATE OF CALIFORNIA

)
) ss.

COUNTY OF _____)

On _____, 2005, before me, _____,
personally appeared _____ and _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

(SEAL)

STATE OF CALIFORNIA

)
) ss.

COUNTY OF _____)

On _____, 2005, before me, _____,
personally appeared _____ and _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

(SEAL)

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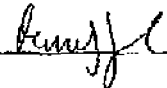
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SUBORDINATION

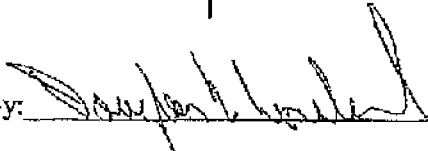
The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated July 2, 2003, and recorded on July 10, 2003, in the Official Records of the County of Los Angeles, California, as Instrument No. 03-1963425, which Deed of Trust is between Concert Park South Venture, LLC, a Delaware limited liability company, as Trustor, Playa Capital Company, LLC, a Delaware limited liability company, as Beneficiary ("**Lender**") and Stewart Title of California, Inc., a California corporation, as Trustee, hereby expressly subordinates such Deed of Trust and the beneficial interests of the Lender thereunder to the foregoing Mutual Benefit Agreement Between Owners of Mixed Use Building ("**Agreement**"). By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Agreement, which shall remain in full force and effect (subject to the terms of Section 12 of said Agreement).

Dated: August 10, 2005

Playa Capital Company, LLC,
a Delaware limited company

By: 

Its: Sr. V.P. / CFO

By: 

Its: Sr. V.P.

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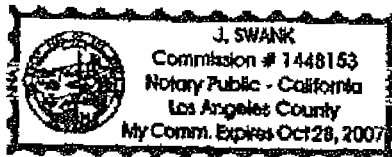
STATE OF CALIFORNIA)

COUNTY OF Los Angeles) ss.

On August 10, 2005, before me, Judy Swank, a Notary Public, personally appeared Randy Johnson and Douglas M. Moreland, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)



Judy Swank
Signature of Notary

STATE OF CALIFORNIA)

COUNTY OF _____) ss.

On _____, 2005, before me, _____, personally appeared _____ and _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)

Signature of Notary

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SUBORDINATION

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated September 17, 2003, and recorded on September 18, 2003, in the Official Records of the County of Los Angeles, California, as Instrument No. 03-2749341, which Deed of Trust is between Concert Park South Venture, LLC, a Delaware limited liability company, as Trustor, California National Bank, a national banking association, as Beneficiary ("Lender") and Stewart Title of California, Inc., a California corporation, as Trustee, hereby expressly subordinates such Deed of Trust and the beneficial interests of the Lender thereunder to the foregoing Mutual Benefit Agreement Between Owners of Mixed Use Building ("Agreement"). By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Agreement, which shall remain in full force and effect (subject to the terms of Section 12 of said Agreement).

Dated: 7/5/05, 2005

California National Bank,
a national banking association

By: *James K. Salas*

Its: S.V.P.

By: _____

Its: _____

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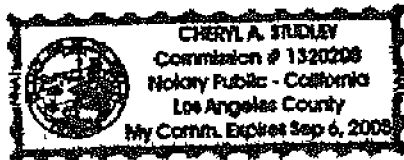
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STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

On JULY 5, 2005, before me, CHERYL STUDLEY, NOTARY PUBLIC
personally appeared DEUSE KAN SCHULZ and N/A
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

Cheryl A. Studley
Signature of Notary

STATE OF CALIFORNIA)
COUNTY OF _____) ss.

On _____, 2005, before me, _____
personally appeared _____ and _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me
that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by
(his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

(SEAL)

08/11/05

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that certain real property located in the City of Los Angeles, County of Los Angeles, State of California more particularly described as:

Lots 3 through 5, inclusive, and Lots 65 and 66 of Tract No. 49104-01 per Map recorded on December 16, 1998 in Book 1233, Pages 51 to 64, inclusive, in the Book of Maps in the Office of the County Recorder of said County.

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EXHIBIT B

LEGAL DESCRIPTION OF RESIDENTIAL AREA

All that certain real property located in the City and County of Los Angeles, more particularly described as follows:

Units ___ to ___, Common Area (Residential) and Subassociation
Common Area (Residential), all as described or depicted on the
Condominium Plan recorded on _____, 200__ as
Instrument No. _____, in the Official Records of
Los Angeles County, California.

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EXHIBIT C

LEGAL DESCRIPTION OF COMMERCIAL AREA

All that certain real property located in the City and County of Los Angeles, more particularly described as follows:

Units ____ to ____, and Common Area (Commercial), all as described or depicted on the Condominium Plan recorded on _____, 200__ as Instrument No. _____ in the Official Records of Los Angeles County, California.

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EXHIBIT D

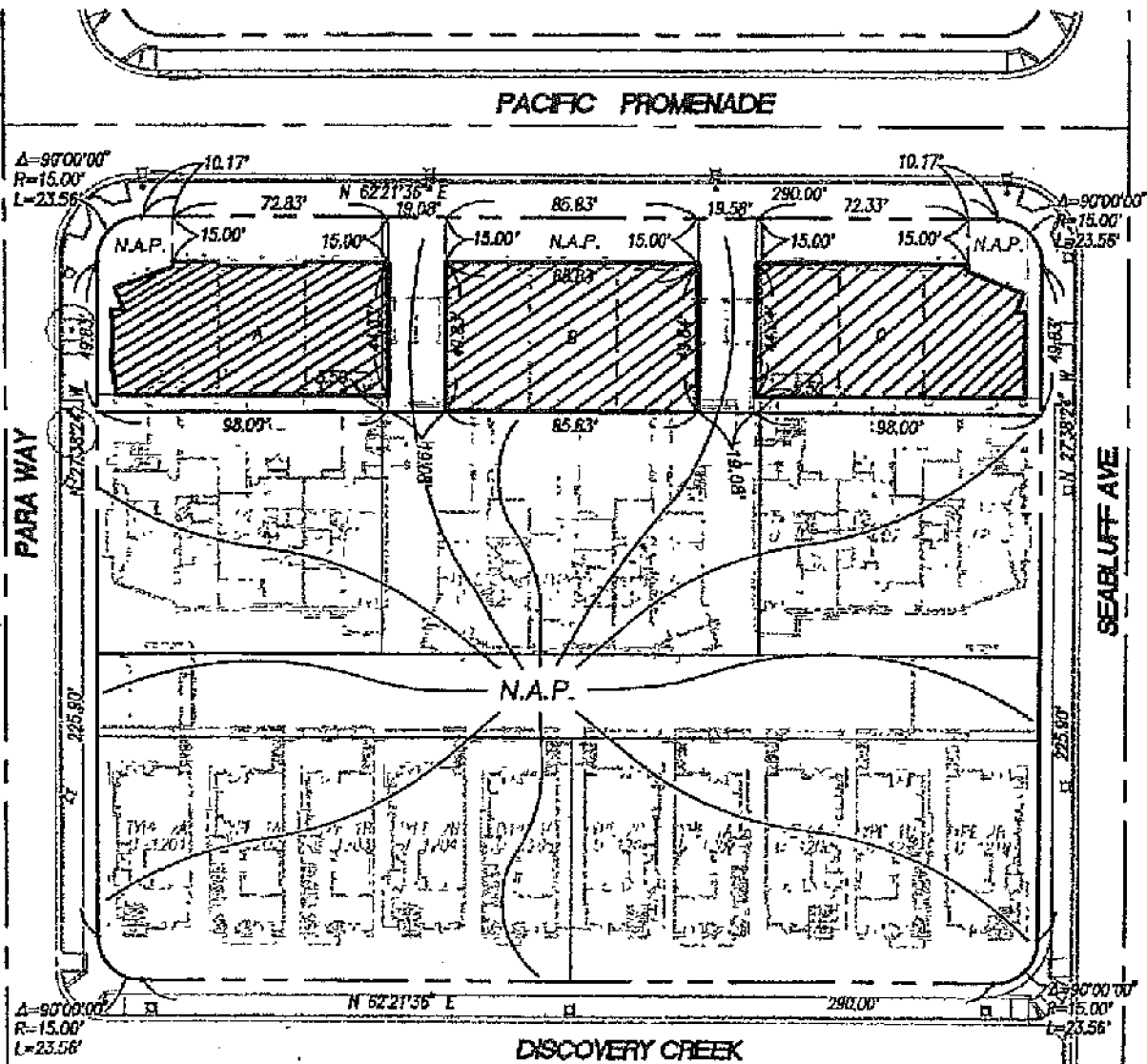
COMMERCIAL MAINTENANCE OBLIGATIONS

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SHEET 7 OF 13

BUILDING LOCATION AND SITE PLAN
1ST FLOOR PODIUM



NOTE:
A "LOT TIE" AGREEMENT TO HOLD LOTS 3-5,
65, & 66 OF TRACT NO. 49104-01, AS PER
MAP FILED IN BOOK 1233, PAGE 62, INCLUSIVE
OF MAPS, AS ONE PARCEL SO THAT NO LOTS
SHALL BE SOLD SEPARATELY.

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NOT TO SCALE

08/11/05

EXHIBIT E

SHARED MAINTENANCE OBLIGATIONS

The following is a checklist for the Shared Maintenance Obligations items:

Fixed Costs

- Corporate Franchise Tax
- Insurance
- License and Inspection

Operating Expenses

- Electricity (garage lights, sump pump, garage fans, boiler pumps, gate)
- Garage Sweeping
- Garage Access Gate
- Gas (Boilers)
- Reserve Study
- Minor Repairs
- Pest Control
- Light Maintenance (garage only)
- Maintenance Inspections
- Methane Monitoring
- Fire Suppression Monitoring
- Phone Lines
- Trash Room Custodial Services
- Power Scrubbing Garage
- Custodial
- Custodial Supplies

Reserve Funding

- Paint
- Interior Lights
- Access Gates
- Fire Extinguishers
- Cameras
- Concrete Garage Surface
- Special Paving
- Garage Exhaust Fans
- Methane Sensors
- Sump Pumps
- Drainage/Waterproof Membrane
- Vandalism Allowance
- Roof
- Boilers
- Boiler Pumps

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Administration

Management
Legal Services
Accounting
Miscellaneous Office Expense
Education

Contingency

Contingency amount set forth in the budget

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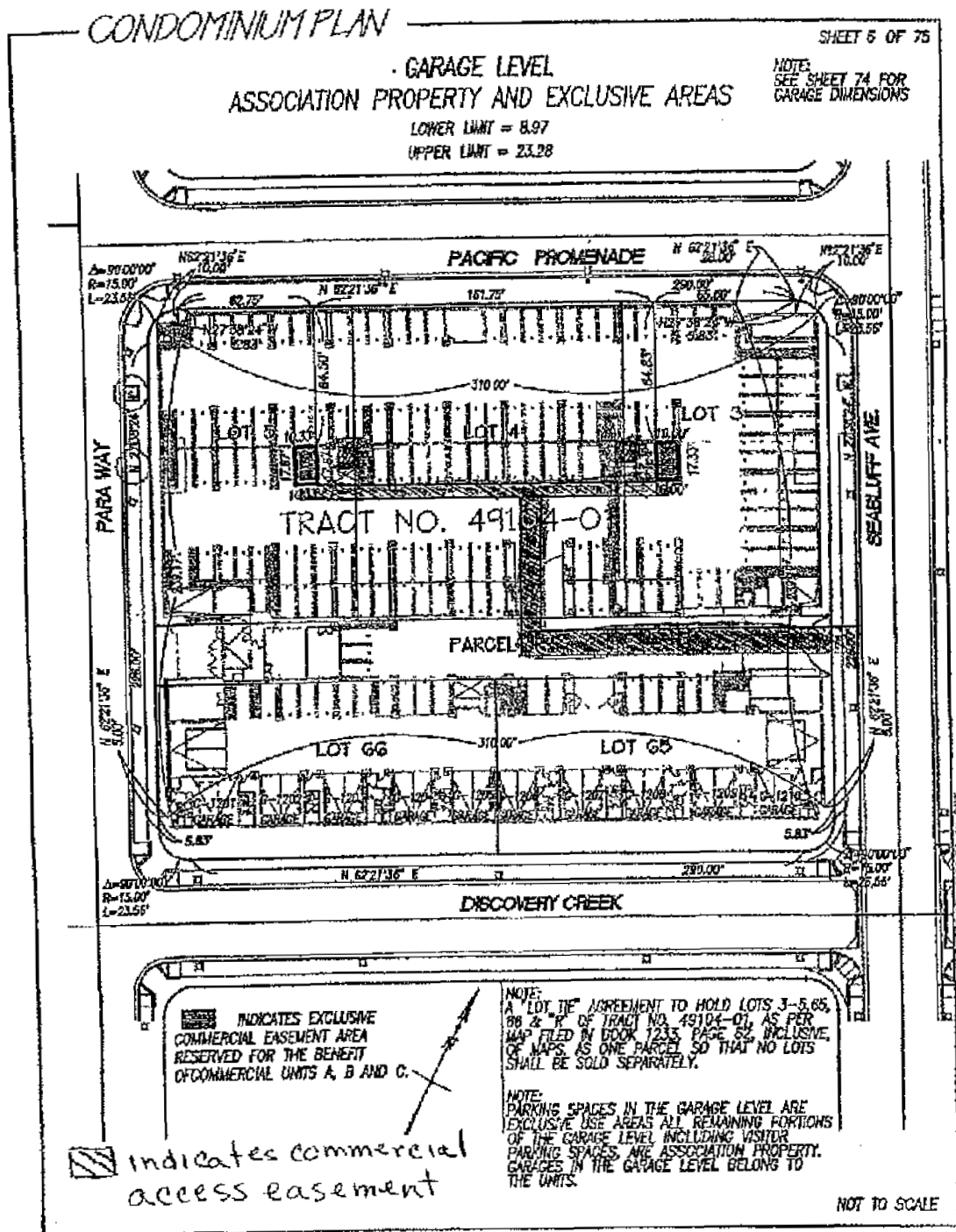
EXHIBIT F

**DRAWING SHOWING APPROXIMATE LOCATION OF
ACCESS EASEMENT AREA**

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* note - includes all exit stairs, catwalks, roof ladders and elevators.

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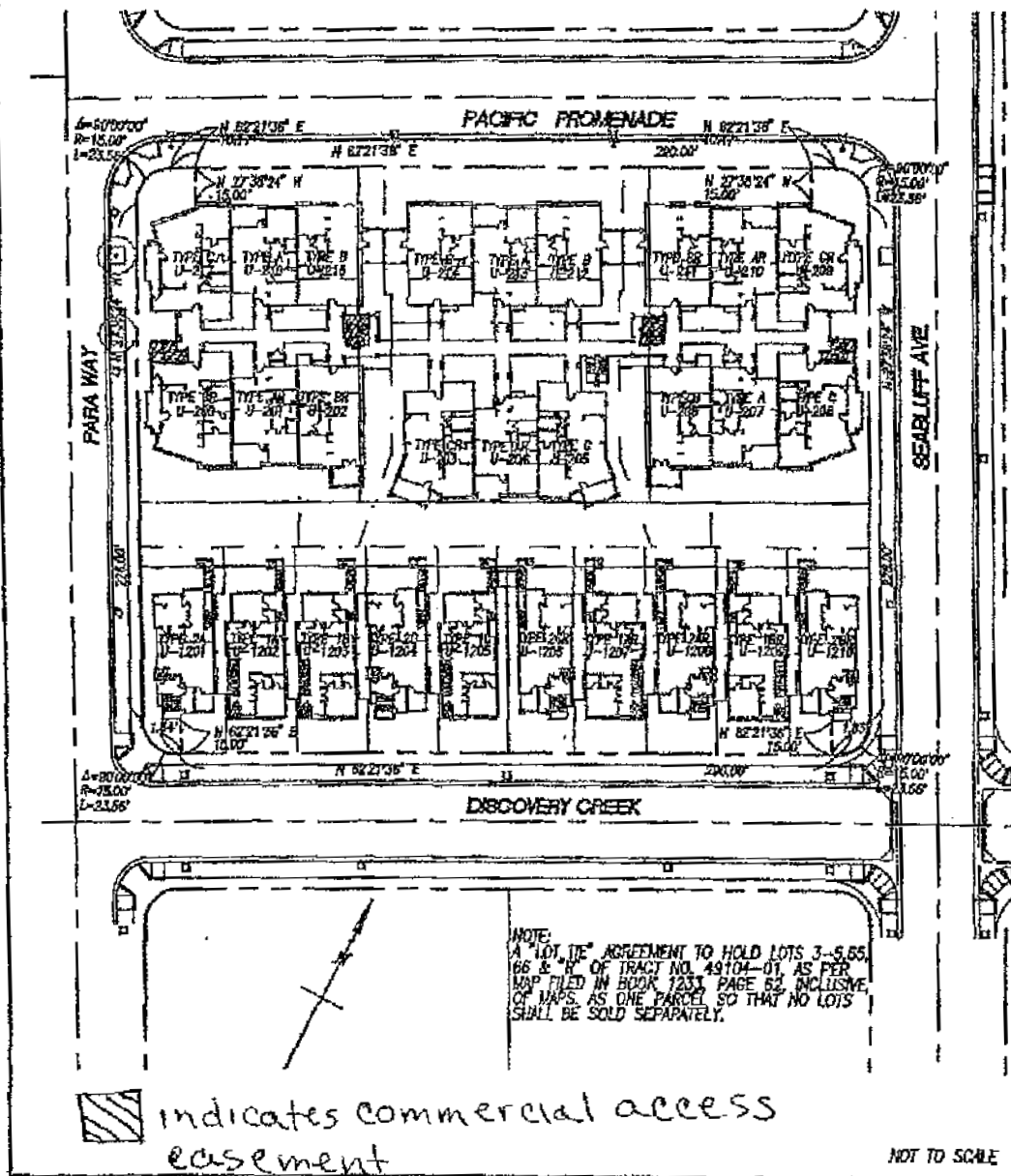
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CONDOMINIUM PLAN

SHEET 9 OF 75

BUILDING LOCATION AND SITE PLAN 2ND FLOOR

NOTE:
SEE SHEETS 12 AND 16 FOR
BUILDING-TO-BUILDING
DIMENSIONS.



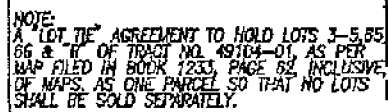
* note: includes all exit stairs,
catwalks and elevators and
roof ladders.

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○

ALL THE STAFF HAVE BEEN ADVISED THAT THE NEW VEHICLE IS BEING USED BY THE FBI.

NOTE:
SEE SHEETS 13 AND 17 FOR
BUILDING-TO-BUILDING
DIMENSIONS.



NOT TO SCALE

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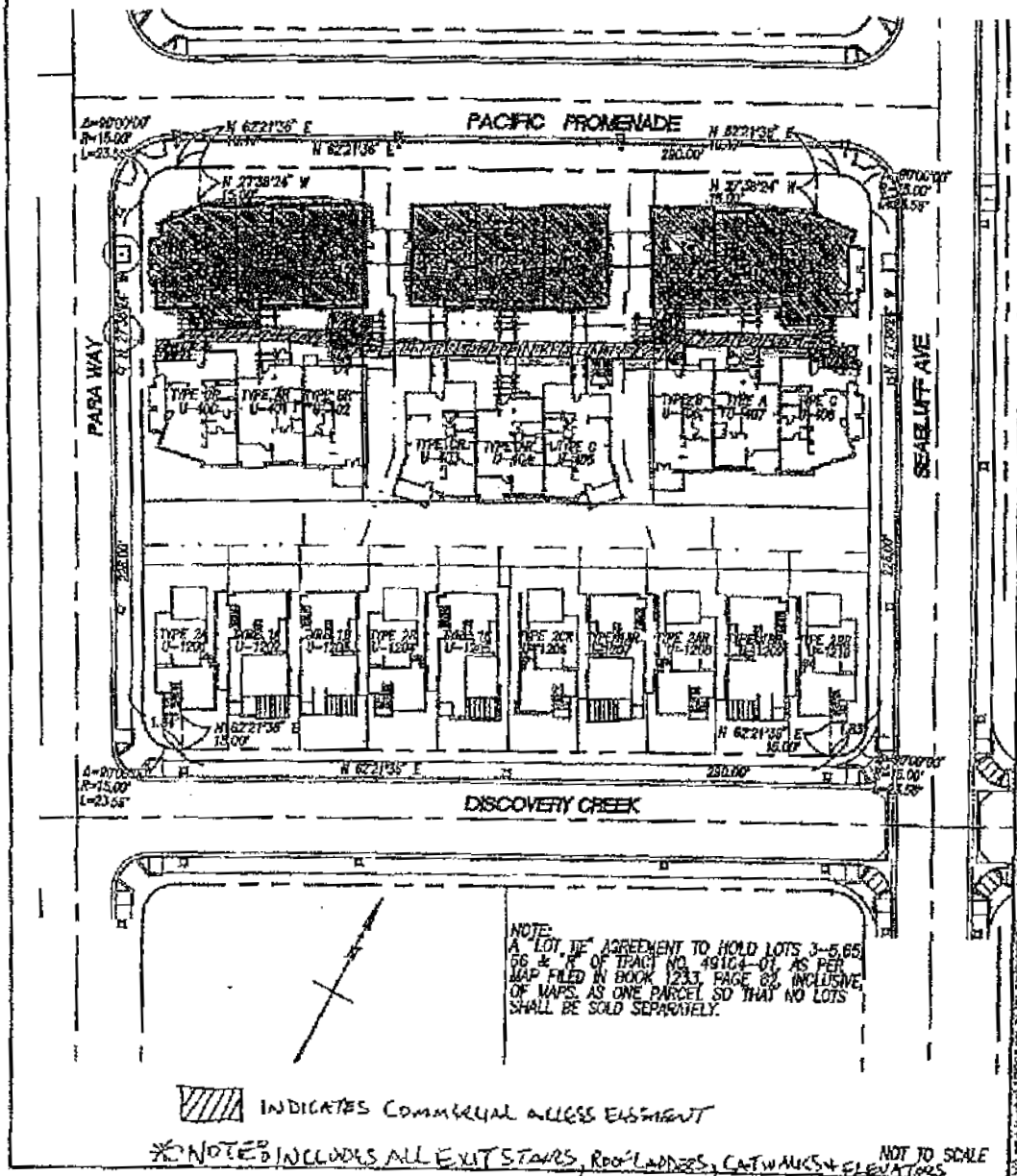
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CONDOMINIUM PLAN

SHEET 11 OF 75

BUILDING LOCATION AND SITE PLAN 4TH FLOOR & ROOF PLAN

NOTE:
SEE SHEETS 14 AND 18 FOR
BUILDING-TO-BUILDING
DIMENSIONS.



05 1923650



PH&L Community Association

**NEIGHBORHOOD AND
ARCHITECTURAL GUIDELINES**

Approved: August 8, 2005

A Merit Managed Community

