

Recording requested by, and  
when recorded mail to:

*ROSSMOOR PARK*

ROSSMOOR PARK APARTMENTS,  
a limited partnership  
15233 Ventura Boulevard, Suite 816  
Sherman Oaks, California 91403

A CERTIFIED TRUE COPY OF AN INSTRUMENT  
RECORDED... *FEBRUARY 21, 1979* .....  
IN BOOK... *13041* ..... PAGE... *1* .....  
OFFICIAL RECORDS, ORANGE COUNTY  
CALIFORNIA LAND TITLE COMPANY BY *J. P. Williams*  
*CHIEF TITLE OFFICER*

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP

THIS DECLARATION is made as of the date set forth  
below by the undersigned Declarant (defined hereinbelow).

R E C I T A L S:

A. Declarant is fee owner of certain real property  
located in the City of Seal Beach, County of Orange (hereinafter  
referred to as "said County"), State of California, more parti-  
cularly, described in Exhibit "A" attached hereto and incorporated  
herein by this reference, which real property is presently im-  
proved in the manner described in Exhibit "B" attached hereto  
and incorporated herein by this reference. Pursuant to this  
Declaration, Declarant intends to convert said real property,  
together with all improvements now or hereafter constructed  
thereon, to condominium ownership. Said real property, together  
with all improvements now or hereafter constructed thereon,  
will hereinafter be referred to as the "Project."

B. Declarant has deemed it desirable to establish  
covenants, conditions, restrictions and easements applicable  
to the Project as hereinafter set forth which will constitute  
a General Plan of Condominium Ownership for the management of  
the Project and for the use, occupancy and enjoyment thereof,  
all for the purpose of enhancing and protecting its value,  
desirability and attractiveness and the quality of life therein.

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C. It is desirable for the efficient management of the Project to create a corporation to which should be delegated and assigned the powers of managing the Project, maintaining and administering the Common Area, administering and enforcing the covenants, conditions, restrictions and easements hereinafter set forth, collecting and disbursing funds pursuant to the assessments and charges hereinafter set forth and performing such other acts as shall generally benefit the Project.

D. The Association (defined hereinbelow), a non-profit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions as aforesaid.

E. All purchasers of Condominiums within the Project shall be Owners as defined herein and shall thereby automatically become Members of the Association and shall be subject to its powers and jurisdiction.

F. Declarant will hereafter hold and convey title to the Project subject to certain protective covenants, conditions, restrictions and easements hereinafter set forth.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of its interests as the same may from time to time appear in the Project shall be held and conveyed subject to the covenants, conditions, restrictions and easements hereinafter set forth which are hereby declared to be for the benefit of said interests and for the benefit of all Owners of said interests and their respective successors and assigns. Said covenants, conditions, restrictions and easements shall run with said interests and shall be binding upon all parties having or acquiring any right or title therein and shall inure

to the benefit of each Owner thereof. Said covenants, conditions, restrictions and easements are hereby imposed upon each of said interests, and all rights and titles therein, as a servitude in favor of each and all other said interests as the dominant tenement or tenements.

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 ROSSMOOR PARK OWNERS ASSOCIATION

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ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

Section 1. "Articles" and "Bylaws" shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended.

Section 2. "Assessments" shall mean and refer to any or all of the following:

"Regular Assessment" shall mean the amount which is to be paid by each Member to the Association for Common Expenses.

"Special Assessment" shall mean a charge against a particular Owner and his Condominium, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and his Condominium into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules, together with attorneys' fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon and other fees and costs as provided for in this Declaration.

"Reconstruction Assessment" shall mean a charge against each Owner and his Condominium representing a portion of the cost to the Association for reconstruction of any portion or portions of the Common Area pursuant to the provisions of this Declaration.

"Capital Improvement Assessment" shall mean a charge against each Owner and his Condominium representing a portion of the cost to the Association for installation or construction

of any capital improvements on the Common Area which the Association may from time to time authorize pursuant to the provisions of this Declaration.

Section 3. "Association" shall mean and refer to ROSSMOOR PARK OWNERS ASSOCIATION, a nonprofit corporation, incorporated under the laws of the State of California, its successors and assigns.

Section 4. "Association Rules" shall mean and refer to rules adopted by the Association pursuant to the Article hereof entitled "Duties and Powers of the Association."

Section 5. "Board" shall mean and refer to the Board of Directors of the Association.

Section 6. "Common Area" shall mean and refer to all portions of the Project except the Units.

Section 7. "Common Expenses" shall mean and refer to the actual and estimated costs of:

(a) maintenance, management, operation, repair and replacement of the Common Area (unless repair and replacement is otherwise provided for elsewhere in this Declaration, including the Articles hereof entitled "Destruction of Improvements" and "Eminent Domain");

(b) unpaid Assessments;

(c) maintenance by the Association of areas not within the Project if provided for in this Declaration or pursuant to one or more separate agreements;

(d) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(e) utilities, trash pickup and disposal, gardening and other services not separately billed to Condominiums which generally benefit and enhance the value and desirability

of the Project;

(f) fire, casualty, liability, workmen's compensation and other insurance covering the Common Area;

(g) any other insurance obtained by the Association;

(h) reasonable reserves as deemed appropriate by the Board;

(i) bonding of the members of the Board, any professional managing agent or any other person handling the funds of the Association;

(j) taxes paid by the Association;

(k) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Area, or portions thereof;

(l) obligations incurred by committees established by the Board; and

(m) other expenses incurred by the Association for any reason whatsoever in connection with the Common Area, or any other item or items designated by this Declaration, the Articles, Bylaws or Association Rules or incurred in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

Section 8. "Condominium" shall mean and refer to a fractional undivided interest in common with the other Owners within the Project in the Common Area, together with a separate interest in a Unit and all easements and other interests appurtenant to said fractional undivided interest and/or appurtenant to said Unit. Such fractional undivided interest in common of each Owner is described in Exhibit "B" hereto. Such fractional undivided interest shall not be changed except as provided in the Section entitled "Amendment of Condominium Plan" of the

Article hereof entitled "Destruction of Improvements" and the Section entitled "Change of Condominium Interest" of the Article hereof entitled "Eminent Domain."

Section 9. "Condominium Plan" shall mean and refer to that certain condominium plan recorded or to be recorded in the Office of the County Recorder of said County for the Project, and any amendments thereto.

Section 10. "Declarant" shall mean and refer to ROSSMOOR PARK APARTMENTS, a limited partnership (in this Section referred to as "Original Declarant") and such of Original Declarant's successors in title to all or a portion of the remainder of the Project as may be designated a "Declarant" in a recorded instrument executed by Original Declarant.

Section 11. "Exhibit" shall mean and refer to those documents so designated herein and attached hereto, and each such Exhibit is by this reference incorporated into this Declaration.

Section 12. "Final Subdivision Public Report" shall mean and refer to a final report issued by the Department of Real Estate of the State of California pursuant to Section 11018.2 of the California Business and Professions Code or any similar statute then in effect.

Section 13. "First Mortgage" shall mean and refer to a Mortgage which has priority over any other Mortgage encumbering a specific Condominium.

Section 14. "First Mortgagee" shall mean and refer to a Mortgagee under a First Mortgage.

Section 15. "Member" shall mean and refer to every person or entity who qualifies for membership pursuant to the Article hereof entitled "Membership," including Declarant so long as Declarant qualifies for membership pursuant to said

Article.

Section 16. "Mortgage" shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Condominium.

Section 17. "Mortgagee" shall mean and refer to the mortgagee or beneficiary under any Mortgage, or assignee thereof.

Section 18. "Owner" shall mean and refer to one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Condominium, including Declarant, or the vendee of a Condominium under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation.

Section 19. "Trustee" shall mean and refer to the insurance trustee as more fully described in the Article hereof entitled "Insurance."

Section 20. "Unit" shall mean the elements of a Condominium not owned in common with the Owners of other Condominiums in the Project. Each unit shall be defined, identified and designated in the Condominium Plan. In interpreting recorded instruments, including deeds, declarations and plans, the existing physical boundaries of a Unit constructed in substantial accordance with the Condominium Plan shall be conclusively presumed to be its boundaries rather than the description expressed in any such recorded instrument, regardless of settling or lateral movement of any building and regardless of minor variances between boundaries as shown on any such recorded instrument and those of any building as constructed. For purposes of this Declaration, any appurtenant exclusive easements forming a portion of a Condominium shall be treated as if same were part of the Unit of such Condominium except as otherwise expressly provided in this Declaration.

ARTICLE II

MEMBERSHIP

Section 1 - Membership. Every Owner shall be a Member of the Association. The terms and provisions set forth in this Declaration which are binding upon all Owners are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws and Association Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in any Condominium. Ownership of a Condominium shall be the sole qualification for membership; provided, however, a Member's voting rights may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules.

Section 2 - Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred to the transferee of the interest of an Owner required for membership. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner.

Section 3 - Voting Rights. An Owner's right to vote shall vest immediately upon the date Regular Assessments commence as to such Owner's Condominium as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules.

Section 4 - Classes of Voting Membership. The Association shall have two (2) classes of voting membership.

Class A. Class A Members shall be all Owners with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Condominium in which they hold the interest required for membership (except in the case of cumulative voting as provided in the Bylaws). When more than one person owns a portion of the interest in a Condominium required for membership, each such person shall be a Member and the vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium (except in the case of cumulative voting as provided in the Bylaws). The Association shall not be required to recognize the vote or written assent of any such co-Owner except the vote or written assent of the co-Owner designated in a writing executed by all of such co-Owners and delivered to the Association.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Condominium in which it holds the interest required for membership (except in the case of cumulative voting as provided in the Bylaws); provided that the Class B Membership shall cease and be converted into Class A Membership on the happening of whichever of the following is first in time:

(a) when the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B Membership; or

(b) on the second anniversary of the original issuance of the Final Subdivision Public Report covering the Project.

Section 5 - Special Class A Voting Rights. Notwithstanding the provisions of this Article, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Declaration and the Bylaws to elect at least one director at any meeting of Members at which directors are to be elected, then such Class A Members shall, by majority vote, among themselves, elect twenty percent (20%) of the directors. Said percentage of the directors so elected may only be removed by majority vote of the Class A Members. If, in applying said percentage to the number of directors to be elected, the product exceeds a whole number, then the number of directors to be elected pursuant hereto shall be increased to the next whole number, i.e., if seven (7) directors are to be elected, then twenty percent (20%) of seven (7) is 1.4, and therefore two (2) directors must be elected pursuant to this Section.

Section 6 - Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration or the Bylaws, any provision of this Declaration or the Bylaws which requires the vote or written assent of a specified majority of the voting power of the Association or any class or classes of membership shall be deemed satisfied by the following:

(a) The vote of the specified percentage at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members, and such percentage must include the specified number of all Members entitled to vote at such meeting and not such a percentage of those Members present;

(b) A writing or writings signed by the specified percentage;

(c) A combination of votes and written assents, provided that Members shall not change their vote or written assent after it is cast or delivered, and provided further that only those written assents executed within sixty (60) days before or thirty (30) days after a meeting may be combined with votes cast at such meeting to constitute the specified percentage; and

(d) In any matter requiring the consent of the Members, but not specifically provided for in this Declaration or the Articles, Bylaws or any contract executed by the Association, a simple majority of the voting power of Members entitled to vote on such matters shall suffice except as otherwise provided in the Section of this Article entitled "When Approval of Classes and Categories of Members Required."

Section 7 - When Approval of Classes and Categories of Members Required. Except for the Sections entitled "Enforcement of Bonded Obligations" and "Amendments" of the Article hereof entitled "General Provisions," (i) as long as there is a Class B membership, any provision of this Declaration, the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage of the voting power of the Association before being undertaken shall require the approval of said specified percentage of each of the Class A and Class B membership, and (ii) when the Class B membership ceases to exist and at any time during which Declarant is fee owner of real property subject to this Declaration, any provision of this Declaration, the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage of the voting power of the Association before being undertaken shall also require the approval of said specified percentage of the voting power residing in Members other than Declarant.

ARTICLE III

COVENANT FOR ASSESSMENTS

Section 1 - Creation of Lien and Personal Obligation

for Assessments. Each Owner, including Declarant to the extent Declarant is an Owner as defined herein, of any Condominium, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments and Reconstruction Assessments, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection as hereinafter provided, shall be a continuing lien upon the Condominium against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Condominium at the time the Assessment becomes due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

Section 2 - Purpose of Assessments. The Assessments

levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the Members, the management, maintenance, care, preservation, protection and architectural control of the Project, enhancing the quality of life in the Project and the value of the Project including, without limitation, the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, or

in furtherance of any other duty or power of the Association.

Section 3 - Regular Assessments. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board shall distribute to each Member a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Board shall at that time determine the amount of the Regular Assessment to be paid by each Member. Each Member shall thereafter pay to the Association his Regular Assessment in installments as established by the Board. Each such installment shall be due and payable on a date established by the Board in the written notice sent to Members. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due. After the Association's first fiscal year of operation, the Board shall not impose a Regular Assessment which is increased by more than twenty percent (20%) over the amount of the Regular Assessment for the immediately preceding fiscal year without the approval of a majority of the voting power of the Association.

Section 4 - Capital Improvement Assessments. In addition to Regular Assessments, the Association may levy in any fiscal year a Capital Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Area, including the necessary fixtures and personal pro-

perty relate thereto, to the extent the same is not covered by the provisions affecting Reconstruction Assessments of the Article hereof entitled "Destruction of Improvements." The Association shall not impose a Capital Improvement Assessment the total amount of which exceeds five percent (5%) of the estimated Common Expenses, as set forth in the Section of this Article entitled "Regular Assessments," without the approval of a majority of the voting power of the Association. Any reserves forming a part of Common Expenses and collected by the Association for the future maintenance and repair of the Common Area, or any portion thereof, shall not be included in determining said limitation. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

Section 5 - Uniform Assessments. Regular and Capital Improvement Assessments shall be fixed at an equal amount for each Condominium and may be collected at intervals selected by the Board.

Section 6 - Certificate of Payment. The Association shall, upon demand, furnish to any Member liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Condominium have been paid and the amount of delinquency, if any. A reasonable charge not to exceed Fifteen Dollars (\$15.00) may be collected by the Board for the issuance of each such certificate. Each certificate

shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 7 - Exempt Property. Any property subject to this Declaration shall be exempt from Assessments if the same is dedicated to and accepted by a public authority. Notwithstanding the foregoing, no real property or improvements subject to this Declaration and devoted to residential dwelling use shall be exempt from Assessments; provided, however, that nothing herein shall be construed as accelerating the date on which the payment of Assessments commence as specified in the Section entitled "Date of Commencement of Assessments" of this Article.

Section 8 - Special Assessments. Special Assessments shall be levied by the Board against a Condominium and its Owner to reimburse the Association for:

(a) costs incurred in bringing an Owner and his Condominium into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules;

(b) any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules; and

(c) attorneys' fees, interest and other charges relating thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Units and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be a Special Assessment.

Section 9 - Date of Commencement of Assessments. Regular and other Assessments as to Condominiums within the Project shall commence as to all such Condominiums on the first

day of the month following the conveyance of the first Condominium therein by Declarant to an individual Owner.

Section 10 - Reduction or Abatement of Regular Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the Regular Assessments or may abate collection of Regular Assessments as it deems appropriate. Nothing in this Section shall require the Board either to abate or reduce Regular Assessments. Notwithstanding the foregoing, neither an abatement nor a reduction in Regular Assessments shall be permitted so long as Declarant is possessed with or controls a majority of the voting power of the Association.

Section 11 - No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, (i) a claim that the Association is not properly exercising its duties and powers as provided in this Declaration; (ii) a Member has made or elects to make no use of the Common Area; or (iii) any construction or maintenance performed pursuant to the Section entitled "Assumption of Maintenance Obligations" of the Article entitled "Repair and Maintenance" of this Declaration shall in any way postpone Assessments or entitle a Member to claim any such offset or reduction.

Section 12 - Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of

any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of California now in effect, or in effect from time to time hereafter.

Section 13 - Reserves. Regular Assessments shall include reasonable amounts collected as reserves for the future periodic maintenance, repair or replacement of the Common Area, or any other purpose as determined by the Board. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account or accounts to be held in trust for the respective purposes for which they are collected. Said amounts must be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members.

## ARTICLE IV

### NONPAYMENT OF ASSESSMENTS

Section 1 - Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said date (the "delinquency date"). If any such Assessment is not paid within thirty (30) days after delivery of notice of such delinquency from the Association, a late charge of Ten Dollars (\$10.00) shall be levied and the Assessment shall bear interest from the delinquency date at the rate of ten percent (10%) per annum. The Association may, at its option, and without waiving the right to judicially foreclose its lien against the Condominium, pursue any available remedies, including, without limitation, the bringing of an action at law against the Member personally obligated to pay the same and/or, upon compliance with the notice provisions set forth in the Section entitled "Notice of Lien" of this Article, foreclose the lien against the Condominium. If an action at law is commenced, there shall be added to the amount of such Assessment the late charge, interest, costs of such action, costs of collection and attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include said late charge, interest and attorney's fees, together with such costs. Each Member vests in the Association or its assigns, the exclusive right and power to bring all actions at law or lien foreclosures against such Member for the collection of such delinquent Assessments.

Section 2 - Notice of Lien. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided until thirty (30) days after

the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Condominium, and a copy thereof is recorded by the Association in the office of the County Recorder of said County; said notice of claim of lien must recite a good and sufficient legal description of such Condominium, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment at the rate of ten percent (10%) per annum from the delinquency date, a late charge of Ten Dollars (\$10.00), plus attorneys' fees and costs of collection incurred in connection with the debt secured by said lien) and the name and address of the claimant.

Section 3 - Foreclosure Sale. Said Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized by the Board to make the sale, after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above is to be conducted in accordance with the provisions of Sections 2924, 2924b, 2924c, 2924g and 2924h of the Civil Code of the State of California, as said sections may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through the Board or through the Association's duly authorized agents, shall have the power to bid on the Condominium at the sale using Association funds or funds borrowed for such purpose, and to acquire and hold, lease, mortgage and convey the same.

Section 4 - Curing of Default. Upon the timely payment or other satisfaction of: (i) all delinquent Assessments

specified in the notice of claim of lien, (ii) all other Assessments which have become due and payable with respect to the Condominium as to which such notice of claim of lien was recorded and (iii) interest, late charges, attorneys' fees and other costs pursuant to this Declaration and the notice of claim of lien which have accrued, officers of the Association or any other persons designated by Board are hereby authorized to file or record, as the case may be, in the office of the County Recorder of said County an appropriate release of such notice upon payment by the defaulting Owner of a fee, to be determined by the Board, but not to exceed Twenty-five Dollars (\$25.00), to cover the costs of preparing and filing or recording such release.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

Section 1 - General Duties and Powers. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

Section 2 - General Duties of the Association. The Association through the Board shall have the duty and obligation:

(a) to enforce the provisions of this Declaration, the Articles, Bylaws and Association Rules by appropriate means and carry out the obligations of the Association hereunder and thereunder, including collection of Assessments and foreclosure of the liens therefor;

(b) to maintain and otherwise manage the following:

(i) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association; and

(ii) all property, real or personal, which the Association is obligated to repair or maintain pursuant to this Declaration, including, without limitation, the Article hereof entitled "Repair and Maintenance";

(c) to pay any real and personal property taxes and other charges assessed to or payable by the Association;

(d) to obtain and pay for the benefit of the Common Area, and for the benefit of Condominiums when they are not separately billed therefor, water, gas, electricity, refuse collection and other utilities and services (water is being commonly billed to the Project by one or more master water meters);

(e) to establish and maintain working capital and contingency funds and asset replacement accounts; and

(f) to act as a managing agent for the Project.

Section 3 - General Powers of the Association. The Association through the Board shall have the power but not the obligation:

(a) to employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments similar to the Project to perform all or any part of the duties and responsibilities of the Association;

(b) to acquire interests in real or personal property that may be necessary or convenient for the management of the Project, the administration of the affairs of the Association or for the benefit of the Members;

(c) to borrow money as may be needed in connection with the discharge by the Association of its powers and duties;

(d) to establish in cooperation with any governmental entity a special tax assessment district for the performance of all or a portion of the maintenance or other functions now within the responsibility of the Association;

(e) unless otherwise provided by a governmental entity, to provide trash pickup and disposal service for the benefit of the Owners and their Condominiums;

(f) to negotiate and enter into such contracts with First Mortgagees and mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by Mortgages within the Project;

(g) to cause such Board resolutions to be adopted as may be required in connection with financing pursuant to

"Cal Vet Contracts" in order to reflect the fact that such Contracts are superior in right to the liens for Assessments created by this Declaration to the same extent as Mortgages are superior thereto (for purposes hereof, a "Cal Vet Contract" shall mean and refer to an installment sales contract as to a Condominium entered into under and pursuant to Article 3, Chapter 6, Division 4 of the California Military and Veterans Code whereunder the Department of Veterans Affairs of the State of California is Seller); and

(h) to assign, rent or license any unassigned parking and storage spaces, if any, upon such terms as it deems appropriate.

Section 4 - General Limitations and Restrictions on the Powers of the Board. In addition to the limitations and restrictions enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Board shall be prohibited from taking any of the following action without the approval of a majority of the voting power of the Association:

(a) entering into contracts for materials or services which have a term in excess of one (1) year, with the following exceptions:

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

(ii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years in duration, provided that the applicable policy permits short rate cancellation by the insured.

(b) incurring aggregate expenditures for capital improvements to the Project in any fiscal year in excess of five percent (5%) of the estimated Common Expenses for that fiscal year as set forth in the Sections entitled "Regular Assessments" and "Capital Improvement Assessments" of the Article hereof entitled "Covenant for Assessments."

(c) selling any real or personal property of the Association in any fiscal year with a fair market value which in the aggregate exceeds five percent (5%) of said estimated Common Expenses for that fiscal year.

(d) paying compensation to directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses.

(e) exercising the power of attorney granted to the Association pursuant to the Section entitled "Power of Attorney" of the Article hereof entitled "Limitations Upon the Right to Partition."

Section 5 - Association Rules. The Board shall also have the power to adopt, amend and repeal such rules and regulations as it deems reasonable (the "Association Rules") which may include the establishment of a system of fines and penalties enforceable as Special Assessments, all as provided in the Bylaws. The Association Rules shall govern matters in furtherance of the purposes of the Association and other matters specified in this Declaration, including, without limitation, the conduct of persons within the Project and the use of the Common Area; provided, however, that the Association Rules may not discriminate among Owners (except that special Association Rules may be adopted with respect to children), and shall not be inconsistent with this Declaration, the Articles, or Bylaws. A copy

of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be delivered to each Owner in the same manner established in this Declaration for the delivery of notices. Upon compliance with such notice requirements, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding upon the Owners and their successors in interest whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and First Mortgagee upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such conflict.

Section 6 - Delegation of Powers. The Board and the Association shall have the right to delegate to committees, officers, employees or agents any of their duties and powers under this Declaration, the Articles and Bylaws; provided, however, no such delegation to a professional management agent or to committees shall relieve the Board or Association of its obligation to perform such delegated duty.

Section 7 - Pledge of Assessment Rights. The Association shall have the power to pledge the right to exercise its Assessment powers in connection with the obtaining of funds to repay a debt of the Association; provided, however, any such pledge shall require the prior approval of not less than seventy-five percent (75%) of the voting power of the Association. Said power shall include, but not be limited to, the ability

to make an assignment of Assessments which are then payable to or will become payable to the Association, which assignment may be then presently effective but shall allow said Assessments to continue to be paid to and used by the Association as set forth in this Declaration unless and until the Association shall default in the repayment of the debt which is secured by said assignment. The Board may levy a Special Assessment against the Members to obtain such funds. Upon the failure of any Member to pay said Special Assessment within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments." Notwithstanding the foregoing, any pledge of Assessments shall require the prior written approval of seventy-five percent (75%) of the First Mortgagees based on one (1) vote for each First Mortgage held.

Section 8 - Emergency Powers. The Board or any person authorized by the Board may enter any Unit in the event of an emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association unless covered by insurance carried by the Owner.

ARTICLE VI

REPAIR AND MAINTENANCE

Section 1 - Repair and Maintenance by Association.

Except to the extent that an Owner may be obligated to maintain and repair as hereinafter provided in this Article, and without limiting the generality of the statement of duties and powers contained in this Declaration, the Articles, Bylaws or Association Rules, the Association shall have the duty to accomplish the following upon the Project or other land in such manner and at such times as the Board shall prescribe:

(a) maintain, repair, restore, replace and make necessary improvements to the Common Area so that the same are at all times in a first-class condition and good state of repair, including, without limitation, all exterior building surfaces, to include the painting thereof.

(b) maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote or written consent of two-thirds (2/3) of the voting power of the Members; and

(c) pay, out of the general funds of the Association, the costs of any such maintenance and repair pursuant to this Section, except as otherwise herein specified as payable by the particular Owners.

Section 2 - Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain and repair as may be provided in other Articles of this Declaration, every Owner shall at his sole cost and expense:

(a) maintain, repair, replace and restore all portions of the Unit, including, without limitation, the interior walls, ceilings, floors and doors in a clean, sanitary

and attractive condition;

(b) repair and replace all window glass for his own Unit, and Owners shall be responsible for the interior and exterior cleaning of such window glass;

(c) maintain in an open and unobstructed condition all sewer and drainage pipes and lines serving his own Unit between the points at which same enter said Unit and the points at which same join other sewer and drainage pipes and lines serving other Units; and

(d) maintain, replace, repair and restore the following which serve his own Unit: air-conditioning and heating equipment.

Section 3 - Damage from Within a Unit. In the event the Board shall determine that the walls, ceiling, floors, doors, or windows or any other portion of the Common Area forming the boundaries of a Unit have been damaged from within the Unit, notwithstanding that such damage may be to the Common Area, the Owner of the Unit shall be responsible for repairing such damage in a timely manner and in accordance with such rules as the Board shall from time to time adopt.

Section 4 - Right of Association to Maintain and Install. In the event that an Owner fails to accomplish any maintenance or installation required by this Article, the Association or its agents may, but shall not be obligated, to cause such maintenance or installation to be accomplished as hereinafter set forth:

(a) Upon a finding by the Board of a deficiency in such maintenance or installation, the Board shall give notice of such deficiency to the Owner which shall briefly describe the deficiency to the Owner and which shall set a date for a

hearing before the Board or a committee selected by the Board for such purpose. The Board may delegate its powers under this subsection to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to such Owner. If the Board or any such committee renders a decision against the Owner, it shall further set a date by which the deficiency is to be corrected by the Owner. A decision of such committee may be appealed to the Board within ten (10) days of the rendering thereof, but a decision of the Board shall be final.

(d) If the deficiency continues to exist after the time limitation imposed by a final decision of the Board or any such committee, the Board or such committee may cause such maintenance or installation to be accomplished.

(e) In the event the Board or such committee elects to cause such maintenance or installation to be accomplished, the following shall apply:

(i) the Owner shall have no more than ten (10) days following the receipt of written notice of such election from the Board or such committee to select a day or days upon which such maintenance or installation work shall be accomplished;

(ii) the date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said

ten (10) day period;

(iii) if said Owner does not select such day or days within said ten (10) day period, the Board or such committee may select a day or days upon which such work may be accomplished which shall be not less than twenty-five (25) days nor more than fifty-five (55) days from the last day of said ten (10) day period; and

(iv) unless the Owner and the Board otherwise agree, such maintenance or installation shall take place only during daylight hours on any day Monday through Friday, excluding holidays.

(f) If the Association pays for all or any portion of such maintenance or installation, such amount shall be a Special Assessment to the affected Owner and Condominium. Upon the failure of any Owner to pay said Special Assessment within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 5 - Right of Entry. The Association shall have the right to enter any Unit in connection with any maintenance, repair or construction in the exercise of the powers and duties of the Association. In addition, in the case of an emergency threatening damage to persons or property, the Association and Owners shall have the right to enter any Unit in order to abate such condition. No person entering a Unit pursuant to this Section shall be deemed guilty of a trespass thereby.

Section 6 - Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to

maintain, replace or restore facilities of public utilities which are located within easements in the Common Area owned by such public utilities. However, the Board shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 7 - Maintenance of Exclusive Easements. Any provisions of this Article to the contrary notwithstanding, the Association shall maintain all appurtenant exclusive easements forming a part of any condominium.

ARTICLE VII

INSURANCE

Section 1 - Types. The Association shall obtain and maintain in effect the following types of insurance:

(a) A comprehensive public liability insurance policy insuring the Association, the Declarant and the agents and employees of each and the Owners and the respective family members, guests and invitees of the Owners against any liability incident to the ownership or use of the Common Area, and including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$500,000.00 for death of or injury to any one person in any one occurrence, \$1,000,000.00 for death of or injury to more than one person in any one occurrence, and \$50,000.00 for property damage in any one occurrence.

(b) A master or blanket policy of fire insurance for the full insurable replacement value, without deduction for depreciation, of all of the improvements within the Project. Such policy and any endorsements thereon shall be in the amount, form and content, and for such term and in such company, as may be satisfactory to any First Mortgagee; and, if more than one First Mortgagee exists, such policy and endorsements shall meet the highest minimum standards of all such First Mortgagees. Such policy shall contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause and a determinable cash adjustment clause, or a similar clause, to permit cash settlement covering full value of the improvements on the Project in the event of the destruction of improvements

and a decision not to rebuild pursuant to the Article hereof entitled "Destruction of Improvements." Subject to the foregoing requirements of First Mortgagees, such policy shall be in such amounts as shall be determined from time to time by the Board, shall name as insured the Association, the Owners and Declarant, so long as Declarant is the Owner of any of the Condominiums, and all Mortgagees as their respective interests may appear, and shall contain a loss-payable endorsement in favor of the Trustee or the Board, as applicable.

(c) Fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible for handling the funds of the Association, and such fidelity bonds shall name the Association as obligee, shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual Common Expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 2 - Waiver by Members. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association, the Owners and the Mortgagees as their respective interests may appear. As to each of said policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Association, the Board, other Owners, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 3 - Other Insurance. The Board may, and if required by any First Mortgagee shall, purchase and maintain in effect demolition insurance in adequate amounts to cover demolition in the event of a total or partial destruction and a decision not to rebuild, as well as a blanket policy of flood insurance. The Board shall also purchase and maintain in effect workmen's compensation insurance, to the extent that the same shall be required by law, for all employees of the Association. The Board shall also purchase and maintain in effect such insurance on personal property owned by the Association, and such other insurance as it deems necessary or as is required by any First Mortgagee including, without limitation, earthquake insurance, plate-glass insurance and officers' and directors' errors and omissions insurance.

Section 4 - Premiums, Proceeds and Settlement. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance carried by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Casualty insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in the Article hereof entitled "Destruction of Improvements." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the Members.

Section 5 - Annual Insurance Review. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Project in

light of increased construction costs, inflation, practice in the area in which the Project is located or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies is necessary or desirable to protect the interests of the Owners, the Mortgagees and the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 6 - Trustee. Except as provided below, all insurance proceeds payable under subsection (b) of the Section entitled "Types" of this Article shall be paid to a Trustee. The Trustee shall hold, distribute and expend such proceeds for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear, pursuant to the provisions of the Article hereof entitled "Destruction of Improvements." The Trustee shall be appointed by the Board and shall be a commercial bank, or branch thereof, or a trust company in said County which has agreed in writing to accept such trust. When proceeds from a single claim do not exceed Ten Thousand Dollars (\$10,000.00), such proceeds shall be paid to the Association to be used as provided in the Article hereof entitled "Destruction of Improvements." The foregoing notwithstanding, in the event the Board fails to appoint a Trustee or determines that the use of a Trustee is not practical, then all proceeds shall be paid to the Board and the members thereof shall collectively act in the place and stead of such Trustee.

Section 7 - Individual Casualty Insurance Prohibited. Except as expressly provided in the Section of this Article entitled "Rights of Owners to Insure," no Owner shall separately insure his Condominium or any part thereof against loss by fire or other casualty covered by any insurance carried under sub-

section (b) of the Section entitled "Types" of this Article. Should any Owner violate this provision, and should any loss intended to be covered by insurance carried by the Association occur, and the proceeds payable thereunder be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the extent of such reduction to the Trustee or Board, as applicable, for application by the Trustee or Board, as applicable, to the same purposes as the reduced proceeds are to be applied. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Trustee or Board, the Board may levy a Special Assessment against such Owner and his Condominium for such amount. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 8 - Rights of Owners to Insure. Notwithstanding any other provisions of this Article, an Owner shall be permitted to insure his personal property against loss by fire or other casualty and may carry public liability insurance covering his individual liability for damage to persons or property occurring inside his Unit. In addition, any improvements made by an Owner to his Unit may be separately insured by such Owner provided such insurance shall be limited to the type and nature of coverage commonly known as "tenant's improvements" coverage. All such policies as may be carried by an Owner shall contain waivers of subrogation of claims against the Association, the Board, other Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused

by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only; provided, however, such other policies shall not adversely affect or diminish any liability under any insurance obtained by the Association, and provided, further, duplicate copies or certificates of such other policies shall be deposited with the Board.

Section 9 - Required Waiver. All policies of physical damage insurance shall provide for waiver of the following rights to the extent such waivers are obtainable from the respective insurers:

(a) subrogation of claims against the Board, Declarant, the Owners, tenants of the Owners, and the employees of each of the foregoing;

(b) any defense based on co-insurance;

(c) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;

(d) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner or arising from any act, neglect or omission of any named insured or the respective agents, contractors and employees of any insured;

(e) any right of the insurer to repair, rebuild or replace and, in the event a structure is not repaired, rebuilt or replaced following loss, any right to pay under the insurance the lesser of the replacement value of the improvements insured or the fair market value thereof;

(f) notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any

Condominium; and

(g) any right to require any assignment of any  
Mortgage to the insurer.

ARTICLE VIII

DESTRUCTION OF IMPROVEMENTS

Section 1 - Automatic Reconstruction. In the event of partial or total destruction of any improvements within the Project, the Board shall promptly take the following action:

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

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

(c) The Board shall meet and determine whether the insurance proceeds, if any, will cover eighty-five percent (85%) or more of the estimated cost of reconstruction as determined pursuant to subsection (a) of this Section, or whether the portion of the estimated cost not covered by insurance is less than One Hundred Fifty Dollars (\$150.00) per Condominium within the Project. Such percentage covered by insurance or such cost shall hereinafter be referred to as the "Acceptable Range of Reconstruction Cost." If the Board finds that a bid obtained under this Section is within the Acceptable Range of Reconstruction Cost, the Board shall cause a notice to be sent to all Owners of Condominiums in the Project and to all First Mortgagees of Mortgages encumbering Condominiums in the Project setting forth such findings and informing said Owners and said First Mortgagees that the Board intends to commence reconstruction

pursuant to this Declaration. In the event that at least twenty percent (20%) of the Owners, based on one (1) vote for each Condominium, and all First Mortgagees of Mortgages encumbering Condominiums object in writing to such reconstruction as indicated in such notice, the Board shall call a meeting of the Owners and all First Mortgagees pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article. In the event that the foregoing requirements are satisfied and the requisite number of Owners and all First Mortgagees of Mortgages encumbering Condominiums do not object in writing to such reconstruction, (i) the Trustee, if other than the Board, shall pay such insurance proceeds as are available to the Board and the Board shall cause reconstruction to take place as promptly as practicable thereafter, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall cause reconstruction to take place as promptly as practicable thereafter. In connection with such reconstruction, the Board shall levy a uniform Reconstruction Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

(d) If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days of the date of such destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the Owners and all First Mortgagees pursuant to the Section entitled "Recon-

struction Pursuant to Meeting" of this Article.

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

Section 2 - Reconstruction Pursuant to Meeting.

If reconstruction is not to take place pursuant to the Section entitled "Automatic Reconstruction" of this Article, as soon as practicable after same has been determined the Board shall call a meeting of the Owners and all First Mortgagees by mailing a notice of such meeting to each such Owner and each such First Mortgagee. Such meeting shall be held not less than fourteen (14) days and not more than twenty-one (21) days after the date of such notice. The Owners may, by a vote at such meeting or by the written consent of not less than sixty-six and two-thirds percent (66-2/3%) of the Owners based on one (1) vote for each Condominium, determine to proceed with such reconstruction; provided, however, reconstruction must take place unless a determination is made not to proceed therewith by seventy-five percent (75%) of the First Mortgagees based upon one (1) vote for each First Mortgage held thereby. If reconstruction is to take place, the Board shall levy a uniform Reconstruction Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

Section 3 - Decision to Reconstruct; Procedure After Meeting. In the event that the Association undertakes recon-

struction pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, the following shall apply:

(a) Immediately after such meeting, the Board shall send a notice to each First Mortgagee of a Condominium (which notice shall advise of the decision to undertake reconstruction and of such First Mortgagee's rights under subsection (b) of this Section). The Board shall also send a true copy of each such notice to the Trustee unless the Board is acting in the place and stead of the Trustee.

(b) In the event that any such First Mortgagee desires to apply insurance proceeds allocable to the Condominium encumbered by its Mortgage to the reduction or elimination of the indebtedness secured by such Mortgage, such First Mortgagee shall notify the Trustee, if applicable, and the Board in writing of such election within thirty (30) days after the date the notice of the Board sent pursuant to subsection (a) above is deposited in the United States mail. Upon receipt of timely notice from any such First Mortgagee, the Trustee or Board, as applicable, shall promptly pay to such First Mortgagee the insurance proceeds allocable to the Condominium encumbered by the Mortgage of such First Mortgagee for the purpose of the reduction or elimination of the obligation secured by such Mortgage; provided, however, in no event shall the Trustee or Board pay to such First Mortgagee an amount greater than (i) the outstanding indebtedness secured by said Mortgage or (ii) the insurance proceeds allocable to such Condominium, whichever of (i) or (ii) is the lesser. Unless the Board is acting in the place and stead of the Trustee, simultaneously with such payment the Trustee shall notify the Board of the amount of such payment. The Trustee or Board, as applicable, shall not make any payment to a First Mortgagee pursuant to this subsection

(b) unless such First Mortgagee notifies the Trustee and/or Board, as applicable, of its election prior to the expiration of the aforesaid thirty (30) day period.

(c) As to each Condominium for which a First Mortgagee has not timely notified the Trustee and/or Board, as applicable, of its election to apply its allocable portion of the insurance proceeds to the reduction or elimination of the obligation owing to such First Mortgagee, promptly upon expiration of the appropriate time period (i) the Trustee, if the Board is not acting in its place and stead, shall pay such allocable portion of the insurance proceeds to the Board, and the Board shall apply same to reconstruction undertaken by the Association pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall apply such allocable portion of the insurance proceeds to reconstruction undertaken by the Association pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article. In the event that only a part of the allocable portion of such insurance proceeds has been paid to a First Mortgagee after timely request therefor, simultaneously with such payment (i) the Trustee, if the Board is not acting in its place and stead, shall pay the remainder of such allocable portion of the insurance proceeds to the Board, and the Board shall apply same to reconstruction undertaken by the Association pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall apply the remainder of such allocable portion of the insurance proceeds to reconstruction undertaken by the Association pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article.

(d) For the purposes of this Article, the amount of insurance proceeds "allocable" to a Condominium shall be determined pursuant to this subsection (d). In the event that the insurance carrier allocates casualty insurance proceeds among Condominiums, such allocation shall be final and binding on the Owners, the Mortgagees, the Association and the Trustee. The Board shall make every possible effort to cause such insurance carrier to make such allocation. In the event such allocation is not made, the Board shall allocate such proceeds among such Condominiums based upon the relative value of the Condominiums as established by an MAI appraisal obtained by the Board and paid for out of, or charged against, such proceeds and made as of a time immediately prior to the destruction and the extent to which the Units involved have been affected by the destruction. Such allocation made by the Board shall be final and binding on the Owners, the Mortgagees, the Association and the Trustee.

(e) In the event the Trustee or Board, as applicable, pays insurance proceeds to any First Mortgagee pursuant to this Section, the Owner of the Condominium which is encumbered by the Mortgage of such First Mortgagee shall pay to the Association an amount equal to the insurance proceeds paid to such First Mortgagee. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Board, the Association, through the Board, may levy a Special Assessment against such Owner and his Condominium for such amount. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 4 - Decision Not to Reconstruct; Procedure

After Meeting. In the event a decision is made not to reconstruct at the meeting called pursuant to the Section entitled "Reconstruction Pursuant to Meeting" of this Article, the Trustee or Board, as applicable, shall apply the insurance proceeds as follows:

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

(b) All insurance proceeds allocable to each Condominium remaining after payments to Mortgagees thereof pursuant to subsection (a) of this Section shall be distributed by the Trustee or Board, as applicable, to the Owner of each such Condominium after deduction of an amount determined pursuant to subsection (c) of this Section.

(c) The Board shall levy a uniform Reconstruction Assessment against all Owners equal to the costs of clearing the debris of the totally or partially destroyed improvements and cleaning the area. The Reconstruction Assessment of the Owner of each Condominium the Unit of which has been affected by the destruction shall be paid out of the insurance proceeds allocable to the respective Condominium of such Owner prior to the distribution of such proceeds pursuant to subsection (b) of this Section. In the event that the allocable insurance

proceeds, after deduction of proceeds paid to Mortgagees, is not sufficient to pay the entire Reconstruction Assessment levied against such Owner, such Owner shall not be relieved of his obligation to pay any such excess.

Section 5 - Certificate of Intention to Reconstruct.

In the event the Association undertakes reconstruction pursuant to this Article, the Board shall, not later than two hundred ten (210) days from the date of destruction, execute, acknowledge and record in the Office of the County Recorder of said County a certificate declaring the intention of the Association to rebuild. If no such certificate of reconstruction is so recorded within said two hundred ten (210) day period, it shall be conclusively presumed that the Association has determined not to undertake reconstruction pursuant to this Article.

Section 6 - Partition. In the event that a certificate described in the Section entitled "Certificate of Intention to Reconstruct" of this Article is not recorded within the two hundred ten (210) day period provided therein, the right of any Owner to partition the Project through legal action as described in the Article hereof entitled "Limitations Upon the Right to Partition and Severance" shall forthwith revive.

Section 7 - Compliance with Condominium Plan. Any reconstruction undertaken pursuant to this Article shall substantially conform to the Condominium Plan, as amended pursuant to the Section entitled "Amendment of Condominium Plan" of this Article, or otherwise, if appropriate.

Section 8 - Negotiations with Insurer. The Board shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed improvements, and to make settlements with the insurer for less

than full insurance coverage on the damage to such improvements. Any settlement made by the Board in good faith shall be binding upon all Owners and Mortgagees.

Section 9 - Repair of Units. Installation of improvements to, and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner.

Section 10 - Amendment of Condominium Plan. In the event reconstruction is to take place pursuant to this Article, the Board shall have the power to record an amendment to the Condominium Plan so that such Condominium Plan conforms to the improvements as designed to be reconstructed; provided, however, the Board shall not record an amendment to such Condominium Plan without the prior authorization of each Mortgagee of a Mortgage encumbering a Condominium within the Project. In the event the Board, together with said Mortgagees, decide to record such amendment to the Condominium Plan, all Owners within the Project and the record holders of all security interests in the Project shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and record holders of security interests shall also execute such other documents or take such other actions as may be required to make such amendment effective. The Board shall cause a notice of change in the Condominium Plan to be sent to each Owner and Mortgagee in the Project within ten (10) days of the recording of such amendment in the office of the County Recorder of said County.

Section 11 - Availability of Labor and Material.

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

Section 12 - Contracting for Reconstruction. In the event repair or reconstruction is undertaken pursuant to this Article, other than the Section entitled "Repair of Units" hereof, the Board or its delegates shall have the sole authority to contract for such work as may be necessary for said repair or reconstruction.

Section 13 - Seventy-Five Percent (75%) Vote Required. All insurance proceeds available from any total or partial destruction shall be applied as set forth in this Article, except upon the vote or written assent of not less than seventy-five percent (75%) of the First Mortgagees based on one (1) vote for each First Mortgage held thereby.

Section 14 - Costs of Collecting Insurance Proceeds. If it should become necessary in the judgment of the Board to incur expenses in order to determine or collect insurance proceeds, such costs shall be first deducted before distribution or application of insurance proceeds as provided in this Article.

Section 15 - Priority. Nothing contained in this Article shall entitle an Owner to priority over any Mortgagee under a Mortgage encumbering his Condominium as to any portion of insurance proceeds allocated to such Condominium.

ARTICLE IX

EMINENT DOMAIN

Section 1 - Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Project.

Section 2 - Representation by Board in Condemnation Proceeding. In the event of a taking, the Board shall, subject to the right of all Mortgagees who have made a request to join the Board in the proceedings, represent all of the Members in an action to recover all awards. No Member shall challenge the good faith exercise of the discretion of the Board in fulfilling its duties under this Article. The Board is further empowered, subject to the limitations hereof, to act as the sole representative of the Members in all aspects of the condemnation proceedings not specifically covered hereby.

Section 3 - Procedure on Taking. In the event of a taking affecting Units of Condominiums, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this Section after deducting therefrom fees and expenses related to the condemnation proceedings including, without limitation, fees for attorneys and appraisers and court costs. In the event the taking is by judgment of condemnation and said judgment apportions the award among the Owners and their respective Mortgagees, the Board shall distribute the amount remaining after such deductions among such Owners and Mortgagees on the basis of the apportionment set forth in such judgment. In the event the taking is by sale under threat of condemnation, or if the judgment of condemnation

fails to app .cion the award, the Board shall distribute the award among the Owners in the Project and their respective Mortgagees based upon the relative values of the Condominiums affected by such taking as determined by: (i) the appraised valuation of each affected Condominium as determined by an MAI appraisal obtained by the Board and paid for out of, or charged against, the award and made as of a time immediately prior to the taking, and (ii) the degree to which each Condominium has been affected by the taking. Such determination by the Board shall be final and binding on all Owners and Mortgagees. Nothing contained herein shall entitle an Owner to priority over a Mortgagee of his Condominium as to the portion of the condemnation award allocated to his Condominium. In no event shall any portion of such award be distributed by the Board to an Owner and/or the Mortgagees of his Condominium in a total amount greater than the portion allocated hereunder to such Condominium.

Section 4 - Inverse Condemnation. The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

Section 5 - Revival of Right to Partition. Upon a taking which renders the Units of more than fifty percent (50%) of the Condominiums in the Project incapable of being restored to at least ninety-five percent (95%) of their floor area and substantially their condition prior to the taking, the right of any Owner within the Project to partition through legal action as described in the Article hereof entitled "Limitations Upon the Right to Partition and Severance" shall forthwith revive. The determination as to whether the Units of Condominiums partially taken are capable of being so restored shall be made by the Board, whose decision shall be final and binding on all Owners and Mortgagees.

Section 6 - Awards for Members' Personal Property and Relocation Allowances. Where all or part of the Project is taken, each Member shall have the exclusive right to claim all of the award made for his personal property, and any relocation expense, moving expense or other allowance of a similar nature designed to facilitate relocation. Notwithstanding the foregoing provisions, the Board shall represent each Member in an action to recover all awards with respect to such portion, if any, of Members' personal property as is at the time of any taking, as a matter of law, part of the real estate comprising any Condominium, and shall allocate to such Member so much of any award as is attributable in the taking proceedings, or failing such attribution, attributable by the Board to such portion of Members' personal property.

Section 7 - Notice to Members. The Board, immediately upon having knowledge of any taking or threat thereof with respect to the Project, or any portion thereof, shall promptly notify all Members.

Section 8 - Change of Condominium Interest. In the event of a taking, the Board shall have the power to record an amendment to the Condominium Plan to reflect the change in the Project to the extent it is affected by such taking; provided, however, the Board shall not record an amendment to the Condominium Plan without the prior authorization of each Mortgagee of a Mortgage encumbering a Condominium within the Project. In the event the Board, together with said Mortgagees, decide to record such amendment to the Condominium Plan, all Owners within the Project and the record holders of all security interests in the Project shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California

such other documents or take such other actions as may be required to make such amendment effective. The Board shall cause a notice of change in the Condominium Plan to be sent to each Owner and Mortgagee in the Project within ten (10) days of the recording of such amendment in the office of the County Recorder of said County.

Section 9 - Award for Common Area. Any awards received on account of any taking of the Project which does not affect Units of Condominiums shall be paid to the Association. The Board may in its sole discretion retain any award in the general funds of the Association or distribute pro rata (as determined by the Board) all or a portion thereof to the Members. The rights of an Owner and the Mortgagee of his Condominium as to any pro rata distribution shall be governed by any applicable provisions of the Mortgage encumbering such Condominium.

ARTICLE X

USE RESTRICTIONS

Section 1 - Limitations Upon All Use Restrictions.

Each and all of the provisions of this Article shall be subject to the rights of, and shall in no way limit the rights of, Declarant as set forth in the subsection entitled "Refurbishing and Sales" of the Section entitled "Certain Rights and Easements Reserved to Declarant" of the Article hereof entitled "Easements" and as set forth in the Section entitled "Refurbishing by Declarant" of the Article hereof entitled "General Provisions." This Section may not be modified or eliminated without the prior written approval of Declarant.

Section 2 - Commercial Use. Unless otherwise approved by the Board, no portion of the Project, including Units, shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, to be used for any business, commercial, manufacturing, mercantile, storing, vending, or any nonresidential purposes; provided, however, (i) nothing herein shall prevent an Owner from leasing his Condominium provided such leasing complies with the Section entitled "Leases" of the Article hereof entitled "General Provisions," and (ii) nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of refurbishing and sales activities within the Project including, without limitation, the use of Units as models.

Section 3 - Signs. No sign of any kind shall be displayed to the public view on or from any portion of the Project without the approval of the Board in writing. Notwithstanding the foregoing, (i) one sign of reasonable dimensions advertising a Condominium for sale or for rent may be placed within

the Unit thereof or outside the Unit within the Common Area immediately adjacent thereto by the Owner thereof or by his agent, and (ii) nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of refurbishing and sales activities within the Project including, without limitation, the use of all forms of signs, flags, markers and sales devices.

Section 4 - Offensive Activity. No noxious or offensive activity shall be carried on upon the Project, nor shall anything be done thereon which might be or become an annoyance or nuisance to occupants within the Project, which shall in any way interfere with the rights of quiet enjoyment of occupants within the Project or which shall in any way increase the rate of any insurance. No Owner or occupant shall engage in activity within the Project which is in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for refurbishing and/or sales purposes or engaging in all forms of refurbishing and sales activities within the Project.

Section 5 - Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Project or used therein unless the same and its proposed use are approved by the Board in writing. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for refurbishing and/or sales purposes or engaging in all forms of refurbishing and sales activities within the Project.

Section 6 - Parking. Unless otherwise permitted by the Board, no motor vehicle (including a motorcycle), trailer, camper, boat, or similar item, and no bicycle, shall be per-

mitted to remain upon the Project unless parked or placed within a parking space; provided, however, temporary parking of motor vehicles shall be permitted. For purposes hereof, "temporary parking" shall mean parking of vehicles belonging to invitees of Owners and occupants, parking of delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of goods and services to the Association or to the Owners and occupants and parking of vehicles belonging to and being used by Owners, occupants and invitees for loading and unloading purposes. The Board may adopt rules for the regulation of the admission and temporary parking of vehicles within the Project, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Project.

Section 7 - Parking Areas. The parking areas shall be used only for parking purposes described in the Section of this Article entitled "Parking," for the storing of household goods of Owners and occupants in accordance with the Association Rules and for such other purposes as may be permitted by the Board. The Board may adopt rules for the regulation of the foregoing including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments.

Section 8 - External Fixtures. No external items such as, but not limited to, television and radio poles and

antennae, flag poles, clotheslines, wiring, insulation, air-conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, walls, landscaping and planting, other than those provided in connection with the original construction of the Project, and any replacements thereof, and other than those approved by the Board in writing and any replacements thereof, shall be constructed, erected or maintained on or within the Project, including any structures thereof. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Project. The Association shall maintain in effect or cause to be maintained in effect any central antenna system or systems at any time installed within the Project.

Section 9 - Window Covers. Only curtains, drapes and shades may be installed as window covers. No window shall be covered by paint, foil, sheets or similar items. The Board may adopt rules regulating the type, color and design of window covers.

Section 10 - Electronic Transmitting Equipment. No electronic transmitting equipment other than electronic transmitting equipment and devices approved by the Board shall be installed, maintained or used within the Project.

Section 10 - Electronic Transmitting Equipment. No electronic transmitting equipment other than electronic garage gate opening devices, if any, and other than electronic transmitting equipment and devices approved by the Board shall be installed, maintained or used within the Project.

Section 11 - External Laundrying. Unless otherwise permitted by the Board, external laundrying and drying of clothing and other items is prohibited.

Section 12 - Unsightly Items. All weeds, rubbish,

debris or unsightly materials or objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers and woodpiles, and machinery and equipment not a part of Units, shall be prohibited upon any Unit unless obscured from view of adjoining Units. Trash and garbage not disposed of by equipment contained within Units shall be placed in containers by Owners and occupants for removal from the Project in accordance with rules applicable thereto adopted by the Board. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agent and assigns from engaging in all forms of refurbishing and sales activities within the Project.

Section 13 - Oil and Mineral Rights. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the surface of the Project, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be installed upon the surface of the Project or within five hundred (500) feet below the surface of the Project. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Project. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of refurbishing and sales activities within the Project.

Section 14 - Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept upon the Project; provided, however, that specific dogs, cats or other house-

hold pets belonging to a person who was the tenant of a Unit at the time of issuance of the Final Subdivision Public Report covering the Project may be kept within the Project so long as such person remains in possession of a Unit as tenant or Owner and so long as such pet survives. Notwithstanding the foregoing, no pet may be kept within a Unit which, in the good faith judgment of the Board or a committee selected by the Board for this purpose, results in an annoyance or is obnoxious to residents within the Project. All animals permitted to be kept by this Section shall be kept on a leash when on any portion of the Project except within a Unit. The Board may adopt rules applicable to the provisions of this Section and to the keeping of pets within the Project, and their enforcement, including the assessment of charges to Owners and occupants who violate such rules. Any charges so assessed shall be Special Assessments.

Section 15 - Children. No child under 18 years of age may permanently reside within a Unit and no child under 18 years of age may visit or temporarily reside within a Unit for a continuous period of more than two (2) weeks in any period of six (6) months. The foregoing age restrictions shall be enforceable only to the extent permitted by law, and Declarant shall have no liability if, and to the extent, such age restrictions are held to be unenforceable in whole or in part or under some or all circumstances; and each Owner, by acceptance of delivery of the deed to his respective Condominium, expressly consents hereto. The Board may adopt special rules for the regulation of the conduct of children (meaning persons under eighteen (18) years of age) within the Project including the assessment of charges to Owners and occupants whose children violate such rules. Any charges so assessed shall be Special Assessments. Each Owner or occupant with children shall be accountable to all other Owners and occupants for the conduct of any child of the former while within the Project. The

foregoing notwithstanding, the aforesaid age restrictions shall not apply to children of a person who was the tenant of a Unit at the time of issuance of the Final Subdivision Public Report covering the Project so long as such person remains in possession of a Unit as tenant or Owner.

Section 16 - Structural Alterations and Integrity.

No interior or exterior structural changes shall be constructed, erected or made within the Project other than those approved by the Board in writing. Nothing shall be kept or maintained within a Unit which might impair the structural integrity of any building or other structure. The foregoing notwithstanding, nothing herein shall be construed as (i) preventing an Owner from decorating the interior of his Unit or (ii) preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Project. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and occupants who violate such rules. Any charges so assessed shall be Special Assessments.

ARTICLE XI

RIGHTS OF ENJOYMENT

Section 1 - Members' Right of Enjoyment. Every Member shall have a nonexclusive easement for use and enjoyment in and to the Common Area (other than portions thereof subject to exclusive easements), and such right shall be appurtenant to and shall pass with the interest required to be an Owner to every Condominium, subject to all of the covenants, conditions, restrictions, easements and other provisions contained in this Declaration, including, without limitation, the following provisions:

(a) The right of the Association to limit the number of guests of Members and to limit the use of recreational facilities, if any, on the Common Area by persons not in possession of a Unit, but owning all or a portion of the interest in a Condominium required for membership.

(b) The right of the Association to establish reasonable rules and regulations pertaining to the conduct of persons within, and the use of, the Common Area.

(c) The right of the Association to suspend the rights of a Member to use the recreational facilities, if any, located upon the Common Area, or any portion thereof designated by the Board, at any time during which any Assessment against his Condominium remains unpaid and delinquent or for a period not to exceed thirty (30) days for any single infraction of this Declaration, the Bylaws or the Association Rules, provided that any suspension of such rights to use all or any recreational facilities, if any, located on the Common Area, except for the failure to pay Assessments, shall be made only by the Association or a duly appointed committee thereof after

notice and hearing given and held in accordance with the Bylaws. Notwithstanding the foregoing, the Association shall not have the right hereunder to suspend any Member's rights to use any portion of the Project necessary for such Member to gain access to his Unit.

(d) The right of the Association to establish, in cooperation with any governmental entity, a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association.

(e) The right of the Association to grant easements on, over or under the Common Area to public utilities or governmental entities or agencies; provided that such easements shall not unreasonably interfere with the rights of any Owner to the use and enjoyment of his Unit or the Common Area. No such easement shall be effective unless approved by two-thirds (2/3) of the voting power of the Members.

Section 2 - Delegation of Use. Any Member may delegate his rights of enjoyment in and to the Common Area to the members of his family or his tenants who reside within his Unit, or to his invitees, subject to all provisions of this Declaration, including those set forth in the Section of this Article entitled "Members' Rights of Enjoyment," the Bylaws and the Association Rules.

Section 3 - Waiver of Use. No member may exempt himself from personal liability for Assessments duly levied by the Association, nor release the Condominium owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws and Association Rules, by waiver of the use and enjoyment of the Common Area, or by abandonment of his Condominium or the Unit thereof.

ARTICLE XII

EASEMENTS

Section 1 - Amendment to Eliminate Easements. This Declaration cannot be amended to modify or eliminate the easements reserved to Declarant without prior written approval of Declarant and any attempt to do so shall have no effect. Any attempt to modify or eliminate this Section shall likewise require the prior written approval of Declarant.

Section 2 - Nature of Easements. Unless otherwise set forth herein, any easement reserved in this Declaration shall be nonexclusive. Any and all easements reserved in this Declaration shall be deemed to be in full force and effect whether or not referred to, reserved and/or granted in any instrument of conveyance.

Section 3 - Certain Rights and Easements Reserved to Declarant.

(a) Utilities. Easements and rights over the Project for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities as are needed to service the Project are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use and enjoyment by the Members of their Condominiums or the Common Area.

(b) Refurbishing and Sales. There are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including Declarant's sales agents, representatives and assigns, over the Project as the same may from time to time exist, easements and rights for refurbishing, display (including the use of Units as models), maintenance,

sales and exhibit purposes (including the use of signs and other advertising devices) in connection with the refurbishing and sale or lease of Condominiums within the Project; provided, however, that no such use by Declarant and others shall otherwise restrict the Members in the reasonable use and enjoyment of the Project.

Section 4 - Certain Easements for Owners.

(a) Rights and Duties; Utilities and Television.

Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone and television lines or drainage facilities are installed within the Project, the Owners of Condominiums the Units of which are served by said connections, lines or facilities shall have the right, and there are hereby reserved to Declarant and all other Owners, together with the right to grant and transfer the same, easements and rights to the full extent necessary for the full use and enjoyment of such portion of such connections, lines or facilities which service the Unit of each Condominium owned, and to enter Units of Condominiums owned by others, or to have utility companies enter Units of Condominiums owned by others, in or upon which said connections, lines or facilities, or any portions thereof, lie, to repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary, provided that such entering Owner or utility company shall promptly repair all damage to any Unit caused by such entry as promptly as possible after completion of work thereon.

(b) Ingress, Egress and Recreational Rights.

There are hereby reserved to Declarant and to all other Owners, together with the right to grant and transfer the same, easements and rights for ingress, egress, use, enjoyment and general recreational purposes over and upon the Common Area other than portions thereof subject to exclusive appurtenant easements,

if any. Such easements and rights shall be subject to the rights of the Association as set forth in the Article hereof entitled "Rights of Enjoyment."

Section 5 - Certain Easements for Association.

(a) Association Rights. There are hereby reserved to the Association easements and rights over the Project for the purpose of permitting the Association to discharge its obligations as described in this Declaration.

(b) Rights and Duties; Utilities and Television. Whenever sanitary sewer house connections, water house connections, electricity, gas, telephone and television lines or drainage facilities are installed within the Project, and said connections, lines or facilities serve recreational or other facilities within the Common Area which are used in common by Members, the Association shall have the right, and there are hereby reserved to the Association, together with the right to grant and transfer the same, easements and rights to the full extent necessary for the full use and enjoyment of such portion of such connections, lines or facilities which service such commonly used facilities, and to enter upon all portions of the Project, or to have utility companies enter upon all portions of the Project, including Units of Condominiums, in or upon which said connections, lines or facilities, or any portions thereof, lie, to repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary, provided the Association or utility company shall promptly repair all damage, including damage to any Unit, caused by such entry as promptly as possible after completion of work thereon.

Section 6 - Support, Settlement and Encroachment.

There are hereby reserved to Declarant and all other Owners,

together with the right to grant and transfer the same, the following reciprocal rights and easements for the purposes set forth below:

(a) A right and easement appurtenant to each Unit of a Condominium which is contiguous to another Unit of a Condominium or which is contiguous to the Common Area which Unit of a Condominium shall be the dominant tenement and which contiguous Unit of a Condominium or Common Area shall be the servient tenement.

(b) A right and easement appurtenant to the Common Area contiguous to the Unit of a Condominium which Common Area shall be the dominant tenement and which contiguous Unit of a Condominium shall be the servient tenement.

(c) It is provided, however, that in the event the Common Area is the dominant tenement in a right and easement described in this Section, the Association shall have said rights and easements rather than Declarant and the Owners, and said rights and easements are hereby reserved to the Association, together with the right to grant and transfer the same.

(d) Said rights and easements shall be for the purposes of:

(i) support and accommodation of the natural settlement of structures; and

(ii) encroachments resulting from any cause, including original construction and reconstruction.

ARTICLE XIII

RIGHTS OF LENDERS

Section 1 - Filing Notices; Notices and Approvals.

A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Condominium within the Project. Such notice need not state which Condominium is encumbered by such Mortgage, but shall state whether such Mortgagee is a First Mortgagee. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice or request to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

Section 2 - Priority of Mortgage Lien. No breach of the covenants, conditions, restrictions or easements herein contained, nor the enforcement of any lien provision herein,

shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Condominium, but all of said covenants, conditions, restrictions and easements shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Condominium.

Section 3 - Curing Defaults. A Mortgagee who acquires title by judicial foreclosure or trustee's sale, or the immediate transferee of such Mortgagee, shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all Mortgagees.

Section 4 - Resale. It is intended that the Mortgagee under a Mortgage securing a loan to facilitate the resale of any Condominium after judicial foreclosure or a trustee's sale is a Mortgagee under a Mortgage securing a loan made in good faith and for value and is entitled to all of the rights and protections afforded to other Mortgagees.

Section 5 - Relationship with Assessment Liens.

(a) The lien provided for in the Article hereof entitled "Nonpayment of Assessments" for the payment of Assessments shall be subordinate to the lien of any Mortgage which was recorded prior to the date any such Assessment becomes due.

(b) If any Condominium subject to a monetary lien created by any provisions hereof shall be subject to the lien of a Mortgage: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate

to affect or impair the lien of such Mortgage; and (ii) the foreclosure of the lien of said Mortgage or the sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

(c) Without limiting the provisions of subsection (b) of this Section, any Mortgagee who obtains title to a Condominium by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale, shall take title to such Condominium free of any lien or claim for unpaid Assessments against such Condominium which accrued prior to the time such Mortgagee or purchaser takes title to such Condominium, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Condominiums within the Project.

(d) Nothing in this Section shall be construed as releasing any Owner from his personal obligations to pay for any Assessment levied pursuant to this Declaration.

Section 6 - Seventy-Five Percent (75%) Vote of First Mortgagees. Except upon the prior written approval of at least seventy-five percent (75%) of First Mortgagees, based on one (1) vote for each First Mortgage held, neither the Association

nor the Members shall be entitled by action or inaction to do any of the following:

(a) Abandon or terminate by any act or omission the condominium legal status of the Project, or any part thereof, except for abandonment or termination provided by law and/or this Declaration in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) Amend a material provision of this Declaration, the Bylaws or the Articles, and without limiting the generality of the foregoing, the provisions of the Articles hereof entitled "Insurance," "Destruction of Improvements," "Eminent Domain," this Article, and any other rights granted specifically to Mortgagees pursuant to any other provision of this Declaration, or any provision of this Declaration, the Articles, or Bylaws which is a requirement of the Federal Home Loan Mortgage Corporation ("FHLMC") shall be deemed to be material;

(c) Abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common Area; provided, however, the granting of easements affecting the Common Area for public utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval;

(d) Partition or subdivide a Unit or any elements thereof;

(e) Change the manner in which Assessments other than Special Assessments are determined and levied as set forth in this Declaration;

(f) Change the manner in which condemnation awards and insurance proceeds are allocated and distributed as

set forth in this Declaration;

(g) Change the Ownership Interest of the respective Condominiums as provided in the Section entitled "Condominium" in the Article hereof entitled "Definitions"; and

(h) Dissolve the Association or abandon or terminate the maintenance of the Project as set forth in this Declaration by the Association.

Section 7 - Other Rights of First Mortgagees. Any First Mortgagee or its mortgage servicing contractor shall, upon written request to the Association, be entitled:

(a) To inspect the books and records of the Association during normal business hours;

(b) To receive any annual financial statement of the Association ninety (90) days following the end of the Association's fiscal year;

(c) To receive written notice of all annual and special meetings of the Members or of the Board, and First Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give a First Mortgagee the right to call a meeting of the Board or of the Members for any purpose or to vote at any such meeting; and

(d) To receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration, the Articles, Bylaws or Association Rules by the Owner whose Condominium is encumbered by such First Mortgagee's Mortgage, which default has not been cured within sixty (60) days; provided, however, the Association shall only

be obligated to provide such notice to First Mortgagees who have delivered a written request therefor to the Association specifying the Condominium or Condominiums to which such request relates.

Section 8 - Mortgagees Furnishing Information.

Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage.

Section 9 - Right of First Refusal. In the event

this Declaration, or the Articles, Bylaws or Association Rules, is amended to provide for any right of first refusal to purchase or lease a Condominium, a Mortgagee who obtains title to a Condominium pursuant to a judicial foreclosure or trustee's sale shall be exempt therefrom. In addition, conveyances to and from third party foreclosure purchasers and mortgage insurers and guarantors shall also be exempt therefrom. In this regard, no such right of first refusal shall impair the rights of a Mortgagee to:

- (a) foreclose or take title to a Condominium pursuant to the remedies provided in the Mortgage;
- (b) accept a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor; or
- (c) sell or lease a Condominium so acquired by the Mortgagee.

Section 10 - Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control; provided, however, this Declaration may be amended or revoked as provided under subsection (a) of the Section entitled "Amendments" of the Article hereof entitled "General Provisions" without the consent of any Mortgagee as therein provided.

Section 11 - Notice of Destruction or Taking.

In the event any Condominium or the Common Area and any improvements thereto or any portion thereof are damaged or are made the subject of any condemnation proceedings or are otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any First Mortgagee affected by such destruction, taking or threatened taking. As used herein, "damaged" or "taking" shall mean damage to or taking of the Common Area exceeding Ten Thousand Dollars (\$10,000.00) or damage to or taking of a Unit of a Condominium exceeding One Thousand Dollars (\$1,000.00). If requested in writing by a First Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Mortgagee. Absent such request, the obligations under this Section shall be deemed an agreement between the Association and such First Mortgagee.

Section 12 - Payment of Taxes or Premiums by First Mortgagees.

First Mortgagees may, jointly or singly, (i) pay taxes or other charges which are in default and which may or have become a charge against the Common Area (unless such taxes or charges are separately assessed against the Owners, in which case the rights of First Mortgagees shall be governed by the provisions of their respective Mortgages) and (ii) pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. If requested in writing by a First Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Mortgagee. Absent such request, the obligations under this Section shall be deemed an agreement between the Association and such First Mortgagees.

Section 13 - Management Agreement. Any agreement for management of the Project shall be in writing and shall provide for termination by either the Association or the management agent without cause or payment of a termination fee on not more than thirty (30) days written notice, and the term of such agreement shall not exceed one (1) year, renewable by written agreement of the parties for successive periods of one (1) year.

Section 14 - Reserves. Reserves comprising a portion of the Common Expenses shall not be eliminated without the consent of all First Mortgagees.

ARTICLE XIV

LIMITATIONS UPON THE RIGHT TO PARTITION AND SEVERANCE

Section 1 - No Partition. The right to partition is hereby suspended, except that the right to partition shall revive and the Project may be sold as a whole when the conditions for such action set forth in the Articles hereof entitled "Destruction of Improvements" and "Eminent Domain" have been met; provided, however, notwithstanding the foregoing, any Owner may, upon the prior written approval of the First Mortgagee of any First Mortgage encumbering his Condominium, bring an action for partition by sale of the Project as provided in Section 1354 of the California Civil Code, or any similar statute then in effect, upon the occurrence of any of the events therein provided.

Section 2 - No Severance. The elements of a Condominium and other rights appurtenant to the ownership of a Condominium, including exclusive easements over Common Area, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Condominium and such appurtenances. Any conveyance made in contravention of this Section shall be void. The provisions of this Section shall terminate on the date that judicial partition shall be decreed as to the Project. The foregoing notwithstanding, exclusive easements appurtenant to the ownership of a Condominium may be severed therefrom by the Owner thereof with the written approval of (i) all Members of the Board and (ii) the First Mortgagee of any First Mortgage encumbering such Condominium.

Section 3 - Proceeds of Partition Sale.

(a) Whenever an action is brought for the partition by sale of the Project, whether upon the occurrence of any of the events provided in Section 1354 of the California Civil Code or any similar statute then in effect or upon the revival of the right to partition pursuant to the Articles hereof entitled "Destruction of Improvements" or "Eminent Domain," the Owners of Condominiums in the Project shall share in the proceeds of such sale in the same proportion as their interests in the Common Area.

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

Section 4 - Power of Attorney. There is hereby granted to the Association an irrevocable power of attorney to sell the Project pursuant to Section 1355(b)(9) of the California Civil Code or any similar statute then in effect for the benefit of all Owners therein when partition of the Project may be had.

ARTICLE XV

PROTECTION OF THE PROJECT FROM LIENS

Section 1 - Association to Defend Certain Actions.

In the event that a lawsuit is brought against all or substantially all of the Members which will or could result in any lien or encumbrance being levied against the entire Project, the Association shall defend such lawsuit and the costs of such defense shall be a Special Assessment against all of the Members within the Project; provided, however, in the event an insurance carrier is obligated to provide such defense under a policy of insurance carried by the Association, the Association shall be relieved of the obligation to provide such defense. Nothing contained herein shall in any way limit the rights of any Member or Members to retain counsel of their choice to represent them in such lawsuit at their own expense. In the event that a Member chooses to retain counsel, he shall not be relieved of liability for the Special Assessment provided for in this Section.

Section 2 - Payment of Lien. In the event that a lien or encumbrance not covered by Section 1357 of the California Civil Code or any similar statute then in effect attaches to all or substantially all of the Project by reason of a judgment or otherwise, the Association shall promptly take the appropriate steps to remove such lien, including but not limited to the payment of money and the posting of a bond. The Association shall have the power to borrow money and to take such other steps as are necessary to free the Project from such liens.

Section 3 - Owners to be Specially Assessed. Simultaneously with any action taken pursuant to the Section entitled "Payment of Lien" of this Article, the Association shall levy

a Special Assessment against all of the Members whose Condominiums were subject to the lien or encumbrance which caused the Association to act pursuant to said Section equal to each such Member's pro rata share of such lien or encumbrance as determined by the Board. In the event that such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 4 - Reimbursement by Certain Owners. In the event that it shall be proven in a court of law of competent jurisdiction over the claim or claims causing the Association to take action under this Article that a judgment resulting in a lien on all or a portion of the Project was primarily due to the acts or omissions of a particular Member or Members or the families or invitees thereof, such Member or Members shall reimburse the Association for all expenses incurred by it pursuant to the provisions of this Article. Upon such reimbursement, the Association shall distribute the funds received to the Members against whom Special Assessments were levied pursuant to the provisions of this Article. In the event such Member or Members fails to make such reimbursement, the Association shall levy a Special Assessment against such Member or Members equal to such Member's pro rata share of such expenses as determined by the Board. In the event that such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article hereof entitled "Nonpayment of Assessments."

ARTICLE XVI

GENERAL PROVISIONS

Section 1 - Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, easements and other provisions now or hereafter imposed by this Declaration, or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or easements and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles and Bylaws and any amendments thereto and the Association Rules. With respect to Assessment liens or any other liens or charges, the Association shall have the exclusive right to the enforcement thereof.

Section 2 - No Waiver. Failure by the Association or by any Owner to enforce any covenant, condition, restriction, easement or provision herein contained, or contained in the Articles, Bylaws or Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other covenant, condition, restriction, easement or provision.

Section 3 - Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or the Mortgagees under this Declaration are cumulative, and not one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law,

whether or not stated in this Declaration.

Section 4 - Severability. Invalidation of any one or a portion of the covenants, conditions, restrictions, easements or provisions set forth in this Declaration or in the Articles, Bylaws or Association Rules by judgment or court order shall in no way affect any other covenants, conditions, easements or provisions contained herein or therein which shall remain in full force and effect.

Section 5 - Covenants to Run with the Land; Term. Subject to the provisions of the Section entitled "Amendments" of this Article which permit amendments and revocations under certain limited circumstances, the covenants, conditions, restrictions, easements and other provisions of this Declaration shall run with and bind the Project as equitable servitudes and also as covenants running with the land pursuant to Section 1468 of the California Civil Code or any similar statute then in effect and shall inure to the benefit of and be enforceable as above provided by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty-nine (59) years from the date this Declaration is recorded, after which time said covenants, conditions, restrictions, easements and other provisions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by Owners of a majority of Condominiums within the Project and seventy-five percent (75%) of the First Mortgagees, based on one (1) vote for each First Mortgage held, has been recorded within one (1) year prior to the end of any such period, agreeing to change or revoke said covenants, conditions, restrictions, easements and other provisions in whole or in part.

Section 6 - Construction. The provisions of this

Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential Condominium development and for the maintenance of the Project. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 7 - Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

Section 8 - Nuisance. The result of every act or omission whereby any provision, condition, covenant, restriction, easement or other provision contained in this Declaration or any provision contained in the Articles, Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

Section 9 - Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Articles, Bylaws or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of suit.

Section 10 - Notices. Any notice to be given to an Owner or to a Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may

be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Board for the purpose of giving notice, or if no such address shall have been furnished, then to the address of the Unit of such Owner's Condominium. Any notice so deposited in the mail within said County shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.

(b) Notice to a Mortgagee or to its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Mortgagee or such contractor in writing to the Board for the purposes of notice or, if no such address shall have been furnished, to any office of the Mortgagee in said County, or if no such office is located in said County, to any office of such Mortgagee. Any notice so deposited in the mail within said County shall be deemed delivered forty-eight (48) hours after such deposit.

(c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, to any Mortgagee or Mortgagees, or to all Owners or all Mortgagees, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

Section 11 - Declarant's Exemptions. Declarant shall not be subject to any of the provisions of the Article entitled

"Use Restrictions."

Section 12 - Effect of Declaration. This Declaration is made for the purposes set forth in the recitals to this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the Articles, Bylaws or Association Rules is determined to be unenforceable in whole or in part or under certain circumstances.

Section 13 - Personal Covenant. To the extent the acceptance of a conveyance of a Condominium creates a personal covenant between the Owner of such Condominium and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of monies to the Association.

Section 14 - Nonliability of Officials. To the fullest extent permitted by law, neither the Board, any committees of the Association, no member of such Board or committee nor any officer of the Association shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of his or their duties.

Section 15 - Condition of Project. The real property and the improvements which comprise the Project are being converted to condominium ownership pursuant to this Declaration. The Project was previously occupied by rental tenants. Each Owner of a Condominium within the Project, by acceptance of delivery of a deed to such Condominium, shall be deemed to have agreed and acknowledged that he has made a full, complete and independent investigation of the physical condition of the Project, including his Unit, and that he accepts same in its "as is" condition, and that Declarant, in selling and granting such Condominium to him, is making no representations, express or implied, to him or to his successors in interest, as to the physical condition of the Project, including the physical condition of the Condominium (including its Unit) being purchased by each Owner. Nothing in this Declaration shall require Declarant to perform any refurbishing whatsoever.

Section 16 - Leases. Any agreement for the leasing or rental of a Condominium (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Association Rules. Said lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease his Condominium shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, the Bylaws and the Association Rules. Failure by an Owner to take legal action, including the institution of proceedings in Unlawful Detainer against his lessee who is in violation of this Declaration, the Articles, the Bylaws or the Association Rules within ten (10) days after receipt of written demand so to do from the Board, shall entitle the Association, through the Board, to take any and all such action, including the institution of proceedings in Unlawful Detainer on behalf of such Owner against his lessee. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor shall entitle

the Board to levy a Special Assessment against such Owner and his Condominium for all such expenses incurred by the Association. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof including those set forth in the Article hereof entitled "Nonpayment of Assessments." Unless approved by the Board in writing, no Condominium shall be leased for transient or hotel purposes, which shall be defined as rental for any period of less than thirty (30) days or any rental whatsoever if the occupants of the Unit of such Condominium are provided with customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen and bellboy service.

Section 17 - Refurbishing By Declarant. Nothing in this Declaration shall limit the right of Declarant to alter the Common Area or the Units, or to construct such additional improvements as Declarant deems advisable prior to refurbishing of any improvements upon and sale of the entire Project. Such right shall include but shall not be limited to the use of Units as models, maintaining sales and construction trailers and temporary structures, erecting, constructing and maintaining on the Project such structures and displays, including signs and other advertising devices, as may be reasonably necessary for the conduct of the business of completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time to establish on the Project additional licenses, easements, reservations and rights-of-way to itself, to utility companies or to others as may from time to time be reasonably necessary for the proper development and disposal of the Project. Declarant reserves the right to alter its refurbishing plans and designs as it deems appropriate.

The rights of Declarant hereunder may be assigned to any successor or successors to all or part of Declarant's respective interest in the Project by an express assignment incorporated in a recorded instrument. Declarant shall exercise its rights contained in this Section in such a way as not to unreasonably interfere with the Members' rights to use and enjoy the Project.

Section 18 - Unsegregated Real Property Taxes. Until such time as real property taxes have been segregated by the County Assessor of said County for the Project, same shall be paid by the respective Owners of Condominiums therein. In connection with such payment, the proportionate share of such tax or installment thereof for a particular Condominium shall be determined by multiplying the tax or installment in question by the respective interest of such Condominium in the Common Area. The Association may levy a Special Assessment against any Owner who fails to pay his share of any real property taxes pursuant to this Section. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof including those set forth in the Article hereof entitled "Nonpayment of Assessments."

Section 19 - Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for not-for-profit purposes of the Association in managing, maintaining, caring for, preserving and architecturally controlling the Project and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Member (other than as a result of the Association managing, maintaining, caring

for, preserving and architecturally controlling the Project and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

Section 20 - Conflicting Provisions. In the case of any conflict between this Declaration and the Articles or the Bylaws, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control.

Section 21 - Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, which merger or consolidation must be approved by two-thirds (2/3) of the voting power of the Association, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may, by operation of law, be transferred to the properties, rights and obligations of this Association as the surviving or consolidated association. The surviving or consolidated association may administer the covenants, conditions, restrictions and easements established by this Declaration with respect to the Project, together with any covenants, conditions, restrictions and easements applicable to any other property as one plan. In no event shall any merger or consolidation revoke, modify or add to the covenants established by this Declaration with respect to the Project.

Section 22 - Amendments. Subject to the other provisions of this Declaration, including, without limitation, the rights of Mortgagees pursuant to the Articles hereof entitled "Insurance" and "Rights of Lenders," or otherwise, this Declaration may be revoked or amended as follows:

(a) Prior to the conveyance of the first Condominium in the Project to a purchaser other than a "Declarant" as defined herein, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking same.

(b) Subsequent to the conveyance of the first Condominium in the Project to a purchaser other than a "Declarant" as defined herein, this Declaration and any amendments thereto, may be amended by any group of Members entitled to vote not less than seventy-five percent (75%) of the total voting power, which group shall, in any event, include a subgroup of Members (excluding Declarant) entitled to vote not less than seventy-five percent (75%) of the total voting power held by such subgroup by affirmative written assent or vote; provided, however, if approval of such amendment is sought at any time when two classes of membership are still in effect, then, and in that event, this Declaration and any amendments thereto shall instead be amended only by Members entitled to vote not less than seventy-five percent (75%) of the voting power of each class of membership by affirmative written assent or vote.

(c) An amendment or revocation which only requires the execution of an instrument by Declarant as hereinabove provided shall be effective when executed by Declarant and when recorded in the Office of the County Recorder of said County. An amendment which requires the affirmative written assent or vote of the Members as hereinabove provided shall

be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved, and when the amendment has been recorded in the Office of the County Recorder of said County.

(d) Notwithstanding the foregoing, any provision of this Declaration, the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage or specified percentages of the voting power of the Association or First Mortgagees for action to be taken under said provision can be amended only with the affirmative written assent or vote of not less than the same percentage or percentages of the voting power of the Association and/or First Mortgagees. Any amendment subject to this provision shall be effective after the specified approval has been given and that fact has been certified in a writing executed by the President and the Secretary of the Association, and when the said writing has been (i) recorded in the Office of the County Recorder of said County, when such amendment is of this Declaration, (ii) filed in the Office of the Secretary of State of California, with a certified copy thereof duly filed with the Clerk of said County, when such amendment is of the Articles, (iii) properly annotated in accordance with the Section entitled "Record of Amendments" of that Article entitled "Amendments" of the Bylaws, and entered upon the corporate records, when such amendment is of the Bylaws, or (iv) delivered to each Owner and entered in the records of the Association that are kept for inspection at its principal office in accordance with the provisions of the Section entitled "Association Rules" of the Article entitled

"Duties and Powers of the Association" of this Declaration, when such amendment is of the Association Rules, whichever of (i), (ii), (iii) and/or (iv) may be applicable at the time.

(e) The provisions of subsection (d) of this Section shall not apply to amendments and revocations pursuant to subsection (a) of this Section.

(f) If applicable, all amendments and revocations pursuant to this Section shall comply with the requirements of Section 11018.7 of the California Business and Professions Code or any similar statute then in effect.

Section 23 - Enforcement of Bonded Obligations.

In the event that the improvements to the Common Area have not been fully completed prior to the conveyance of the first Condominium and the Association is obligee under a bond or other arrangement (hereinafter the "Bond") to secure completion of such improvements, the following provisions shall apply:

(a) 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 improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvements, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, a special meeting of the Members

shall be called for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the Bylaws dealing with meetings of the Members, but in any event such meeting shall be held not less than fifteen (15) days nor more than thirty (30) days after receipt by the Board of a petition for such meeting signed by Members representing ten percent (10%) of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting of Members shall be the Owners other than Declarant. A vote at such meeting of a majority of the voting power of such Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

IN WITNESS WHEREOF, Declarant has executed this instrument as of this 5<sup>th</sup> day of January, 1979.

ROSSMOOR PARK APARTMENTS,  
a limited partnership

By *Robert Hirsch*  
A General Partner

STATE OF CALIFORNIA

COUNTY OF Los Angeles }

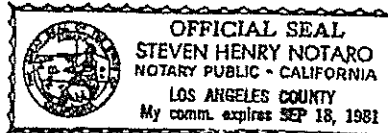
On 05 January 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_

Robert Hirsch

known to me to be ONE the partners of the partnership that executed the within instrument and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.

Signature *Steven Henry Notaro*  
STEVEN HENRY NOTARO  
Name (Typed or Printed)



(This area for official notarial seal)

SUBORDINATION

The undersigned, Beneficiary under that certain Deed of Trust recorded April 25, 1978 <sup>Book 12647, Page 513,</sup> as Instrument No. 37345, Official Records, Los Angeles County, California, does hereby consent to each and all of the provisions contained in the within instrument and does hereby agree that the lien and charge of said Deed of Trust shall be, and is hereby made, subordinate to, junior to and subject to said within instrument and the entire effect thereof.

Dated: 2/16/79

UNION BANK, a corporation  
BY: [Signature]  
KENT W. STEVENS  
ASSISTANT VICE PRESIDENT

(Notary Acknowledgement)

TO 1945 CA 10-74)

(Corporation)

STATE OF CALIFORNIA }  
COUNTY OF Los Angeles } SS.

On February 16, 1979 before me, the undersigned, a Notary Public in and for said State, personally appeared Kent W. Stevens

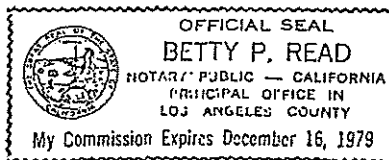
known to me to be the Assistant Vice President, ~~and~~

known to me to be --- Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature

Betty P. Read



(This area for official notarial seal)

↑ STAPLE HERE ↓

EXHIBIT "A"

Lot 1 of Tract No. 10295, in the City of Seal Beach,  
County of Orange, State of California, as per map recorded in  
Book 444, pages 49 to 50, inclusive, of Miscellaneous  
Maps, in the office of the County Recorder of said County.

EXHIBIT "B"

1. There is presently constructed upon the real property described in Exhibit "A" 256 dwelling units and related improvements. Pursuant hereto Declarant proposes to convert said real property and improvements to condominium ownership.

2. The respective interest in the Common Area to be conveyed with each Unit consists of an undivided 1/256th interest therein.