

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
VILLAGE RACQUET CLUB

A Residential Leasehold Condominium Project

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
VILLAGE RACQUET CLUB

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AND RESERVATION OF EASEMENTS is made this _____ day of _____, 20____, by BEVERLY HILLS SAVINGS, a Federal Savings and Loan Association, (hereinafter referred to as the "Declarant").

W I T N E S S E T H:

A. Declarant is the "Lessee" under that certain "Business Lease No. PSL-199" dated July 20, 1977, approved by the United States Department of the Interior, Bureau of Indian Affairs, on July 28, 1977, and recorded on August 10, 1977, as Instrument No. 154425, Official Records of Riverside County, California. Said Business Lease No. PSL-199 was supplemented by that certain "Supplemental Agreement No. 1 to Business Lease No. PSL-199" dated December 27, 1978, and recorded on December 23, 1980, as Instrument No. 240990, Official Records of Riverside County, California. Lessee's interest in said Business Lease was assigned by mesne assignments of record to Declarant by document recorded May 4, 1984, as Instrument No. 93962, Official Records of Riverside County, California. By virtue of said Business Lease PSL-199, Supplemental Agreement No. 1 to said Business Lease and such other mesne conveyances of record, hereinafter collectively referred to as the "Ground Lease," Declarant owns a leasehold interest in that certain real property more particularly described as:

Lots 1, 2, and 3 of Tract 10855, as shown on a Map on file in Book 118, Pages 41 through 43, inclusive, of Maps, records of Riverside County, California

(said real property, excluding therefrom all Improvements [as defined below] constructed thereon, is referred to herein as the "Property").

B. Declarant, as Lessee under the Ground Lease, is the owner of all Improvements (as defined below) constructed, or to be constructed, on the Property.

C. Subject to the terms and provisions of the Ground Lease, Declarant desires to create and develop a residential condominium project ("Project").

D. Declarant deems it desirable to impose a general plan for the development, maintenance, improvement, protection, use, occupancy, and enjoyment of the Project, and to establish, adopt and impose covenants, conditions and restrictions upon the Project for the purpose of enforcing, protecting and preserving the value, desirability and attractiveness of the Project.

E. Declarant deems it desirable for the efficient enforcement, protection and preservation of the value, desirability and attractiveness of the Project to create a corporation which shall be delegated and assigned the powers of administering and enforcing said covenants, conditions and restrictions.

F. VILLAGE RACQUET CLUB ASSOCIATION, a California nonprofit, mutual benefit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the aforesaid powers.

G. Declarant intends to convey subleasehold interests in the Property and defeasible fee interests in a Condominium (as defined below) and the Improvements (as defined below), and any and all portions thereof, subject to the covenants, conditions and restrictions set forth hereinbelow.

NOW, THEREFORE, pursuant to Sections 1350, et seq., of the California Civil Code, Declarant agrees and declares that it does hereby establish a plan for the development, maintenance, protection, improvement, use, occupancy and enjoyment of the Project, and has fixed, and does hereby fix, the covenants, conditions, restrictions, easements, reservations, liens and charges (hereinafter collectively referred to as the "Covenants") upon the Project. Each and all of the Covenants shall run with the land and shall inure to the benefit of and be binding upon Declarant, its successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I
DEFINITIONS

Section 1. "Articles" shall mean and refer to the Articles of Incorporation of Village Racquet Club Association, as filed in the Office of the Secretary of State of the State of California on December 16, 1981, as such Articles may be amended, from time to time.

Section 2. "Assessments" shall be used as a generic term which shall mean and refer to the following:

(a) "Annual Assessment" shall mean and refer to the charge against each Owner and his respective Condominium representing a portion of the Common Expenses of the Association;

(b) "Compliance Assessment" shall mean and refer to the personal charge against an Owner representing the costs incurred by the Association in bringing such Owner and his Condominium into compliance with this Declaration, or any amount due the Association based upon disciplinary proceedings against an Owner in accordance with this Declaration; and

(c) "Special Assessment" shall mean and refer to the charge against an Owner and his respective Condominium representing a portion of the cost of reconstructing any damaged or destroyed portion or portions of the Common Area, of construction or installing any capital improvements to the Common Area, or of taking any extraordinary action for the benefit of the Common Area or the membership of the Association pursuant to the provisions of this Declaration.

Section 3. "Assignment and Grant" shall mean and refer to that certain "Assignment and Grant of Leasehold Condominium" utilized by Declarant to convey to an Owner the various fee and leasehold interests in a Condominium in the Project.

Section 4. "Association" shall mean and refer to Village Racquet Club Association, a California nonprofit, mutual benefit corporation, in which all Owners shall have a membership interest as more particularly described hereinbelow, provided that membership shall be limited to Owners.

Section 5. "Board" shall mean and refer to the Board of Directors of the Association, elected in accordance with the By-Laws of the Association and this Declaration.

Section 6. "By-Laws" shall mean and refer to the By-Laws of the Association which have been, or will be, adopted by the Board, as such By-Laws may be amended, from time to time.

Section 7. "City" shall mean and refer to the City of Palm Springs, California.

Section 8. "Common Area" shall mean and refer to all of that certain real property described in paragraph A of the recitals hereinabove, together with all Improvements constructed thereon, but excepting therefrom all of the Condominium Units, as more particularly described in Section 13 hereinbelow.

Section 9. "Common Expenses" shall mean and refer to the actual and estimated costs to be paid by the Association for the following: (a) maintaining, managing, operating, painting, repairing and replacing the Common Area; (b) managing and administering the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, and any Association employees; (c) providing utilities and other services to the Common Area, and, if not separately metered, to the Condominium Units; (d) providing insurance as provided for herein; (3) paying that portion of any Assessment attributable to Common Expenses not paid by the Owner responsible for payment; (f) paying taxes for the Association; (g) paying for all other goods and services designated by, or in accordance with, other expenses incurred by the Association for the benefit of all Owners; and (h) paying such rental payments as shall be required under the Ground Lease.

Section 10. "Condominium" shall mean and refer collectively to the following:

(a) A fee simple determinable interest in and to the Condominium Unit (as defined below);

(b) An undivided one/one hundred fortieth (1/140) fee simple determinable interest in and to that portion of the Common Area consisting of all Improvements (as defined below), but excepting therefrom all Condominium Units (as defined below) and the Property, and subject to the terms and conditions of the Ground Lease and the Assignment and Grant;

(c) An undivided one/one hundred fortieth (1/140) subleasehold interest in and to the Property; and

(d) An exclusive right of ingress, egress, use, enjoyment, possession and occupancy over that portion of the Common Area set aside as Limited Common Area, as shown in the Condominium Plan.

Section 11. "Condominium Building" shall mean and refer to a separate building containing one (1) or more Condominium Units.

Section 12. "Condominium Plan" shall mean that certain Condominium Plan recorded, or to be recorded, in the Office of the County Recorder for Riverside County, California, as the same may be amended, from time to time.

Section 13. "Condominium Unit" shall mean and refer to the elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Project, said Condominium Units being more particularly described in the Article herein entitled "Description of Condominium" and in the Condominium Plan.

Section 14. "Declarant" shall mean and refer to Beverly Hills Savings, a Federal Savings and Loan Association, and to any person or entity acquiring of all Declarant's interest in the Project (including all of Declarant's rights and obligations as created and established herein) pursuant to a written assignment from Declarant which is recorded in the Office of the County Recorder for Riverside County, and approved by the United States Secretary of the Interior, Bureau of Indian Affairs.

Section 15. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements, and to all amendments to this Declaration as may be recorded, from time to time, in the Office of the County Recorder for Riverside County.

Section 16. "DRE" shall mean and refer to the Department of Real Estate of the State of California, which administers the sale of subdivided lands pursuant to Sections 11000, et seq., of the California Business and Professions Code, or any similar California statute hereinafter enacted.

Section 17. "Ground Lease" shall mean and refer collectively to the Business Lease PSL-199, Supplemental Agreement No. 1 and all supplemental agreements, and other amendments, supplements, modifications and assignments of the Business Lease, which have been recorded in the Official Records of Riverside County.

Section 18. "Improvements" shall mean and refer to all structures and appurtenances thereto of every kind, including, but not limited to, Condominium Buildings, garages, pavement, sidewalks, private streets and driveways, fences, Project perimeter fences and walls, retaining walls, patios, patio covers and patio railings, balconies, balcony covers and balcony railings, screens, awnings, poles, signs and all landscaping.

Section 19. "Lessor" shall mean and refer to the "Agua Caliente (Palm Springs) Allottees," as more fully set forth in the Ground Lease, who are record owners of fee simple title to the Property.

Section 20. "Lot" shall mean and refer to a plot of land as shown upon the recorded subdivision map of the Project.

Section 21. "Member" shall mean and refer to every person or entity who holds membership in the Association, as more particularly set forth in the Article herein entitle "The Association," and shall be synonymous with the term "Owner."

Section 22. "Mortgage" shall mean and include a deed of trust as well as a mortgage in the conventional sense.

Section 23. "Mortgagee" shall mean and refer to a person or entity to whom a Mortgage is made, and shall include the beneficiary of a deed of trust.

Section 24. "Mortgagor" shall mean and refer to a person or entity who mortgages his or its property to another, i.e., the maker of a Mortgage, and shall include the trustor of a deed of trust.

Section 25. "Notice and Hearing" shall mean and refer to written notice and a hearing before the Board or the Architectural Control Committee of the Association, at which the affected Owner shall have an opportunity to be heard in the manner provided herein and in the By-Laws.

Section 26. "Owner" shall mean and refer to the record Owner, or Owners if more than one (1), or the purchaser under a conditional sales contract to title to any Condominium in the Project. The foregoing is not intended to include persons or entities who hold an interest in a Condominium merely as security for the performance of an obligation.

Section 27. "Project" shall mean and refer to the Property and to all Improvements, including the Condominium Units, constructed thereon.

Section 28. "Property" shall mean and refer to all of that certain real property described in Paragraph A of the recitals hereinabove.

Section 29. "Rules and Regulations" shall mean and refer to the Rules and Regulations adopted by the Board pursuant to the By-Laws and this Declaration, as they may be amended, from time to time.

Section 30. "Secretary" shall mean and refer to the United States Secretary of the Interior, Bureau of Indian Affairs, or his designated representative.

Section 31. Application of Definitions. The aforesaid definitions shall be applicable to this Declaration and to any supplements or amendments hereto, filed or recorded pursuant to the provisions of this Declaration, unless the context shall prohibit such application.

ARTICLE II
DESCRIPTION OF CONDOMINIUM

Declarant, in order to establish a plan of Condominium ownership for the Project, does hereby declare that it has divided, and does hereby divide, the Project into the following freehold estates:

Section 1. Condominium Unit. Each Condominium Unit contained within a Condominium Building shall be a separate freehold estate, as defined in Section 1350 of the California Civil Code, consisting of some or all of the following elements in accordance with the plans and specifications for each Condominium Unit, as more particularly shown and described on the Condominium Plan.

(a) Residential Element. The first and/or second floor of the residential element bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors of said element, and the airspace encompassed thereby, identified on the Condominium Plan by its respective Condominium Unit number. The lower boundary of each residential element is a horizontal plane, the elevation of which is indicated on the Schedule of Elevations set forth in the Condominium Plan. The upper boundary of each residential element is as described on the Condominium Plan and as indicated in the Schedule of Elevations set forth therein. The lateral boundaries of each residential element are vertical planes at the limits of the horizontal dimensions shown in the Condominium Plan for each residential element.

(b) Garage Element. The garage element bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings and garage door of the garage, and the airspace encompassed thereby, identified on the Condominium Plan by the letter "G" followed by its respective Condominium Unit number (e.g., "G-3"). The upper and lower boundaries of each garage element are as described in the Condominium Plan, the elevations of which are indicated in the Schedule of Elevations set forth therein. The lateral boundaries of each garage element are vertical planes at the limits of the horizontal dimensions shown in the Condominium Plan for each garage element.

Each Condominium Unit includes both the portion of the building so described and the airspace so encompassed, all windows and doors in said Condominium Unit (including all locks, handles, latches, screens and weatherstripping), the forced air heating unit, the hot water heater in said Condominium Unit, all built-in appliances and fixtures, and the firebox portion of the fireplace in said Condominium Unit, but the following are not a part of the Condominium Unit: bearing walls, columns, beams, floors, roofs, slabs, foundations, chimneys and portions of the fireplaces, other than the fireboxes, reservoirs, tanks, pumps, private on-side sewer laterals and lines, drains, common mailbox structures, common trash receptacles, security system and related equipment, stairways, landings, irrigation equipment and other central services, pipes, ducts, flues, chutes, conduits, wires, exterior lighting and other utility installations wherever located (except

all utility installations and/or outlets thereof when located within the Condominium Units), open parking spaces, pavement, sidewalks, private streets and driveways, fences, Project perimeter walls and fences, retaining walls, poles, signs, monument signs and all landscaping located on the Common Area. In interpreting this Declaration, the Condominium Plan and all instruments of conveyance, the existing physical boundaries of the Condominium Unit, or of a Condominium Unit reconstructed in substantial accordance with the original Condominium Plan thereof, shall be conclusively presumed to be its boundaries, rather than the metes and bounds (or other description) expressed in the Declaration, Condominium Plan or instrument of conveyance, regardless of settling or lateral movement of the Condominium Building and regardless of minor variance between the boundaries shown in the Condominium Plan, in the deed and/or in the Declaration, and the actual boundaries of the Condominium Building.

Section 2. Common Area. A freehold estate consisting of an undivided interest in the Improvements constructed on the Property is described and referred to herein as the "Common Area". The Common Area shall include, without limitation, the Property, as defined hereinabove, the Condominium Buildings (excepting therefrom the Condominium Units), together with all bearing walls, columns, beams, floors, roofs, slabs, foundations, chimneys and portions of the fireplaces, other than the fireboxes, reservoirs, tanks, pumps, private on-site sewer laterals and lines, drains, common mailbox structures, common trash receptacles, security system and related equipment, stairways and landings, irrigation equipment and other central services, pipes, ducts, flues, chutes, conduits, wires, exterior lighting and other utility installations wherever located (except all utility installations and/or outlets thereof when located within the Condominium Units), open parking spaces, pavement, sidewalks, private streets and driveways, fences, Project perimeter walls and fences, retaining walls, poles, signs, monument signs and all landscaping located on the Common Area. Control of the Common Area shall be turned over to the Association upon the first close of an escrow for the sale of a Condominium in the Project.

Section 3. Limited Common Area. Limited Common Area shall mean and refer to that portion of the Common Area which is reserved for the exclusive use of the Owners of particular Condominium Units. The Limited Common Area constitutes an exclusive easement appurtenant to its assigned Condominium Unit, subject to the exclusive uses and purposes set forth herein. The Limited Common Area and the Condominium Units, the Owners of which are entitled to such exclusive use, are identified on the Condominium Plan as follows:

- (a) "Patio," as identified on the Condominium Plan;
- (b) "Balcony," as identified on the Condominium Plan;
- (c) "Rear Entry Court," as identified on the Condominium Plan; and
- (d) "Rear Entry Space," as identified on the Condominium Plan.

As more specifically set forth in the Article herein entitled "Repair and Maintenance," it shall be the obligation of each and every Owner to maintain his respective Limited Common Area in a neat, clean, safe, sanitary and attractive condition at all times, and to bear the cost of such maintenance. The Association shall be responsible for making and shall bear the cost of all structural repairs only to the Limited Common Area; provided, however, if such repairs are required due to the willful or negligent acts or omissions of the Owner, such Owner shall bear the cost thereof.

Section 4. Guest Parking. All unassigned parking spaces are hereby expressly reserved for guest parking for the use and benefit of Owners of all Condominiums in the Project, and shall not be used for any other purpose whatsoever.

Section 5. Undivided Interests in Common Area. The undivided interests in the Common Area hereby established and which shall be conveyed with each respective Condominium Unit shall be: (a) an undivided one/one hundred fortieth (1/140) fractional fee simple determinable interest in the Common Area Improvements, but excluding therefrom the Condominium Units and the Property, for a term equal to the term of the Ground Lease; and (b) an undivided one/one hundred fortieth (1/140) fractional subleasehold interest in the Property for a term equal to the term of the Ground Lease. The above respective undivided fractional interests established and to be conveyed with the respective Condominium Units, as indicated above, cannot be changed. Declarant, for and on behalf of itself, and its successors, assigns and grantees, covenants and agrees that neither the Condominium Unit nor the respective undivided fractional interests in the Common Area shall be separately conveyed or encumbered. An otherwise valid conveyance or encumbrance referring only to the Condominium Unit shall also convey or encumber the respective undivided fractional interests in the Common Area, Property and Improvements, respectively. Any attempt, whether voluntary or involuntary, to convey, assign, sublet, transfer, alienate, hypothecate, encumber or pledge the undivided fractional interests in the Common Area without the respective Condominium Unit shall be null and void.

Section 6. Easements Over Common Area. Each Owner shall have a nonexclusive easement appurtenant to his Condominium for ingress, egress, use and enjoyment on and over the Common Area, except those portions thereof set aside as Limited Common Area, as provided for in this Declaration.

Section 7. Condominium Ownership. Each Condominium includes: (a) a separate Condominium Unit, as defined in Section 1 hereinabove; (b) all easements, exclusive and nonexclusive, appurtenant to the respective Condominium Units; and (c) the undivided interests in the Common Area, more fully described in Section 5 above.

Section 8. Condominium Numbering. The one hundred forty (140) individual Condominium Units hereby established and which shall be individually conveyed are described as Condominium Units numbered 1 through 140, inclusive, in the Condominium Plan.

Section 9. Conveyance of Declarant's Leasehold Interest. Declarant may assign its interests in the Ground Lease and each Assignment and Grant to the Association, or an entity controlled by the Association, whereby the Association (or the Owners, as the case may be) shall assume all rights, duties, benefits and burdens as "Lessee" under the Ground Lease and each Assignment and Grant. No such assignment shall become effective without the prior written approval of the Secretary.

ARTICLE III
RESERVATION OF EASEMENTS AND OTHER
PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Easements. Every Owner shall have a nonexclusive right and easement of access, use and enjoyment in and to the Common Area. Said right and easement shall be appurtenant to and shall pass with title to every Condominium, subject to the limitations set forth in Section 2 below.

Section 2. Limitations on Owners' Easement Rights. The rights and easements of access, use and enjoyment set forth in Section 1 hereinabove shall be subject to the provisions of this Declaration, including, but not limited to, the following:

(a) The right of the Association to reasonably limit the number of guests of Owners;

(b) The right of the Association to establish and enforce reasonable Rules and Regulations pertaining to the use of the Common Area and Limited Common Area;

(c) The right of the Association, in accordance with its Articles, By-Laws and this Declaration, to borrow money with the assent of sixty-seven percent (67%) of the voting power of the Association, excluding Declarant, and/or to mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, for the purpose of improving or repairing the Common Area and related facilities;

(d) The right of the Association to suspend the voting rights and rights and easements of use and enjoyment of the Common Area of any Member, and the persons deriving

such rights and easements from any Member for any period during which any Assessment against such Member's Condominium remains unpaid and delinquent; and after Notice and Hearing, to impose monetary penalties or suspend such use rights and easements for a period not to exceed thirty (30) days for any noncontinuing violation of this Declaration or Rules and Regulations, it being understood that any suspension for either nonpayment of any Assessments or breach of such restrictions shall not constitute a waiver or discharge of the Member's obligations to pay Assessments as provided herein;

(e) Subject to the terms of the Ground Lease and the rights of Mortgagees, in accordance with the Article herein entitled "Mortgagee Protection," the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless: (1) an instrument approving said dedication or transfer is signed by Owners representing sixty-seven percent (67%) of the voting power of the Association, excluding Declarant, and recorded in the Office of the County Recorder for Riverside County, and (2) a written notice of the proposed dedication or transfer is sent to every Owner not less than fifteen (15) days nor more than thirty (30) days in advance; provided, however, that the dedication or transfer of easements for utilities or for other public purposes consistent with the intended use of the Common Area shall not require the prior approval of the Members of the Association;

(f) The right of the Association to perform and exercise its duties and power as set forth herein;

(g) Other rights of the Association, the Architectural Control Committee, the Board, the Owners and Declarant with respect to the Common Area as may be provided for in this Declaration; and

(h) Any limitations, restrictions or conditions affecting the use, enjoyment or maintenance of the Common Area imposed by Declarant or by the City, or other governmental agency having jurisdiction to imposed any such limitations, restrictions or conditions, including, but not limited to, the rights of the City or such other governmental agency having jurisdiction to use their vehicles or appropriate equipment over those portions of the Common Area designed for vehicular movement to perform municipal functions or emergency or essential public services.

Section 3. Delegation of Common Area Use Rights. Any Owner who resides within the Project may, in accordance with the By-Laws and subject to the terms and provisions in the Ground Lease, delegate his rights of use and enjoyment to the Common Area to the members of his immediate family and any other persons residing within his Condominium. In the event an Owner has rented or leased his Condominium, his rights of use and enjoyment to the Common Area shall be automatically delegated to his tenants or lessees for the duration of their tenancy, and the Owner shall forfeit any rights of use and enjoyment to the Common Area for the duration of such tenancy. In the event of a conditional sales contract, the seller under the contract shall be deemed to delegate his rights of use and enjoyment to the Common Area to the purchaser under the contract.

Section 4. Easements for Vehicular Traffic. In addition to the general right and easements for access, use and enjoyment granted herein, there shall be, and Declarant hereby covenants for itself, and its successors and assigns, that each and every Owner shall have a nonexclusive easement appurtenant to his Condominium for vehicular traffic over all private streets and drives within the Project.

Section 5. Easements for Utilities. The rights and duties of the Owners of Condominiums within the Project with respect to sanitary sewer, water, electricity, gas, television cable and telephone lines, and other facilities, shall be governed by the following:

(a) Each respective utility company shall maintain all utility facilities and connections on the Project owned by such utility company; provided, however, that if any company shall fail to do so, it shall be the obligation of each Owner to maintain those facilities and connections located upon or within such Owner's Condominium and it shall be the obligation of the Association to maintain those facilities and connections located upon the Common Area.

(b) Wherever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project and it becomes necessary to gain access to said connections, cables and/or lines through a Condominium Unit owned by someone other than the Owner of the Condominium Unit served by said connections, cables and/or lines shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon such other Condominium Unit or to have the utility companies enter upon such other Condominium Unit to repair, replace and generally maintain said connections, cables and/or lines.

(c) Whenever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project, and said connections, cables and/or lines serve more than one (1) Condominium Unit, the Owner of each Condominium Unit served by said connections, cables and/or lines shall be entitled to the full use and enjoyment of such portions of same as service his Condominium Unit.

(d) In the event of a dispute between Owners respecting the repair or rebuilding of the aforesaid connections, cables and/or lines, or the sharing of the cost

thereof, upon written request of one (1) of such Owners addressed to the Association, the matter shall be submitted to the Board who shall decide the dispute, and the decision of the Board shall be final and conclusive on the Owners.

(e) Easements over the Project for the installation and maintenance of electric and telephone lines, water, gas, drainage and sanitary sewer connections and facilities, and television antenna cables and facilities, all as shown on the recorded map of the Project and as may be hereafter required or needed to service the Project, are hereby reserved by Declarant, together with the right to grant and transfer the same.

Section 6. Easements for Maintenance of the Common Area.

In the event it becomes necessary for the Association to enter upon any Condominium Unit or Limited Common Area for purposes of: (a) maintaining the Common Area; or (b) bringing an Owner and/or his Condominium into compliance with this Declaration in accordance with the provisions set forth herein, the Association, and its duly authorized agents and employees, shall have the right, after reasonable notice to the Owner and at a reasonable hour of the day, to enter upon or within such Owner's Condominium for the performance of such work. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by such entry, the Association shall repair the same at its expense. Notwithstanding the foregoing, in the event of an emergency, such right of entry shall be immediate.

Section 7. Easements for Construction and Sales. Declarant hereby reserves, for a period of five (5) years from the recordation of this Declaration or until all Condominiums in the Project are sold (and escrows closed), whichever occurs first, nonexclusive easements for access, ingress and egress on and over the Project to carry on normal sales activity, including the operation of a models complex and sales office, and the display of promotional signs and exhibits in connection with the sale or lease of Condominiums in the Project.

Section 8. Reservation of Construction Rights by Declarant. In order that the Project be completed and established as a residential condominium project, nothing in this Declaration shall limit the right of Declarant to: (a) complete construction of any Improvements in the Project; (b) redesign or otherwise modify the Improvements owned by Declarant; (c) construct such additional Improvements on any portion of the Project owned by Declarant; or (d) otherwise control all aspects of constructing the Project or selling or leasing of Condominiums in the Project. Furthermore, nothing in this Declaration shall limit the right of Declarant to establish additional licenses, easements and rights-of-way in favor of Declarant, utility companies or others as may, from time to time, be reasonably necessary for the development of the Project. The foregoing rights established and reserved by Declarant shall be subject only to the applicable regulations and requirements of the City and the DRE. The foregoing rights of Declarant may be assigned to any successor to all or part of Declarant's interest in the Project by an express assignment recorded with the County Recorder of Riverside County.

Section 9. Easement for Public Service Uses. In addition to the foregoing easements over the Common Area, there shall be easements for public services, including, but not limited to, the right of police, fire, ambulance and other public services to enter upon any part of the Common Area for purposes of serving the health and welfare of all Owners in the Project.

ARTICLE IV
THE ASSOCIATION

Section 1. Membership. Every person or entity who or which is an Owner, as defined hereinabove, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest in a Condominium in the Project merely as security for the performance of an obligation.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership, as follows:

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

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Condominium owned in the Project upon which Declarant is then paying the appropriate monthly Assessments provided for hereinbelow. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; or

(b) The second anniversary of the original Final Subdivision Public Report for the Project.

Any action by the Association which must have the approval of the membership of the Association before being undertaken shall require the vote or written assent of both a majority of the Class B membership as well as a majority of the Class A membership, so long as there are two (2) outstanding classes of membership, unless a specific provision of this Declaration or the By-Laws or Articles of the Association requires the approval of a greater percentage of the voting membership. Notwithstanding the foregoing, any action by the Association pursuant to the Article contained herein entitled "Enforcement of Bonded Obligations" shall only require a majority of the voting power of the Owners, other than Declarant.

Section 3. Vesting of Voting Rights. The voting rights attributable to any given Condominium in the Project, as provided for herein, shall not vest until the Assessments provided for hereinbelow have been levied by the Association against said Condominium.

Section 4. Suspension of Voting Rights. The Board shall have the authority to suspend the voting rights of any Member to vote at any meeting of the Members for any period during which such Owner is delinquent in the payment of any Assessment, regardless of type, it being understood that any suspension for nonpayment of any Assessment shall not constitute a waiver or discharge of the Member's obligation to pay the Assessments provided for in this Declaration.

Section 5. Transfer. The Association membership held by any Owner of a Condominium shall not be transferred, pledged or alienated in any way, except as incidental to the sale of such Condominium. In the event of such sale, the Association membership may only be transferred, pledged or alienated to the bona fide purchaser or purchasers of the Condominium, to the Mortgagee (or third party purchaser) of such Condominium or to Lessor upon a foreclosure sale. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association may levy a reasonable transfer fee against new Owners and their Condominiums (which fee shall be a Compliance Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the memberships to the new Owners on the records of the Association.

Section 6. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time for each meeting. Every proxy shall be revocable and shall automatically terminate upon the earlier of either: (a) the conveyance by the Owner of his Condominium, or (b) eleven (11) months from the date of issuance of the proxy, unless stated differently in said proxy.

ARTICLE V
POWERS AND DUTIES OF THE ASSOCIATION

Section 1. Management Body. The Association is hereby designated as the management body of the Project. The Members of the Association shall be the Owners in the Project as provided herein, and the affairs of the Association shall be managed by a Board of Directors, as more particularly set forth in the By-Laws. The initial Board shall be appointed by the incorporator or its successor. Thereafter, the Directors shall be elected as provided in said By-Laws.

Section 2. Powers. The Board, for and on behalf of the Association, shall have the right and power to do all things necessary to conduct, manage and control the affairs and business of the Association. Subject to the provisions of the Articles, the By-Laws and this Declaration, the Board shall have all general powers authorized under the California Corporations Code for nonprofit, mutual benefit corporations, and shall have the following specific powers:

- (a) Collect from each Owner the rent due under the Ground Lease and pay such rent to Lessor; provided, however, that the Association may engage a bank, savings and loan association or other entity to perform such duties, and may include the costs thereof as a Common Expense of the Association;

(b) Accept an Assignment of Lease from Declarant transferring all rights and interests of Declarant to the Association, and exercise all rights and perform all obligations of Declarant pursuant to the Ground Lease and each Assignment and Grant;

(c) Enforce the provisions of this Declaration and all contracts or any agreements to which the Association is a party;

(d) Acquire title, manage, maintain, repair and replace all Common Area and Improvements located thereon, including all personal property, in a neat, clean, safe and attractive condition at all times, and to pay all utilities, gardening and other necessary services for the Common Area, all as more specifically set forth in the Article herein entitled "Repair and Maintenance";

(e) Maintain fire, casualty, liability and fidelity bond coverage, and other insurance coverage pursuant to the terms of that Article herein entitled "Insurance";

(f) Obtain, for the benefit of the Common Area, all commonly metered water, gas and electric services, and may provide for refuse collection and cable (or master antenna) television service;

(g) Employ and retain a professional manager and/or management company to perform all or any portion of the duties and responsibilities of the Board with respect to administration of the Association;

(h) Pay all taxes and special assessments which would be a lien upon the entire Project or the Common Area, and to discharge any lien or encumbrance levied against the entire Project or the Common Area;

(i) Pay for reconstruction of any portion of the Common Area damaged or destroyed;

(j) Delegate its powers;

(k) Enter into any Condominium when necessary in connection with maintenance or construction for which the Board is responsible; and

(l) Perform and any all other acts and things that a nonprofit, mutual benefit corporation organized under the laws of the State of California is empowered to do, which may be necessary, convenient or appropriate in the administration of its affairs for the specific purposes of meeting its duties as set forth in this Declaration.

Section 3. Duties. The Board shall perform and execute the following duties for and on behalf of the Association:

(a) Provide water, sewer, gas, electricity, garbage and trash collection, and other necessary utility services for the Common Area, and, if not separately metered, for the Condominium Units;

(b) Provide insurance for the Association and its Members in accordance with the provisions of the Article hereinbelow entitled "Insurance";

(c) Maintain and repair all portions of the Common Area in a neat, clean, safe, attractive, sanitary and orderly condition at all times. In the event any maintenance or repairs to the Common Area are required due to the willful or negligent acts or omissions of an Owner or Owners, the Association shall levy the cost of such maintenance and repair as a Compliance Assessment against the Condominium(s) of the responsible Owner(s);

(d) In addition to all other provisions set forth herein respecting the maintenance of the Common Area, maintain all private on-site sewers, storm drains, the well site, private streets, sidewalk and Common Area lighting facilities, in a condition comparable to the condition initially approved by the City;

(e) Accept an Assignment of Lease from Declarant transferring all rights and interests of Declarant to the Association, and exercise all rights and perform all obligations of Declarant pursuant to the Ground Lease and each Assignment and Grant;

(f) Pay all real and personal property taxes and Assessments which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law, unless separately assessed to Owners; provided, however, that it shall be the obligation of each Owner to pay his respective share of the tax assessment levied on the Project prior to separate assessments by the Tax Assessor pursuant to Section 2188.5 of the California Revenue and Taxation Code;

(g) Contract for any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations and insurance which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law;

(h) Cause financial statements for the Association to be regularly prepared and copies distributed to each Member of the Association, regardless of the number of Members or the amount of assets of the Association:

(1) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the fiscal year, and shall contain the following information:

(i) An itemized estimate of the Association's revenue and expenses, determined on an accrual basis;

(ii) The amount of the total cash reserves of the Association which are then currently available for the major repair or

replacement of Common Area Improvements and for other contingencies;

(iii) An itemized estimate of the remaining useful life of the Common Area Improvements, together with an explanation of the methods of funding being utilized by the Association to defray the costs of future repairs, replacements or additions to the Common Area Improvements; and

(iv) A general statement setting forth the procedures utilized by the Association to calculate and establish reserves to defray the costs of future repairs, replacements or additions to the Common Area Improvements.

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

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

(i) A balance sheet as of the last day of the Association's fiscal year;

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

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

(iv) Any information required to be reported pursuant to Section 8322 of the California Corporations Code.

This annual report shall ordinarily be prepared by an independent certified public accountant for any fiscal year. However, if for any reason the report is not prepared by an independent certified public accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association; and

(4) A statement of the Association's policies and practices in enforcing its remedies against Members for nonpayment of Assessments, as set forth in the Article herein entitled "Effect of Non-Payment of Assessments: Remedies of the Association," which shall be distributed within sixty (60) days prior to the beginning of the fiscal year.

(i) Assume and pay out of the Assessments provided for hereinbelow all costs and expenses incurred by the Association in connection with the performance and execution of all the aforesaid powers and duties, and any other powers and duties the Association may assume as provided for in Section 4 hereinbelow;

(j) Formulate, adopt and enforce such Rules and Regulations as it may deem proper for the operation of the Common Area, as more particularly described below. Notice of adoption of any such Rules and Regulations and of any change, amendment or repeal thereof, shall be given in writing to each Member and shall be on file in the principal office of the Association. In the event of any conflict between such Rules and Regulations and this Declaration, this Declaration shall prevail;

(k) Enforce all applicable provisions of this Declaration, the Articles, By-Laws and such Rules and Regulations of the Association, and of all other documents pertaining to the ownership, use, management and control of the Project;

(l) Give notices in writing to the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA) and the Government National Mortgage Association (GNMA), and other lenders and investors participating in the financing of the sale of Condominiums in the Project, as required herein; and

(m) Within ten (10) days of the mailing or delivery of a written request from an Owner, provide said Owner with a copy of this Declaration and the By-Laws and Articles for the Association, together with a true statement in writing as to the amount of any delinquent Assessments, penalties, attorneys' fees and other charges therein as provided by this Declaration or other management documents of the Board as of the date of such request. The Board may impose a fee for providing the foregoing, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

Section 4. Discretionary Powers. The Board, at its option, may assume, perform and execute the following powers and duties for and on behalf of the Association;

(a) Retain the services of a manager for the Project and provide such other personnel as the Association deems necessary and proper to assist in the operation of the Association and/or management of the Common Area, regardless of whether such other personnel are employed directly by the Association or otherwise;

(b) Remove or replace any Improvement that extends into the Common Area under authority of an easement when access to a utility line underneath such Improvement is requested by any utility company; provided, however, that the cost shall be assessed against the Owner of the Condominium involved as a Compliance Assessment if said Owner caused the Improvement to be so placed in the Common Area without legal right to do so;

(c) Incur any liability or pay any costs or expenses for a single Condominium or Owner thereof; provided, however, that in the event the Association does incur any such liability or pay any such costs or expenses, the amount thereof shall be specially assessed to the Owner of such Condominium as a Compliance Assessment; provided further, however, that nothing herein shall permit the Association to assess the Owners for any new Improvements to the Common Area except as otherwise provided in this Declaration; and

(d) Subject to the limitations set forth in this Article, contract for any other material, furniture, labor, services, maintenance, repairs, structural alterations or insurance, or pay any taxes or Assessments which, in the opinion of the Board, shall be necessary or proper for the operation of the Common Area for the benefit of the Owners or for the enforcement of this Declaration.

Section 5. Repair of Willful Damage to Common Area. Notwithstanding the Association's duty to maintain the Common Area, in the event that the maintenance, repair or replacement of any element of the Common Area becomes necessary due to the willful or negligent acts or omissions of any Owner, his family, guests or invitees, after prior Notice and Hearing, the Board shall assess the cost of such maintenance, repair and/or replacement as a Compliance Assessment against the Owner of such Condominium.

Section 6. Limitations on Contracts. Except as otherwise provided herein, no contract entered into by the Association, or the Board acting for and on behalf of the Association, may run for a term longer than one (1) year, except with the vote or written assent of a majority of the voting power of the Association and a majority of the votes residing in Members, other than the Declarant.

Section 7. Delegations of Duties. In the event that the Association shall delegate any or all of its duties, powers or functions to any person, corporation or firm to act as manager, neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

Section 8. Right of Entry for Emergency. The Board, any person authorized by the Board or any Owner may enter any Condominium in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association shall repair the same at its expense.

Section 9. Right of Entry for Repairs. The Board, or any person authorized by the Board, shall have the right to enter, upon reasonable notice, any Condominium to effect necessary repairs which the Owner has failed to perform or which are necessary in connection with the repairs to the Common Area or an adjoining Condominium. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association shall repair the same at its expense.

Section 10. Limitations on Board Action. The Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Association and a majority of the votes residing in Members, other than the Declarant:

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

(1) 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;

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

(3) Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years duration, provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect interest of ten percent (10%) or more; and

(4) Agreements for cable television services and equipment of not to exceed five (5) years duration, provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect interest of ten percent (10%) or more.

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

(c) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association 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, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying on the business of the Association; or

(e) Filling a vacancy on the Board created by the removal of a Director.

Section 11. Licenses, Easements and Rights of Way. The Board, for and on behalf of the Association, is authorized and empowered to grant such licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains and other public utility purposes over those portions of the Common Area upon which no building or other structure has been erected as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the Owners. Such licenses, easements and rights-of-way may be granted at any time prior to twenty-one (21) years after the death of the individuals who have signed this Declaration and their issue who are in being as of the date hereof, and the right to grant such licenses, easements and rights-of-way is hereby expressly reserved.

Section 12. New Improvements. Except as otherwise provided in this Declaration and the Ground Lease, the Association may construct new Improvements or additions to the Common Area, or demolish existing Improvements, provided that in the case of any Improvement, addition or demolition involving a total expenditure in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the written consent or vote of a majority of the Owners (other than the Declarant) in the Project as to the maximum total cost therefor shall first be obtained, and provided that no Condominium shall be altered or damaged by any such demolition or construction without the consent of the Owner thereof. The Board shall levy a Special Assessment on all Owners in the Project for the cost of such work.

Section 13. Association Rules and Regulations. The Board shall also have the power to adopt, amend and repeal Rules and Regulations, as it deems reasonable, which may include the establishment of a system of fines and penalties enforceable as Compliance Assessments. The Rules and Regulations shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area, Limited Common Area, signs, parking restrictions and enforcement, trash collection, minimum standards for maintenance of Condominiums consistent with such standards as may be set forth in this Declaration or adopted by the Architectural Control Committee, and any other matter which is within the jurisdiction of the Association; provided, however, that the Rules and Regulations may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or By-Laws. A copy of the Rules and Regulations 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 Rules and Regulations, shall be delivered to each Owner. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration, and shall be binding on the Owners and their successors in interest, whether or not actually received thereby. The Rules and Regulations, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner upon request. In the event of any conflict between any such Rules and Regulations and any other provisions of this Declaration, or the Articles or By-Laws, the provisions of the Rules and Regulations shall be deemed to be superseded.

ARTICLE VI
ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Condominium owned within the Project, hereby covenants, and each Owner of any Condominium, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Annual Assessments; (b) Special Assessments for capital improvements and such other purposes set forth herein; (c) Compliance Assessments, including, but not limited to, costs incurred by the Association in the repair of damage to the Common Area for which such Owner was responsible and costs incurred by the Association in bringing such Owner and his Condominium into compliance with this Declaration; and (d) such other assessments as the Association may periodically establish. The Annual and Special Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a continuing lien upon the Condominium against which each such Assessment is made. Each Annual Assessment and each Special Assessment, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a continuing lien upon the Condominium against which each such Assessment is made. Each Annual Assessment and each Special Assessment, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall also be the personal obligation of the Owner of the property at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Annual Assessments: Levy and Collection. The Annual Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Project and to maintain and improve the Common Area. The Association, by and through its Board, shall levy and collect Assessments from the Owner of each Condominium in the Project in an amount sufficient to cover all of the Common Expenses incurred by the Association in connection with the performance and execution of its powers and duties set forth in this Declaration, the By-Laws and the Articles. Annual Assessments shall be collected on a monthly installment basis.

Section 3. Annual Assessments - Basis. Each Condominium shall share in the Common Expenses on an equal basis. Until the first day of the fiscal year immediately following the close of escrow for the sale of the first Condominium in the Project to an Owner, the maximum monthly Assessment under this Article shall be as set forth in the Association Budget as reviewed and approved by the DRE. From and after the first day of the fiscal year immediately following the conveyance of the first Condominium to an Owner, the maximum Annual Assessment may not be increased each fiscal year by twenty percent (20%) above the maximum Assessment for the previous fiscal year without the vote or written assent of a majority of the voting power of the Association residing in Members, other than the Declarant. From and after the first day of the fiscal year immediately following the conveyance of the first Condominium to an Owner, the maximum Annual Assessment may be increased by more than provided above only with the vote or

written assent of a majority of the voting power of the Association and a majority of the voting power residing in Members, other than the Declarant. The Board may fix the Annual Assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In any fiscal year the Board may not, without the vote or written assent of a majority of the voting power of the Association and a majority of the votes residing in Members, other than the Declarant, levy Special Assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Annual Assessments.

Section 5. Notice and Quorum For Any Action Authorized Under Section 4. Any action authorized under Section 4 should be taken at a special meeting of the Association called for that purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than ninety (90) days in advance of the meeting. The notice shall specify the place, day and hour of the meeting and the nature of the business to be undertaken. Said special meeting shall be conducted in accordance with the provisions of the By-Laws concerning special meetings of the Members of the Association.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The Annual Assessments provided for herein shall commence as to all Condominiums in the Project on the first day of the month following the close of escrow for the sale of the first Condominium to a bona fide purchaser. The first Annual Assessments shall be adjusted according to the number of months remaining in the fiscal year as set forth in the By-Laws. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto at least thirty (30) days in advance of each Assessment period. The due dates shall be established by the Board. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Condominium have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

Section 7. Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessment provided for herein for any reason whatsoever, including, but not limited to, non-use of the Common Area or abandonment of his Condominium, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Association.

Section 8. Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments herein:

(a) All property dedicated to and accepted by a local public authority;

(b) All property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of California. However, no land or Improvements devoted to dwelling use shall be exempt from said Assessments;

(c) All property owned by any public authority;
and

(d) All Common Area.

Section 9. Certification of Payment. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Condominium have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

Section 10. Reserves. The Annual Assessments shall include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair and replacement of all or a portion of the Common Area, or any such other purpose determined by the Board. All amounts collected as reserves shall be deposited by the Board in a separate bank account for the purposes for which they were collected, and are to be segregated from and not commingled with any other funds of the Association.

ARTICLE VII
EFFECT OF NON-PAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

Section 1. Effect of Non-Payment of Assessments: Remedies of the Association. Any Annual, Special or Compliance Assessment not paid within thirty (30) days after the due date shall be deemed delinquent, shall be subject to reasonable late charges as may, from time to time, be established by the Board in accordance with Section 1725 of the California Civil Code, as the same may be amended, from time to time, and shall bear interest from the due date at the highest rate allowable by law. The Board, for and on behalf of the Association, may commence legal action against the Owner personally obligated to pay the same, or, in the case of an Annual or Special Assessment, may foreclose the lien against his Condominium. Such lien may also be foreclosed by a power of sale or other nonjudicial procedure provided for by the laws of the State of California.

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 less than 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 the County in which the Project is located. Said notice of claim must recite a good and sufficient legal description of any such Condominium, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include reasonable late charges as may, from time to time, be established by the Board in accordance with California law, interest on the unpaid Assessment, plus reasonable attorneys' fees and expenses of collection incurred in connection with the debt secured by said lien), and the name and address of the claimant. The notice shall be signed and acknowledged by the President, or Vice President, and the Secretary, or assistant Secretary, of the Association. The lien shall continue until fully paid or otherwise satisfied.

Section 3. Foreclosure Sale. Any foreclosure sale provided for above is to be conducted by the Board, its attorney or other persons authorized by the Board in accordance with the provisions of Sections 2924, 2924a, 2924b and 2924c of the California Civil Code, applicable to the exercise of powers of sale in Mortgages and deeds of trust, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Condominium at a foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a notice of claim or lien was filed by the Association, the officers thereof are hereby authorized to file or record, as the case may be, an appropriate release of such notice upon payment by the defaulting Owner of a fee to be determined by the Association, but not to exceed Twenty-Five Dollars (\$25.00), to cover the costs of preparing and filing or recording such release.

Section 5. Cumulative Remedies. The Association's remedies for nonpayment of Assessments, including, but not limited to, an action to recover a money judgment, Assessment lien and right of foreclosure and sale, are cumulative and in addition to and not in substitution of any other rights and remedies which the Association and its assigns may have hereunder or at law.

Section 6. Mortgagee Protection. Notwithstanding all other provisions hereof, no lien created hereunder, nor any breach of the terms and provisions of this Declaration, nor the enforcement of any term or provision hereof, shall defeat or render invalid the rights of any Mortgagee under any recorded first Mortgage or deed of trust upon a Condominium made in good faith and for value; provided, that after such Mortgagee or other person or entity obtains title to such Condominium by judicial or nonjudicial foreclosure, such Condominium shall remain subject to this Declaration and the payment of Assessments which fall due subsequent to the date of taking title.

ARTICLE VIII
USE RESTRICTIONS

The Condominium Units and Common Area shall be occupied and used only as follows:

Section 1. Private Single-Family Dwelling. Each Condominium Unit shall be used as a private dwelling for a single family and for no other purpose, except such temporary uses as shall be permitted by Declarant while the Project is being developed and Condominiums are being sold by Declarant; provided, however, that Declarant reserves the right, for a period of five (5) years from recordation hereof or until all Condominiums in the Project are sold (and escrows closed), whichever shall first occur, to carry on normal sales activity on the Project, including the operation of models and a sales office, provided Declarant shall not unreasonably interfere with any other Owner's use of the Common Area.

Section 2. Common Area Use. Use of the Common Area shall be subject to the provisions of this Declaration, the Rules and Regulations and to any additional limitations imposed by the Association.

Section 3. Conduct Affecting Insurance. Nothing shall be done or kept in any Condominium Unit or in the Common Area which will increase the rate of insurance on the Common Area without the approval of the Association. No Owner shall permit anything to be done or kept in his Condominium Unit or in the Common Area which will result in the cancellation of insurance on the Common Area or which would be in violation of any law. If, by reason of the occupancy or use of said premises by the Owner, the rate of insurance to the Common Area shall be increased, the Owner shall become personally liable for the additional insurance premiums.

Section 4. Liability for Damage to the Common Area.

Each Owner shall be liable to the Association, pursuant to the laws of the State of California, for any and all costs and expenses which may be incurred by the Association to repair any damage to the Common Area which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenants, lessees or contract purchasers, or their respective guests or invitees, whether minor or adult. After approval by a majority of the Board, any such costs and expenses shall be levied by the Board as a Compliance Assessment against such Owner.

Section 5. Signs.

Subject to the provisions of California Civil Code, Section 712, no sign of any kind shall be displayed to the public view on or from any Condominium Unit or the Common Area without the approval of the Association, except such signs as may be used by Declarant for a period of time not to exceed five (5) years from recordation hereof in connection with the development of the Project and sale of Condominiums, and except one (1) "for sale" or "for lease" sign of reasonable size on any Condominium Unit. All signs permitted under this Section shall conform with the City's sign ordinance, if any, and with all applicable governmental regulations.

Section 6. Maintenance of Animals Within the Project.

No animals of any kind shall be raised, bred or kept in any Condominium Unit, Limited Common Area or in the Common Area, except that common household pets, including dogs, cats or birds, may be kept in each Condominium Unit; provided, however, that no animal shall be kept, bred or maintained for any commercial purpose. Each Owner shall be responsible for cleaning up any excrement or other unclean or unsanitary condition caused by said animal on the Common Area. All animals belonging to Owners, tenants or guests must be kept within an enclosed patio or on a leash being held by a person capable of controlling the animal. The Association, upon the approval of two-thirds (2/3) of the Board, shall have the right to prohibit maintenance of any animal within the Project which constitutes a private nuisance to any other person. Every person bringing an animal upon or keeping an animal in the Project shall be liable pursuant to the laws of the State of California to each and all persons for any injury or damage to persons or property caused by such animal.

Section 7. Quiet Enjoyment. No Owner shall permit or suffer anything to be done or kept upon such Owner's Condominium which will obstruct or interfere with the rights of quiet enjoyment of the other occupants, or annoy them by unreasonable noises or otherwise, nor will any Owner commit or permit any nuisance on the premises or commit or suffer any immoral or illegal act to be committed thereon. Each Owner shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to said premises, and shall remove all rubbish, trash and garbage from his Condominium Unit. All clotheslines, refuse containers, woodpiles, storage boxes, tools and equipment shall be prohibited from any Condominium unless obscured from view by a fence or appropriate screen approved by the Architectural Control Committee provided for hereinbelow.

Section 8. Structural Changes. There shall be no structural alteration, modification, or construction to the exterior of a Condominium Building, fence or other structure whatsoever in the Project without the prior written approval of the Board or its designated Architectural Control Committee, as required herein, except such works of construction by Declarant during the development of the Project.

Section 9. Improvements. There shall be no construction, alteration or removal of any Improvement in the Project (other than those repairs or rebuilding permitted under the Article entitled "Damage or Destruction to the Common Area") without the approval of the Architectural Control Committee, as set forth hereinbelow. No Improvement shall be constructed upon any portion of any Common Area, other than such Improvements as shall be constructed: (a) by the Declarant (or a person or entity to whom Declarant assigns its rights as developer), or (b) by the Association as provided herein.

Section 10. Windows. No window in any Condominium Unit shall be covered in whole or in part, inside or outside, with aluminum foil, newspaper, paint, tint or any other material reasonably deemed inappropriate for such use by the Association.

Section 11. Commercial Activity. No professional, commercial or industrial operations of any kind shall be conducted in or upon any Condominium Unit or the Common Area, except such temporary operations as may be approved by a majority of a quorum of the Association, and such temporary uses as shall be permitted by Declarant while the Project is being constructed and Condominiums are being sold by the Declarant.

Section 12. Parking. No Owner shall park, store or keep any large commercial type vehicle or any recreational vehicle (including, but not limited to, any camper, motorhome, trailer, boat trailer, mobile home or other similar vehicle, boat or aircraft), unless such vehicle is obscured from view of adjoining Condominiums, streets and Common Area by a fence, enclosure or other appropriate screening device. No Owner shall conduct major repairs or major restorations of any motor vehicle of any kind whatsoever in his garage or upon the Common Area, except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility. Each Owner

shall maintain his garage such that it is readily available for parking. All garage doors shall remain closed at all times, except as reasonably required for entry to and exit from the garage. In any event, all vehicles shall be parked in compliance with applicable municipal ordinances.

Section 13. Regulation of Parking. The Association, through its officers, committees and agents, is hereby empowered to establish "parking" and "no parking" areas within the Common Area in accordance with Section 22658 of the California Vehicle Code, or any similar statute hereafter enacted, as well as to enforce these parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those so empowered.

Section 14. Compliance With Management Documents. All Owners shall be Members of the Association and shall comply with the terms and conditions as set forth herein and in the Articles and the By-Laws, and any Rules and Regulations of the Association. No Owner shall transfer any membership or interest in the Association, except upon the transfer of the Condominium to which it is appurtenant.

Section 15. Declarant's Improvements. Nothing in this Article or elsewhere in this Declaration shall limit the right of Declarant to complete construction of any Improvements to the Common Area and/or to any Condominium owned by Declarant, or to alter the foregoing or to construct such additional Improvements as Declarant deems advisable prior to completion and sale of the entire Project. The rights of Declarant under this Declaration may be assigned by Declarant to any successor to all or any part of Declarant's interest in the Project, as developer, by an express assignment incorporated in a recorded deed transferring such interest to such successor.

Section 16. Solar Heating. No Owner shall install any solar energy collection panels or similar equipment without the prior written approval of the Architectural Control Committee, which shall have the right to approve or disapprove the size, shape, color, materials, construction or location within the Common Area of such panels or equipment.

Section 17. Antennas. No Owner shall install, or cause to be installed, any television, radio, "Citizens Band" (C.B.) antenna or other similar electronic receiving or broadcasting device on the exterior of any Condominium Building or elsewhere within the Common Area.

Section 18. Leasing. With the exception of a lender in possession of a Condominium Unit following: (a) a default in a first Mortgage, (b) a foreclosure proceeding, or (c) a conveyance or other arrangement in lieu of foreclosure, no Owner shall be permitted to rent or lease his Condominium Unit for transient or hotel purposes or for a period of less than thirty (30) days. No Owner may rent or lease less than the entire Condominium Unit. All rental and lease agreements shall be in writing and shall provide that the terms of such agreement shall be subject in all respects to the provisions of this Declaration, the By-Laws, the Articles, the Ground Lease and the Assignment and Grant for such Condominium, and that any failure by the tenant or lessee to comply with the terms of such documents shall constitute a default under such agreement. Other than the foregoing, there are no restrictions on the right of an Owner to rent or lease his Condominium Unit.

Section 19. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the Common Area or Limited Common Area, nor shall oil wells, tanks, tunnels or mineral excavations be permitted upon the Common Area or Limited Common Area. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted within the Project.

Section 20. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any portion of the Project, except in common trash receptacles located in appropriate areas provided for the use of all Owners, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants.

ARTICLE IX
ARCHITECTURAL CONTROL - APPROVAL

Section 1. Exemptions From Architectural Control.

Except as otherwise provided herein, all Improvements shall be subject to architectural approval by the Association in accordance with the provisions of this Declaration. Notwithstanding the foregoing, Declarant shall be exempt from compliance with any of the provisions of this Article as they may relate to the original construction and development of the Project by Declarant in accordance with the plans approved by the City; provided, however, if Declarant shall desire to construct any Improvements to the exterior of a Condominium Building after such Condominium Building has been completed and approved by the City, Declarant shall obtain approval for such Improvements from the City; and, provided further, if Declarant shall retain a Condominium for personal use, any Improvements to such Condominium shall be subject to architectural approval pursuant to this Article.

Section 2. Architectural Control.

Except for the purposes of proper maintenance and repair, and except as otherwise permitted hereunder, no person shall install any Improvement, including, without limitation, solar heating panels, lighting, shades, screens, awnings, patio covers, outbuildings, decorations, fences, screen doors, aerials, antennas, radio or television broadcasting or receiving devices, air conditioning units, or change or otherwise alter the exterior of any Condominium or appurtenant Improvement. For the purposes of this Section, the term "exterior" shall mean any outside wall, outside surface, roof, outside door, patio, garage or other outside structure of said Condominium which is visible to others in the Project and/or to the public.

Section 3. Architectural Control Committee.

The Architectural Control Committee is hereby authorized with the rights and powers set forth in this Article. Said Committee shall consist of three (3) members, and each initial member shall serve until the first election of the Board. In the event of the failure or inability of any member of the Architectural Control Committee to act, the remaining members shall designate a successor who shall serve for the remainder of the term of the member he replaces. The Declarant shall appoint all of the original members of the Architectural Control Committee, and replacements thereto. After one (1) year from the date of the issuance of the Final Subdivision Public Report for the Project, the Board shall have the power to appoint one (1) member to the Architectural Control Committee until ninety percent (90%) of the Condominiums in the Project have been sold, or until the fifth anniversary date of the issuance of the Final Subdivision Public Report for the Project, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Control Committee. All members appointed to the Architectural Control Committee by the Board shall be from the membership of the Association. Members appointed to the Architectural Control Committee by the Declarant, however, need not be members of the Association. No member of the Architectural Control Committee shall be liable to any person for his decisions or failure to act in making decisions as a member of the Architectural Control Committee. Declarant may, in its discretion and at any time, assign to the Association by written

assignment its powers of removal and appointment with respect to the Architectural Control Committee, subject to such terms and conditions regarding the exercise thereof as Declarant may impose.

Section 4. Meetings of the Architectural Control Committee. The Architectural Control Committee shall meet, from time to time, as necessary to perform its duties hereunder. The Architectural Control Committee may, by a majority vote of the members thereof, delegate any of its rights and responsibilities hereunder to one (1) or more duly licensed architects, who shall have full authority to act on behalf of the Architectural Control Committee on all matters so delegated.

Section 5. Architectural Approval - Review of Plans and Specifications. The Architectural Control Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed plans are in conformance with and are harmonious to the exterior design and existing materials of the Condominium Buildings in the Project. The Architectural Control Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration, and perform such other duties as, from time to time, shall be assigned to it by the Board, including the inspection of construction and progress to ensure its conformance with the plans approved by the Architectural Control Committee. No construction, alteration, grading, addition, excavation, modification, decoration, redecoration or reconstruction of an Improvement shall be commenced or maintained by any Owner until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Architectural Control Committee and approved in writing by the Architectural Control Committee. The initial address for submission of such plans and specifications, until changed by the Architectural Control Committee, shall be:

Beverly Hills Savings
A Federal Savings and Loan Association
27271 Las Ramblas
Mission Viejo, California 92692

The Architectural Control Committee shall approve the plans and specifications submitted for its approval only if it deems that: (a) the construction, alterations or additions contemplated thereby and the locations indicated will not be detrimental to the appearance of the surrounding area of the Project as a whole; (b) the appearance of any structure affected thereby will be in harmony with surrounding structures; (c) the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Area, or the enjoyment thereof by the Owners; and (d) the upkeep and maintenance thereof will not become a burden on the Association. The Architectural Control Committee may condition its approval of proposals or plans and specifications for any Improvement: (a) on such changes therein as it deems appropriate, (b) upon the agreement by the person submitting the same to grant appropriate easements to the Association for the maintenance of the Improvement, or (c) upon the agreement of the person submitting the same to reimburse the Association for the cost of such maintenance, or all of the above, and may require submission of additional plans and specifications or other information prior to approving or disapproving the submission.

The Architectural Control Committee may also issue rules or guidelines setting forth procedures for submission of plans for approval, requiring a payment of a fee to the Association to accompany each submission of plans and specifications, or additional factors which it will take into consideration in reviewing submissions.

The Architectural Control Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings, landscape plans and description or samples or exterior material and colors.

Section 6. Decisions of the Architectural Control Committee. Until receipt by the Architectural Control Committee of any required plans and specifications, and such other information as may be required in Section 4 above, the Architectural Control Committee may postpone review of any plans submitted for approval. Decisions of the Architectural Control Committee and the reasons therefor should be transmitted by the Architectural Control Committee to the applicant, at the address set forth in the application for approval, within forty-five (45) days after receipt by the Architectural Control Committee of all plans, specifications and materials required. Any application submitted pursuant to the provisions of Section 4 above shall be deemed approved, unless written disapproval or a request for additional information or materials by the Architectural Control Committee shall have been transmitted to the applicant within forty-five (45) days after the receipt by the Architectural Control Committee of all required materials.

Section 7. No Waiver of Future Approvals. The approval of the Architectural Control Committee to any submissions for any work done, or proposed to be done, or in connection with any other matter requiring the approval or consent of the Architectural Control Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent of any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

Section 8. Compensation of Members. The members of the Architectural Control Committee shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred in the performance of such members' duties hereunder.

Section 9. Variances. Where circumstances such as topography, location of buildings, location of landscaping or other matters require, the Architectural Control Committee, by the vote or written assent of a majority of the members thereof, may allow reasonable variances as to any of the Covenants contained in this Declaration or provisions under the rules and regulations promulgated by the Architectural Control Committee, on such terms and conditions as it shall require. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose, except as to the particular Condominium and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of his Condominium, including, but not limited to, zoning ordinances, lot setback lines or requirement imposed by the City or other governmental authority.

Section 10. Inspection of Work. Upon consent of the Owner, which consent shall not be unreasonably withheld, any member or authorized representative of the Architectural Control Committee may, at any reasonable hour and upon reasonable notice, enter and inspect any Condominium which has been the subject matter of an approval of a submission for an Improvement to his Condominium. Such entry shall be made with as little inconvenience to the Owner as reasonably possible, and any damage caused thereby shall be repaired by the Association. If the Architectural Control Committee finds that such work was not done in substantial compliance with the approved plans and specifications, it shall notify the Owner in writing of such noncompliance, specifying the particulars of noncompliance and shall require the Owner to remedy the same within thirty (30) days from the date of notification of such noncompliance. If a noncompliance exists, the Board, after Notice and Hearing, may levy a Compliance Assessment against such Owner for the costs of removing or remedying such noncompliance.

Section 11. Non-Liability of Architectural Control Committee Members. Neither Declarant, the Association, the Board or the Architectural Control Committee, or the members or designated representatives thereof, shall be liable for damages to any Owner submitting plans or specifications to them for approval, or to any Owner in the Project affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance, unless due to willful misconduct or bad faith of the Architectural Control Committee. The Architectural Control Committee's approval or disapproval of a submission shall be based solely on the considerations set forth in this Article, and in such rules and regulations as may be promulgated by the Architectural Control Committee, and the Architectural Control Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plans or design from the standpoint of structural safety and conformance with building or other codes.

Section 12. Appeal. In the event plans and specifications submitted to the Architectural Control Committee are disapproved, the party making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Architectural Control Committee. The Board shall submit such request to the Architectural Control Committee for review, and the written recommendations of the Architectural Control Committee will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure by the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the party making such submission.

ARTICLE X
REPAIR AND MAINTENANCE

Section 1. Repair and Maintenance by Association.

Without limiting the generality of the Article herein entitled "Powers and Duties of the Association," the Association shall have the duty to maintain, in a neat, clean, safe, sanitary, attractive and orderly condition at all times, the following upon the Common Area as designated in this Declaration:

(a) Maintain, landscape, repair, restore and replace Improvements on the Common Area in a neat, clean, safe, attractive and orderly condition at all times, including, without limitation, the following:

(1) Private streets and driveways, and adjacent streetscapes, slopes, and Project perimeter fences and walls, if any, in a condition comparable to the condition initially approved by the City;

(2) Walkways or pedestrian paths, if any;

(3) Private on-site sewer and drainage facilities and easements in accordance with requirements of the City;

(4) All Common Area lighting facilities, if any, required by the City for the purpose of illuminating the Common Area;

(5) Monument signs, if any, located on the Common Area and all mailbox structures, in a condition comparable to that condition initially approved by the City; and

(6) All recreational amenities and related facilities and equipment, including, without limitation, the pools, spas, tennis courts, clubhouse, racquetball courts, lounges and all furniture and equipment originally provided by Declarant for said areas.

(b) Paint, maintain and repair the exterior surfaces of all Condominium Buildings in the Project, including the garage doors, the exterior surfaces of the fireplaces, patio and balcony railings, air conditioner pads, if any, and striping of the guest parking spaces, as may be installed by Declarant;

(c) Maintain, repair and replace the roofs of the Condominium Buildings, together with such subsurface roofing materials as are consistent with good roofing maintenance practice;

(d) Maintain all other areas, facilities, furniture, equipment, services or aesthetic components of whatsoever nature as may, from time to time, be requested by the vote or written consent of three-fourths (3/4) of the voting power of the Members; and

(e) Except as otherwise herein specified as being paid by individual Owners, the costs of maintenance, repair, restoration and replacement as provided in this Article shall be Common Expenses and shall be paid out of the general fund of the Association.

Section 2. Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain and repair as may be provided in this Declaration, every Owner shall:

(a) Maintain, repair and decorate the interior surfaces of the walls, ceilings and floors of his Condominium Unit in a clean, safe and attractive condition;

(b) Maintain, repair and replace window glass, screens, if any, and doors (including locks, latches, weatherstripping and thresholds);

(c) Maintain, repair and replace interior lighting fixtures and interior plumbing fixtures, including stoppage of drains, disposals, bathtubs, shower stalls, toilets and sinks, within a Condominium Unit;

(d) Maintain, repair and replace kitchen appliances, forced air heating units, the air conditioning unit, if any, the hot water heating units, storage tanks and the firebox portion of the fireplace within his Condominium Unit;

(e) Maintain all landscaping and other Improvements located within the Limited Common Area appurtenant to a Condominium Unit in a neat, clean, safe and attractive condition at all times; and

(f) Maintain the entryway to his Condominium Unit in a neat, clean, safe and attractive condition.

Section 3. Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace or restore the underground facilities or public utilities which are located within easements in the Common Area owned by such public utilities. However, the Association shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

ARTICLE XI
DAMAGE OR DESTRUCTION TO
THE COMMON AREA

Section 1. Restoration of Damaged Common Area. Except as otherwise provided in Section 2 hereinbelow, damage to or destruction of all or any portion of the Common Area shall be handled in the following manner:

(a) In the event of damage to or destruction of the Common Area, and the insurance proceeds are sufficient to effect total restoration, the Association shall, as promptly as is practical, cause the Common Area to be repaired and reconstructed in a good workmanlike manner to its condition prior to such damage or destruction.

(b) If the insurance proceeds available are at least ninety percent (90%) of the estimated cost of total repair and reconstruction to the Common Area, the Association shall, as promptly as practical, cause such Common Area to be repaired and reconstructed in a good workmanlike manner to its condition prior to the damage or destruction, and the difference between the insurance proceeds and the actual cost shall be levied by the Association as a Special Assessment against each of the Condominiums on an equal basis.

(c) If the insurance proceeds available are less than ninety percent (90%) of the estimated cost of total repair and reconstruction to the Common Area, the Owners shall, by the written consent or vote of a majority of the Owners, determine whether: (1) to restore the Common Area as promptly as practical to its condition prior to the damage or destruction, and to raise the necessary funds over and above the insurance proceeds available by levying Assessments against each of the Condominiums on an equal basis; or (2) to restore the Common Area in a way which utilizes all available proceeds and an additional amount not in excess of ten percent (10%) of the estimated cost of total reconstruction and repair to the Common Area, and which is assessable as provided above to all Condominiums, but which is less expensive than restoring the Common Area to its condition prior to the damage or destruction.

Section 2. Election by Owners Not to Restore Damaged Common Area.

(a) Notwithstanding the provisions set forth in Section 1 hereinabove, in the event Lessor and sixty-seven percent (67%) of the Owners, other than Declarant, and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) have given their prior written approval, the Owners may not elect to rebuild or restore the Common Area and to disburse the available insurance proceeds to the general fund of the Association.

(b) In the event the Owners shall have so voted not to rebuild the Common Area, the Common Area shall be cleared and landscaped and the cost thereof shall be paid for out of the available insurance proceeds prior to their distribution to the general fund of the Association.

(c) In the event the Owners shall have so voted not to rebuild the Common Area, unless the City shall agree to the contrary, it shall be the obligation of the Association

and each of the Owners to rebuild the private streets, utilities and open spaces, at least to the extent said streets, utilities and open spaces were accepted initially by the City in lieu of payment of fees due pursuant to law.

Section 3. Restoration of Damaged Condominium Units.

Restoration and repair of any damage to the interior of any individual Condominium Unit, including, without limitation, all interior walls, lighting fixtures, plumbing fixtures, cabinets, furniture and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Condominium Unit so damaged. In the event of a determination to rebuild the adjoining portion of the Common Area also damaged or destroyed, such interior repair and restoration shall be completed as promptly as practicable in a lawful and workmanlike manner, and in accordance with the plans approved by the Board or its designated Architectural Control Committee, as provided for in this Declaration.

Section 4. Architectural Approval of Restoration Plans.

In connection with the restoration and repair of any damage to the interior of any individual Condominium Unit, the Owner thereof may apply for approval to the Architectural Control Committee for reconstruction, rebuilding or repair of his Condominium Unit in a manner which will provide for an exterior appearance and design different from that which existed prior to the date of the casualty. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations showing the proposed reconstructions and the end result thereof. The Architectural Control Committee shall grant such approval only if the design proposed by the Owner would result in a finished Condominium Unit in harmony of exterior design with the other Condominium Units in the Project. Failure of the Architectural Control Committee to act within thirty (30) days after receipt of such a request in writing, coupled with the drawings and plot plans showing full and complete nature of the proposed change, shall constitute approval thereof; provided, however, that no such approval described herein shall be granted without the prior written consent of all Owners of Condominium Units within the particular Condominium Building wherein the subject Condominium Unit is located.

Section 5. Distribution of Excess Insurance Proceeds.

In the event any excess insurance proceeds remain after the reconstruction of clearance of the damaged or destroyed Common Area by the Association, pursuant to this Article, the Board, in its sole discretion, may retain such sums in the general fund of the Association or distribute such excess insurance proceeds to all Owners, subject to the prior rights of Mortgagees whose interests may be protected by the insurance policies carried by the Association. In the absence of any such rights, the rights of an Owner and the Mortgagee of his Condominium Unit as to each such distribution shall be governed by the provisions of the Mortgage encumbering said Condominium Unit.

Section 6. Special Assessments for Restoration Purposes. All amounts collected pursuant to Special Assessments, as provided for herein, shall only be used for the purposes set forth in this Article, and shall be deposited by the Board in a separate bank account to be held in trust for such purposes.

Section 7. Termination of Covenant Against Partition in Event of Non-Restoration. If the Association shall decide to repair or restore any damaged or destroyed Common Area pursuant to this Article, and such repair or restoration operations have not actually commenced within one (1) year from the date of such damage, the covenant against partition provided for in this Declaration shall terminate and shall be of no further force and effect.

ARTICLE XII
CONDEMNATION

Section 1. Distribution of Awards. Subject to the terms and provisions of the Ground Lease and the limitations set forth in the Article herein entitled "Mortgagee Protection," a condemnation award affecting all or any portion of the Common Area of the Project which is not apportioned among the Owners by court judgment, or by agreement between the condemning authority and each of the affected Owners in the Project, shall be distributed among the affected Owners (and their respective Mortgagees) based upon the relative fair market value of all Condominium Units prior to the award, as determined by an independent, qualified, professional real estate appraiser.

Section 2. Board of Directors as Attorney-in-Fact. All Owners hereby appoint the Board of the Association as their special attorney-in-fact to handle the negotiations, settlements and agreements pertaining to any condemnation affecting only the Common Area.

ARTICLE XIII
COVENANT AGAINST PARTITION

Section 1. General Covenant Against Partition. Except as otherwise provided in this Section and in the Ground Lease, the Common Area shall remain undivided and there shall be no judicial partitions thereof. Nothing herein shall be deemed to prevent partition of a co-tenancy in a Condominium.

Section 2. Judicial Partition of the Project. The Owner of a Condominium Unit in the Project may maintain a partition action as to the entire Project as if the Owners of all the Condominium Units in the Project were tenants-in-common in the entire Project in the same proportion as their interests in the Common Area. The court shall order partition under this Article only by sale of the entire Project and only upon the showing of one (1) of the following:

(a) More than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part was rendered unfit for its prior use, and the Project has not been rebuilt or repaired substantially to its state prior to the damage or destruction;

(b) Three-fourths (3/4) or more of the Project is destroyed or substantially damaged, and at least sixty-seven percent (67%) of the Owners (other than Declarant) and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) oppose repair or restoration of the Project; or

(c) The Project has been in existence more than fifty (50) years, is obsolete and uneconomical, and at least sixty-seven percent (67%) of the Owners (other than Declarant) and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) oppose repair or restoration of the Project.

Section 3. Board of Directors' Power of Sale in Event of Judicial Partition. Declarant, for itself and on behalf of each and every present and subsequent Owner of one (1) or more Condominium Units within the Project, hereby appoints the Board as its and their attorney-in-fact to sell the entire Project for the benefit of all of the Owners thereof when partition of the Project may be had pursuant to this Declaration, which power shall: (a) be binding upon all of the Owners, whether they assume the obligations of these restrictions or not; (b) be exercisable by a vote of at least seventy-five percent (75%) of the voting power of the Board; and (c) be exercisable only after recordation of a certificate by the Board, which shall provide that said power is properly exercisable hereunder, and which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith.

ARTICLE XIV
INSURANCE

Section 1. Required Insurance Coverage. The Association, acting by and through the Board, shall obtain for the Association, and shall maintain and pay the premiums for the following insurance coverages:

(a) Casualty and Fire Insurance. A policy or policies of casualty and fire insurance, with extended coverage endorsement for the full replacement value of the entire Project (without deduction for depreciation), including, without limitation, the Common Area and the Condominium Buildings, but excluding the Owners' personal property. Said policies shall be maintained for the benefit of the Lessor, the Association, the Owners and their respective Mortgagees, as their interests may appear.

(b) Public Liability Insurance. A policy or policies of full coverage public liability insurance (with cross-liability endorsement, if obtainable) insuring the Lessor, the Association, the Board, the Owners and the Declarant, and the agents and employees of each of the foregoing, against any liability to the public or to any Owner, his family, invitees and/or tenants, arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area and Condominium Units, and from lawsuits related to employment contracts in which the Association is a party. The limits of liability under this Section shall be set by the Board and shall be reviewed at least annually by the Board, and increased or decreased at the discretion of the Board; provided, however, that said limits shall not be less than One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence; provided further, if the Federal Home Loan Mortgage Corporation (FHLMC) and/or the Federal National Mortgage Association (FNMA) participate in the financing of Condominiums in the Project, said limits shall not be less than the minimum limits required under the then current FHLMC and/or FNMA regulations.

(c) Worker's Compensation Insurance. Worker's compensation insurance to the extent necessary to comply with any applicable laws.

(d) Fidelity Bonds. Officers' and Directors' errors and omissions insurance, and fidelity bonds naming all persons signing checks or otherwise possessing fiscal responsibilities on behalf of the Association, including, but not limited to, officers, Directors, trustees and employees of the Association, and officers, employees and agents of any management company employed by the Association who handle or are responsible for the Association funds. Such coverage shall be in an amount deemed reasonably appropriate by the Association, but shall not be less than the estimated maximum funds, including reserves, in custody of the Association, but shall not be less than the estimated maximum funds, including reserves, in custody of the Association, or one hundred fifty percent (150%) of the estimated annual operating expenses of the Project, including reserves, whichever is greater.

Section 2. Optional Insurance Coverage. The Association, acting at its option and by and through the Board, may purchase such other insurance as it may deem necessary or appropriate, including, but not limited to, earthquake insurance, flood insurance and plate glass insurance.

Section 3. Notice of Cancellation of Insurance. All policies of insurance (including fidelity bonds) maintained by the Association, pursuant to this Article, shall contain a provision that coverage under said policies may not be cancelled, terminated, allowed to expire by their own terms or be substantially modified by any party without at least thirty (30) days prior written notice to the Board and to such Owners and such first Mortgagees who have filed written requests with the Association for such notice. A list of such Owners and such first Mortgagees shall be made available by the Association to the insurance carrier upon request.

Section 4. Review of Coverage. The Board shall annually determine whether the amounts and types of insurance coverage that it has obtained pursuant to this Article shall provide adequate coverage for the Project, based upon the then current construction costs, insurance practices in the area in which the Project is located, and all other factors which may indicate that either additional insurance coverage or increased coverage under existing policies is necessary or desirable to protect the interests of the Association, the Owners and their respective Mortgagees. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain same.

Section 5. Waiver by Owners. As to all policies of insurance maintained by the Association which will not be voided or impaired thereby, each Owner hereby waives and releases all claims against the Association, the Board and the Declarant, and the agents and employees of each of the foregoing, and all other Owners with respect to any loss covered by such insurance, whether or not caused by the negligence of, or breach of, any agreement by said persons, but only to the extent of the insurance proceeds received in compensation for such loss.

Section 6. Premiums, Proceeds and Settlement.

Insurance premiums for all blanket insurance coverage and any other insurance coverage which the Board has determined is necessary to protect the interests of the Association, the Owners and their respective Mortgagees, shall be a Common Expense to be included in the Annual Assessments leveled by the Association. All insurance proceeds paid to the Association shall be disbursed as follows: (a) in the event of any damage or destruction to the Common Area, such proceeds shall be disbursed in accordance with the provisions of the Article herein entitled "Damage or Destruction to the Common Area"; and (b) in the event of any other loss, the proceeds shall be disbursed as the Board shall deem appropriate, subject to the limitations set forth in the Article herein entitled "Mortgagee Protection." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. A majority of the Board must 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 its Members.

Section 7. Rights and Duties of Owners to Insure.

Each Owner may obtain insurance on his personal property and on all other property and improvements within his Condominium Unit and Limited Common Area. Nothing herein shall preclude any Owner from carrying any public liability insurance as he may deem desirable to cover his individual liability for damage to person or property occurring inside his individual Condominium Unit or elsewhere upon the Project. If obtainable, such liability insurance coverage carried by an Owner shall contain a waiver of subrogation of claims against the Declarant, the Association and the Board, and their agents and employees, and all other Owners. Such other policies shall not adversely affect or diminish any liability under insurance obtained by the Association. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction for application by the Board to the same purposes as the reduced proceeds are to be applied.

Section 8. Trustee for Policies.

The Association is hereby appointed and shall be deemed trustee for the interests of all insureds under the policies of insurance maintained by the Association. All insurance proceeds under such policies shall be paid to the Board, as trustees, and the Board shall have full power to receive such funds on behalf of the Association, the Owners and their respective Mortgagees, and to deal therewith as provided for in this Declaration.

ARTICLE XV
MORTGAGEE PROTECTION

Section 1. Mortgagee Protection Provisions.

Notwithstanding any other provisions in this Declaration to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA), and other lenders and investors, to participate in the financing of the sale of Condominiums in the Project, the following provisions contained within this Article are added hereto, and to the extent these added provisions shall control. The Declaration, the Articles and the By-Laws for the Association are hereinafter collectively referred to in this Article as the "constituent documents."

(a) The right of an Owner to sell, transfer or otherwise convey his Condominium shall not be subject to any right of first refusal or any similar restriction in favor of the Association.

(b) The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter recorded upon any Condominium. The sale or transfer or any Condominium shall not affect the Assessment lien; however, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage or pursuant to any remedies provided for in the Mortgage shall extinguish the lien of such Assessments as to payments which became due prior thereto. No sale or transfer shall relieve such Condominium from liability for Assessments due thereafter. Any first Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or any purchaser at a foreclosure sale of a first Mortgage will not be liable for more than six (6) months' unpaid Assessments or charges which accrue prior to the acquisition of title to such Condominium by the Mortgagee (except for claims for a share of such Assessments or charges resulting from a reallocation of such Assessments or charges to all Condominiums, including the mortgaged Condominium).

(c) Except as provided by statute in case of condemnation or substantial loss to the Condominium Units and/or Common Area, unless sixty-seven percent (67%) of the Owners other than Declarant, and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

(1) By act or omission, seek to abandon or terminate the Condominium Project;

(2) Record or file any amendment which would change the pro rata interest or obligations of any Condominium for purposes of: (i) levying Assessments or charges, or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium Unit in the Common Area;

(3) Partition or subdivide any Condominium, except as provided in the Article herein entitled "Covenant Against Partition"; provided, however, that no Condominium may be partitioned or subdivided without the

prior written approval of the first Mortgagee for such Condominium;

(4) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any or all of the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended uses of the Common Area by the Project shall not be deemed a transfer within the meaning of this clause;

(5) Use hazard insurance proceeds for losses to the Project (whether to Condominium Units or to Common Area) for other than repair, replacement or reconstruction;

(6) Effect any decision of the Association to terminate professional management and assume self-management of the Project, where such professional management was previously a requirement by a holder, insurer or guarantor of any first Mortgage;

(7) By act or omission, change, waive or abandon any provisions of this Declaration, or enforcement thereof, pertaining to architectural design of the Condominiums or the maintenance and operation of the Common Area within the Project, including, without limitation, sidewalks, fences, driveways and landscaping within the Project; and

(8) Fail to maintain fire and extended coverage on the insurance Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value thereof; and

(d) All taxes, Assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to individual Condominiums, and not to the Project as a whole.

(e) No provision of the constituent documents shall be interpreted to give the Owner of a Condominium, or any other party, priority over any rights of the first Mortgagee of the Condominium pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Condominium Units and/or the Common Area.

(f) The Assessments provided for in the constituent documents shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Area that must be replaced on a periodic basis, and shall be payable in regular installments, rather than by Special Assessments.

(g) Each holder, insurer or guarantor of a first Mortgage who has filed with the Association a written request for notice shall be entitled to timely written notice of: (1) any condemnation or eminent domain proceeding, and any loss or taking resulting from such proceeding which affects the Project, or any portion thereof; (2) any substantial damage or destruction to the Project, or any portion thereof, when such loss exceeds Ten Thousand Dollars (\$10,000.00); (3) any default in the performance by an individual Owner of any obligation under the constituent documents which is not cured within sixty (60) days after the Association learns of

such default; (4) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (5) any abandonment or termination of the Project.

(h) Any agreement for professional management of the Project or any contract providing for services of the Declarant may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days' written notice.

(i) In the event of substantial damage to or destruction of any Condominium Unit or any part of the Common Area, the first Mortgagee for such Condominium will be entitled to timely written notice of any such damage or destruction.

(j) A first Mortgagee of a Condominium in the Project will, upon request, be entitled to: (1) examine the books and records of the Association during normal business hours; (2) receive an annual audited financial statement of the Project within ninety (90) days following the end of any fiscal year of the Project, if such statement has been prepared for the Association; and (3) receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

(k) Each Owner shall notify the Association, in writing, within ten (10) days after the close of escrow for the purchase of his Condominium of the name and address of his first Mortgagee, and thereafter, each Owner shall promptly notify the Association of any changes of name or address for his first Mortgagee.

(l) In the event any portion of the Common Area encroaches upon any Condominium Unit or any Condominium Unit encroaches upon the Common Area as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

Section 2. Violation of Mortgagee Protection Provisions. No breach of any of the foregoing covenants shall cause any forfeiture of title or reversion, or bestow any right of re-entry whatsoever, but in the event that any one (1) or more of these covenants shall be violated, the Declarant, its successors and assigns, or the Association, or any Owner of a Condominium in the Project, may commence a legal action in any court of competent jurisdiction to enjoin or abate said violation and/or to recover damages; provided, however, that any such violation shall not defeat or render invalid the lien of any Mortgage made in good faith and for value as to said Condominium. Said covenants shall be binding upon and effective against any Owner of said Condominium, or a portion thereof, whose title thereto is acquired by foreclosure, a trustee sale or otherwise.

ARTICLE XVI
ENFORCEMENT OF BONDED OBLIGATIONS

Section 1. Enforcement of Bonded Obligations. In the event that the improvements of the Common Area have not been completed prior to the issuance of a Final Subdivision Public Report by the DRE, and the Association is obliged under a bond or other arrangement (hereinafter referred to as the "Bond") to secure a performance of the commitment of Declarant to complete 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 improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of 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, the Board shall call a special meeting of the Members 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 By-Laws dealing with meetings of the Members, but in any event, such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) 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 the Declarant, to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XVII
GENERAL PROVISIONS

Section 1. Enforcement.

(a) The Association or the Owner of any Condominium in the Project, including the Declarant, shall have the right to enforce, by proceedings at law or in equity, all of the covenants now or hereafter imposed by this Declaration and the By-Laws, respectively (and the Rules and Regulations duly adopted by the Association), including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated, or are attempting to violate, any of said covenants, to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) The result of every act or omission whereby any of the covenants contained in this Declaration or the provisions of the By-Laws are violated, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance shall be applicable against every such result and may be exercised by any Owner, by the Association, or by its successors in interest.

(c) The remedies herein provided for breach of the covenants contained in this Declaration or the provisions of the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association or any Owner to enforce any of the covenants contained in this Declaration or the provisions of the By-Laws shall not constitute a waiver of the right to enforce the same hereafter.

(e) A breach of the covenants contained in this Declaration or of the provisions of the By-Laws shall not affect or impair the lien or charge of any bona fide Mortgage or deed of trust made in good faith and for value on any Condominium; provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether or not such Owner's title was acquired by foreclosure, a trustee's sale or otherwise.

(f) The Board, for and on behalf of the Association, may assess monetary penalties against an Owner as a Compliance Assessment and/or temporarily suspend said Owner's voting rights and right to use the recreational facilities, if any, for the period during which any Assessment against said Owner's Condominium remains unpaid; provided, however, the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached.

(g) The Board, for and on behalf of the Association, may, after Notice and Hearing, temporarily suspend an Owner's voting rights and right to use the recreational facilities for a period not to exceed thirty (30) days for any infraction of the Association's published Rules and Regulations; provided, however, the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached.

(h) In addition to the above general rights of enforcement, the City shall have the right, through its agents and employees, to enter upon any part of the Project for the purpose of enforcing the California Vehicle Code and its local ordinances, and is hereby granted an easement over the Project for that purpose.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

Section 3. Term. The covenants set forth in this Declaration shall run with and bind the Project, and shall inure to the benefit of the Association and be enforceable by the Lessor, Board or the Owner of any Condominium subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term equal to the expiration of the Ground Lease; provided, however, in the event that the Ground Lease is extended, or a new ground lease is entered into before or concurrently with the expiration of the G round Lease, by and between Lessor, its successors and assigns, and Declarant, its successors and assigns, this Declaration and all Covenants set forth herein shall remain in full force and effect for the full extended term of the Ground Lease or any new ground lease.

Section 4. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and 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 5. Singular Includes Plural. Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 6. Amendments. This Declaration may be amended only by an affirmative vote of not less than sixty-seven percent (67%) of each class of Members. At such time when the Class B membership shall cease and be converted to Class A membership, any and all amendments to this Declaration shall be enacted by requiring the vote or written assent of Members representing both: (a) sixty-seven percent (67%) of the total voting power of the Association, and (b) sixty-seven percent (67%) of the votes of Members, other than the Declarant; provided, however, that the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under said provision. In addition, in the event that FNMA participates in the financing of Condominiums in the Project, the written consent of not less than sixty-seven percent (67%) of the first Mortgagees shall be required for any amendment which affects, or purports to affect, any of the following:

- (a) The legal status of the Project as a condominium development;
- (b) Voting rights;
- (c) Assessments, including the levy and collection thereof, enforcement provisions for nonpayment and subordination of liens for nonpayment;
- (d) Responsibility for Common Area maintenance;
- (e) Reserves for maintenance, repair and replacement of Common Area;
- (f) Insurance or fidelity bonds;
- (g) Common Area use rights;
- (h) Boundaries of any Condominium;
- (i) Ownership interest in Common Area;
- (j) Encroachment by Improvements into Common Area or by Common Area into individual Condominium Units;
- (k) Leasing of Condominiums;
- (l) Restrictions on alienation, including, but not limited to, rights of first refusal;
- (m) Mortgagee protection provisions as set forth in that Article hereinabove entitled "Mortgagee Protection," and such other provisions in this Declaration for which the consent of Mortgagees shall be required or which are expressly for the benefit of Mortgagees, insurers or guarantors of Mortgages; and
- (n) Annexation of additional property to or from the Project.

Notwithstanding the foregoing, in the event any first Mortgagee receives a written request from the Board to approve any amendment to the Declaration, and such first Mortgagee does not deliver a

negative response in writing to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved such proposed amendment. This amendment provision shall not be amended to allow amendments by less than the percentages set forth hereinabove. An amendment made in accordance with the provisions set forth hereinabove shall be effective when executed by the President and Secretary of the Association, who shall certify that the amendment has been approved by the membership and, where appropriate, by the first Mortgagees in the percentages set forth hereinabove, and recorded in the Office of the County Recorder for the County in which the Project is located. Upon such recordation, the amendment shall be effective and binding upon all Owners and all Mortgagees, regardless of whether such Owner or such Mortgagee consented to such amendment.

Section 7. Encroachments. None of the rights and obligations of the Owners created herein or by the deed shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

Section 8. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by registered or certified mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Condominium Unit of such person if no address has been given to the Association. If such notice is not sent by regular mail, it shall be deemed to have been delivered when received. Such address may be changed, from time to time, by notice in writing to the Association. As of the date of recordation of this Declaration, all such notices shall be sent to:

"LESSOR" and "SECRETARY"

c/o United States Department of the Interior
Bureau of Indian Affairs
587 South Palm Canyon Drive
Palm Springs, California 92262

"DECLARANT"

Beverly Hills Savings
a Federal Savings and Loan Association
27271 Las Ramblas
Mission Viejo, California 92692

"ASSOCIATION" and "ARCHITECTURAL CONROL COMMITTEE"

Village Racquet Club Association
c/o Beverly Hills Savings
a Federal Savings and Loan Association
27271 Las Ramblas
Mission Viejo, California 92692

Section 9. Attorneys' Fees. If any Owner defaults in making a payment of Assessments or in the performance or observation of any provision of this Declaration, and the Association has obtained the services of an attorney in connection therewith, the Owner covenants and agrees to pay to the Association any costs or fees incurred, including reasonable attorneys' fees, regardless of whether legal proceedings are instituted. In case a suit is instituted, the prevailing party shall recover the cost of the suit, in addition to the aforesaid costs and fees.

IN WITNESS WHEREOF, Declarant has executed this instrument on the day and year first above written.

"DECLARANT"

BEVERLY HILLS SAVINGS
a Federal Savings and Loan
Association

BY: _____

Its: _____

BY: _____

Its: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On _____, 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as _____ and _____, on behalf of BEVERLY HILLS SAVINGS, the Federal Savings and Loan Association therein named, and acknowledged to me that said Association executed the within instrument pursuant to its By-Laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Signature of Notary Public

(SEAL)