

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

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

(a) Enter 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 :

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

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

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

(iv) 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 the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(v) Agreements for cable television services and equipment or satellite dishes television services or equipment, not to exceed five years duration provided that the supplier is not an entity in which the subdivider has a direct or indirect ownership interest of ten percent (10%) or more.

(vi) Agreements for sale, lease or installation and services of burglar alarm and fire alarm equipment,

not to exceed five years duration provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership 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 members of the Board, the Architectural Committee and/or the officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Member of the Board and/or of the Architectural Committee and/or an officer of the Association to be reimbursed for expenses incurred in carrying on the activities of the Association.

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

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

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

(c) Have the power to establish and maintain working capital, reserve and/or contingency funds in reasonable amounts to be determined by the Board. The Board of Directors of the association shall do all of the following :

(i) Review a current reconciliation of the association's operating accounts on at least a quarterly basis.

(ii) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis.

(iii) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(iv) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

(v) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis.

(vi) As used in this section, "reserve accounts" means moneys that the association's Board of Directors has identified from its annual budget for use to defray the future repair or replacement of, or additions to, those major components which the association is obligated to maintain.

Withdrawal of funds from the Association's reserve account shall require the signatures of either:

(1) Two (2) members of the governing body or;

(2) One (1) member of the the governing body and an officer of the Association who is not also a member of the governing body.

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

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

Rules, such Rules shall have the same force and effect and may be enforced against such Owner.

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

(g) Enter into an agreement with the Declarant to reduce or abate Regular assessments pursuant to any maintenance and/or subsidy agreement approved by the California Department of Real Estate.

5.03 Insurance. In addition to the duties and powers enumerated in its Bylaws or elsewhere in this Declaration or in the other Condominium Documents, and without limiting the generality thereof, the Association shall, subject to Section 5.16 Governmental Financing Programs, make the necessary arrangements to provide the following insurance coverages:

(a) Obtain and maintain a master or blanket policy of fire insurance for one hundred percent (100%) of the full replacement value, without deduction for depreciation, of all improvements within the Property; such policy shall contain extended coverage, vandalism and malicious mischief, and replacement cost endorsements and if available, shall also contain the special extended coverage endorsement commonly known as an "All Risk" coverage, stipulated amount clause and determinable cash adjustment clause, or a similar clause to permit cash settlement covering the full value of the improvements on the Property in the event of destruction of improvements and the decision not to rebuild pursuant to the provisions of Article IX hereof. Such policy shall be in such amounts as shall be determined from time to time by the Board, shall name as insured the Association, the Owners and Declarant, so long as Declarant is the Owner of any of the Condominiums, and all Mortgagees as their respective interests may appear, subject to a loss-payable endorsement as set forth herein.

(b) Obtain and maintain a policy or policies insuring the Association, the Board, the Declarant, the Managing Agent and the Owners, and agents and employees of each of the foregoing, against any liability incident to the ownership and/or use of the Common Areas and, at the option of the Board, the Units within the Project, as normally covered by comprehensive general liability insurance, and if obtainable, a cross liability to each other insured. Said policy or policies shall have such

limits as may be considered acceptable to the FNMA but shall have a minimum liability limit of ONE MILLION DOLLARS (\$1,000,000.00) per occurrence for physical injury, death and/or property damage; such policy or policies shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent act of the Association or other Owners.

(c) If the Property is located in an area identified by the Secretary of Housing and Urban Development or any successor agency as an area having special flood hazards, then obtain and maintain a "blanket" policy of flood insurance on the Property in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Condominiums constituting the Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less; the proceeds of which insurance shall be payable to the named insureds, except for the interests of the Owners in such proceeds, which shall be payable to the Association as trustee for their benefit, as provided for below; which policy or policies shall insure the Owners, and their respective Mortgagees named in endorsements, and Declarant, as their respective interests may appear.

(d) Obtain and maintain fidelity coverage insurance against dishonest acts on the part of directors, officers, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association, if there are more than thirty (30) Units within the Property. Such insurance shall name the Association as the named insured and be written in an amount sufficient to provide protection which is in no event less than the estimated maximum of funds, including reserves in the custody of the Owners' Association or the management agent at any given time during the term of the Fidelity Bond. However, the bond should not be less than a sum equal to three (3) months aggregate assessments on all Units plus reserve funds. And appropriate endorsement to the policy shall be obtained and maintained to cover any persons who serve without compensation if the policy would not otherwise cover volunteers. Such insurance may be carried, at the option of the Association, if there are thirty (30) or less Units within the Property.

(e) Deal with any such insurance referred to in this Section 5.03 as herein provided. The provisions of this Declaration shall control the rights and responsibilities of the Association, the Board and the Owners.

(i) The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies

as provided for in Section 5.03 of this Article shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in Article IX of this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Article IX, Section 9.04 of this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. Notwithstanding the foregoing, there may be named as an insured, a representative chosen by the Board, including a trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

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

(iii) So long as Declarant, its successors and assigns retain any interest in the Project, the Association shall, from time to time, immediately upon receipt of same, cause to be deposited with Declarant true copies of all insurance policies referred to herein which are obtained by the Association.

(iv) If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every

other person in interest who requests such notice of the insurer. In addition, fidelity bonds shall provide that they may not be canceled or substantially modified without ten (10) days prior written notice to any insurance trustee named pursuant to Section 5.03(e)(1) herein, and to each FNMA servicer who has filed a written request with the carrier for such notice.

(v) It should be understood that the Association is obligated, subject to the limitations herein provided, to provide only the insurance coverages required herein, and that such coverages shall not, unless the Association shall notify the Owners otherwise in writing, include intra-unit public liability insurance; nor shall the insurance obtained by the Association, in the absence of such notice, provide protection against many of the risks, customarily covered under insurance policies designated as "homeowners" or "broad form homeowners" policies. The foregoing risks must be insured against by the Owners individually in order for the Owners to receive insurance protection against these risks.

(vi) The policies of insurance obtained by the Association as provided for in this Section 5.03 shall contain as appropriate the following provisions :

(1) Statements that such policies are primary and non-contributing;

(2) Statements that conduct of an Owner shall not constitute grounds for avoiding liability under such policy or policies;

(3) An express waiver of the carrier's right of subrogation against any Owner, member of the family of any Owner, the Association, the Board, the Manager, the Architectural Control Committee, Declarant, and agents and employees of each of the foregoing.

(vii) The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on the Property except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

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

V-7

88 1419228

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

5.04 Budget, Financial Statements and Governing Documents.
The Board shall cause budgets and financial statements for the Association to be regularly prepared, and copies shall be distributed to each Member of the Association as follows :

(a) A pro-forma operating statement (budget) for each Association fiscal year shall be distributed not less than forty-five (45) days before the beginning of the fiscal year. The budget shall include all of the following :

(i) The estimated revenue and expenses on an accrual basis;

(ii) The amount of the total cash reserves of the Association currently available for replacement or major repair of the facilities on the Common Areas and for contingencies;

(iii) An itemized estimate of the remaining life of, and the methods of funding to defray future repair, replacement, or additions to major components of the Common Areas for which the Association is responsible; and

(iv) A general statement addressing the procedures used by the Board in the calculation and establishment of reserves to defray the cost of repair, replacement or additions to major components of the Common Areas for which the Association is responsible.

(b) 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 of the first sale of a Lot located within the Project, and an operating statement for the period from the date of the first closing to said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by Lot number and the name of the person assessed.

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

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

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

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

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

(d) Ordinarily the annual report referred to in Section 5.04(c) above shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the Association exceeds SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

(e) If the report referred to in Section 5.04(c) above is not prepared by a licensee, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit or review from the books and records of the Association.

(f) A statement as to the Association's policies and practices in enforcing the lien rights or other legal remedies for the default in the payment of its assessments against its Members shall be delivered within sixty (60) days prior to the beginning of the next fiscal year.

(g) Upon written request, the Association shall, within ten (10) days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the following items :

(i) A copy of the governing documents of the common interest development ;

(ii) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3 of the Civil Code, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3 ;

(iii) A copy of the most recent financial statement distributed pursuant to Section 1365 of the Civil Code ; and

(iv) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include

true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367 of the Civil Code.

(v) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the members, of the governing body and of committees of the governing body of the Association for a purpose reasonably related to his interest as a member.

(h) The Association shall make available to Unit Owners, Lenders, Holders, Insurers and Guarantors of the first Mortgage on any Unit, current copies of the Declaration, By-Laws and other rules governing the Condominium, and all other books, records, and financial statements of the Association. The Association shall make available to prospective purchasers, current copies of the Declaration, By-Laws or other rules governing the Condominium, and the most recent annual audited financial statement, if such is prepared. "Available" as used in this paragraph means available for inspection upon request during normal business hours or under other reasonable circumstances.

The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

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

(a) Maintain, repair, restore, replace and make necessary improvements to the Common Areas, including, without limitation, the following:

(i) The improvements and landscaping of the Common Areas, (but not including Exclusive Use Common Areas), thereon as initially constructed by Declarant and as constructed by the Association, provided, however, that the repair and maintenance obligations of the Association shall specifically exclude air conditioning equipment and hot water heaters, notwithstanding that such equipment may be located in or on the Common Area;

(ii) The exterior surfaces of all Condominium Buildings, to include the painting thereof, including, the maintenance, repair and replacement of the exterior part materials of the roofs of the Condominium Buildings, together with such subsurface roofing materials as are consistent with good roofing maintenance practice, but excluding window glass and any lighting fixtures separately metered to the Owners which shall be maintained, repair, and replaced by the Owners;

(iii) All garage doors of the garage elements appurtenant to the Units (except for the garage door opening systems, if any, including without limitation, handles, hinges, springs, electric motor and opener, and other parts of the garage door opening mechanism;

(iv) Private walkways, or other pedestrian paths, except those within Exclusive Use Common Areas;

(v) Private streets and adjacent streetscapes within the covered property in conformance with the standard of maintenance established by the Director of Public Works of the City for public streets and streetscapes within the City;

(vi) Private storm drains, drainage facilities and easements in accordance with local requirements;

(vii) Repair and maintain the Common Area occasioned by the presence of wood-destroying pests or organisms.

(b) If determined by the Board to be economically feasible, perform a periodic inspection and preventative program for the prevention and eradication of infestation by termites and other wood destroying and other pests and organisms in the covered property; and

(c) Maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote or written consent of sixty-seven percent (67%) of the voting power of the Members.

The costs of any such maintenance and repair pursuant to this Section shall be paid out of the general funds of the Association, except as otherwise herein specified as payable by the particular Owners.

5.06 Relocation for Repairs. The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the Association shall be borne by the Owner affected.

(a) The Association may cause the temporary, summary removal of any occupant of a Unit for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

(b) The Association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the Owners, not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

(c) Notice by the Association shall be deemed complete upon either;

(i) Personal delivery of a copy of the notice to the occupants, and sending a copy of the notice to the Owners, if different than the occupants, by first-class mail, postage prepaid at the most current address shown on the books of the Association.

(ii) By sending a copy of the notice to the occupants at the Unit address and a copy of the notice to the Owners, if different than the occupants, by first-class mail, postage prepaid, at the most current address shown on the books of the Association.

(iii) For purposes of this section, "Occupant" means an Owner, Resident, Guest, Invitee, Tenant, Lessee, Sublessee, or other person in possession.

5.07 Performance of Owner's Obligations by Association. In the event that an Owner fails to accomplish any maintenance, installation or repair required by this Article, the Association or its delegates may, but shall not be obligated to, cause such maintenance, installation or repair to be accomplished as herein-after set forth.

(a) Upon finding by the Board of a deficiency in such maintenance, installation or repair the Board shall give notice of deficiency to the Owner which shall briefly describe the deficiency and set a date for hearing before the Board or a committee selected by the Board for such purpose. The Board may delegate its powers under this section to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than fifteen (15) nor more than thirty (30) days from the date of delivery of said notice.

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

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

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

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

(ii) The date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period;

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

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

(f) If the Association pays for all or any portion of such maintenance, or installation, such amount shall be reimbursed by the Owner to the Association within thirty (30) days.

5.08 Delegation of Duties by Association. The Association may delegate any 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.

5.09 Right of Entry. The Association shall have the right to enter into any Unit or any Common Area for the purpose of ascertaining whether the provisions of this declaration have been or are being complied with, for the purpose of enforcing by peaceful means any of the provisions of this declaration and the Rules and Regulations or for the purpose of maintaining or repairing any such area as required by this Declaration. Entry into a Unit for emergency purposes may be immediate, provided, however such entry shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party. Entry into a Unit for other than emergency repairs shall be made only after three (3) days notice has been given to the Owner, shall be made at reasonable hours and with as little inconvenience as possible to the Owner, and any damage caused thereby shall be repaired by the entering party.

5.10 Utility Easements. The Association is authorized and empowered to grant such licenses, easements and rights of way for sewer lines, water lines, underground conduits, telephone or cable television lines, storm drains and other utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Units and/or Common Areas and/or for the preservation of the health, safety, convenience and welfare of the Owners, over, under, across and through those portions of the Common Areas of the Property upon which no building or other structure has been erected. Such licenses, easements and rights of way may be granted at any time prior to twenty-one (21) years after the death of the individuals who have signed 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 in favor of Declarant with the right to grant same to the Association and/or to the others as herein contemplated; and Declarant and the Owners, upon request of the Association, shall take such actions (without being required to expend monies in connection therewith) and execute such instruments as may be reasonably necessary to implement and perfect the purposes of this Section 5.09.

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

ARTICLE VI

COVENANT FOR ASSESSMENT

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

(a) Regular Assessments or charges;

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

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

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

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

VI-1

88 1419228

All assessments, together with interest thereon, costs of collection thereof, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien, with power of sale, upon the real property estate against which each such assessment is made. The lien shall become effective upon recordation of a Notice of Claim of Lien in accordance with Section 6.08 of this Declaration. Each such assessment, together with such interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due, and shall bind his heirs, devisees, personal representatives, successors and assigns; provided, however, that the personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

6.02 Purpose of Assessments - Generally. The assessments levied by the Association shall be collected, accumulated and used exclusively to promote the recreation, health, safety, and welfare of the Members of the Association, including without limitation, use for the improvement and maintenance of the Common Area and the common facilities and the administration of the Property for the common good of the Owners. The Association shall not impose or collect an assessment penalty or fee that exceeds the amount necessary for the purpose or purposes for which it is levied.

6.03 Regular Assessments.

(a) The regular assessments levied by the Association shall be collected, accumulated and used generally for the maintenance and operation of the Common Area and common facilities, the administration of the Property and the Association, the establishment for reserves as contemplated in Section 6.12 hereof, and for such other purposes as may be from time to time reasonably determined by the Board, subject to such limitation as may be set forth in the Condominium Documents.

(b) Subject to adjustment of such assessment rate at the sole discretion of the Board if and when subsequent phase(s) of the overall development is/are annexed into the Property based on budget and assessment data submitted by Declarant to the California Department of Real Estate in connection with the obtaining of a Public Report for any subsequent phase, until January 1 of the year immediately following the year in which the first sale to a purchaser of a Condominium located within the Property is consummated, the regular assessment shall be that dollar amount per month per Condominium then subject to assessment as was provided for in the Association budget that was approved by the California Department of Real Estate in connection with the issuance of the most recent Public Report for the Project.

VI-2

88 1419228

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

(d) Notwithstanding the foregoing provisions of this Section 6.03, the Board may not, without the vote or written assent of a majority of the voting power of each class of membership constituting a quorum, impose a regular annual assessment per Condominium which is more than twenty percent (20%) greater than the regular annual assessment per Condominium for the immediately preceding fiscal year. Notwithstanding the provisions of the immediately preceding sentence, once there is only one class of membership, the Board must obtain the vote or written assent of a majority of the voting power of the Association constituting a quorum residing in Owners, other than Declarant, in accordance with Section 4.05(b) of this Declaration, to impose the type of increase in assessments referred to in the immediately preceding sentence. For purposes of this section, quorum means more than fifty percent (50%) of the members. The monthly assessments per Condominium for the partial year referred to in Section 6.03(b) above shall be annualized for the purpose of determining whether the proposed assessments per Condominium for the Association's first full calendar year are more or less than twenty percent (20%) greater than the Regular Assessments per Condominium for such partial period.

(e) The Association may enter into an agreement with the Declarant to reduce or abate Regular Assessments pursuant to any maintenance and/or subsidy agreement approved by the California Department of Real Estate and the Veterans Administration.

6.04 Special Assessments.

(a) In addition to the Regular Assessments authorized above, the Board may levy, in any assessment year, Special Assessments for any of the purposes contemplated in Section 6.01(b) above; provided that, in accordance with the provisions of Section 4.05(b) of this Declaration, any such assessments exceeding five percent (5%) in the aggregate of the budgeted gross expenses of the Association for the assessment year in question shall require the approval by vote or written assent of Members entitled to exercise not less than a majority of the voting power of each class of Association membership, or, if there is only one class of membership, then the approval by

vote or written assent of Members, other than Declarant, entitled to exercise a majority of the voting power of the Association. Written notice of the amount of any Special Assessment shall be sent to every Owner, the due date for payment of same shall be set forth in such notice, and to the extent reasonably appropriate, each Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments. The above provisions with respect to Special Assessments do not apply in the case where individual extraordinary charges are levied against an owner for any of the purposes described in Section 6.12 below (including without limitation where the individual extraordinary charge against an Owner is used by the Board as a remedy to reimburse the Association for the costs incurred in bringing the Member and/or his condominium into compliance with the provisions of the Restrictions).

(b) The provisions of Section 6.03(d) or of Section 6.04(a) do not limit assessment increases for the following purposes :

(i) An extraordinary expense required by an order of a court.

(ii) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety on the property is discovered.

(iii) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the proforma operating budget. However, prior to the imposition or collection of an assessment under this subdivision, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

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

VI-4

NR 1419228

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

(a) The regular Assessments provided for herein shall commence as to all Condominiums located within the Property on the first day of the month following the month during which the first conveyance of a Condominium to a purchaser occurs.

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

(c) The due date of any individual Extraordinary Assessment referred to in Section 6.01(c) hereof shall be fixed in the resolution authorizing such assessment and shall be set forth in the Notice of Assessment given to the Member liable therefor.

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

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

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

VI-5

88 1419228

assessments or portion thereof therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of any such certificate.

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

(a) If any assessment, Regular, Special or Reconstruction, or any portion thereof, is not paid on the date when due, then such assessment or portion thereof not paid when due shall be deemed delinquent fifteen (15) days after the due date and shall, together with interest thereon at the rate of ten percent (10%) per annum until paid, and costs of collection, reasonably incurred, including but not limited to reasonable attorneys' fees as provided for below, become a continuing lien on the Condominium against which such assessment was made when such lien is perfected by the recordation of a "Notice of Claim of Lien" against the Owner's fee interest in such Condominium in the manner provided for in Section 6.08(b) below. Upon recordation of a notice of Claim of Lien against a Condominium, such lien shall constitute a lien on the Condominium prior and superior to all other monetary liens on the Owner's fee interest except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any first mortgage of record made in good faith and for value.

(b) Any assessment imposed pursuant to the terms of this declaration, if delinquent, shall include a late charge in the maximum amount which shall be imposed by the Board in accordance with and subject to the limitations of California Civil Code Section 1366 or any successor statutes. Interest shall accrue on all sums imposed in accordance with this Article, including the delinquent assessment, reasonable costs of collection and late charges, at an annual percentage rate of ten percent (10%) per annum, commencing thirty (30) days after the assessment becomes due.

(c) In addition to all other legal and equitable rights or remedies, the Association may, at its option, bring an action at law against the Owner personally obligated to pay the assessment and all charges relating thereto (and such action may be brought without foreclosing or waiving any lien security such amount); or, upon compliance with the notice provisions set forth in Section 6.08(d) below, the Association may foreclose the lien against the Unit, and there shall be added to the amount of such assessment or any portion thereof, the interest thereon at the rate of ten percent (10%) per annum and all costs and expenses, including but limited to reasonable attorneys' fees, incurred by the Association in collecting the delinquent assessment. In lieu of judicially foreclosing the lien, the Association, at its option, may foreclose such lien by proceeding under a power of sale as provided for in Section 6.08(e) below, such power of sale

VI-6

NA 1419228

being given to the Association as to each and every Unit for the purpose of collecting delinquent assessments. Each Owner vests in the association, its successors or assigns, the right and power to bring all actions at law or of lien foreclosure against such Owner or other Owners for purposes of collecting delinquent assessments.

(d) No action shall be brought to foreclose the lien, or to proceed under the power of sale, until at least thirty (30) days after a Notice of Claim of Lien, executed by a duly authorized representative of the Association, has been recorded with the County Recorder for the county in which the Property is located, said Notice setting forth the amount claimed (which may include late payment charges as provided for above, expenses of collection, including reasonable attorneys' fees, and accrued late payment charges), a good and sufficient legal description of the Condominium being assessed, the name of the record owner or reputed owner thereof, and the name and address of the Association as claimant, and the name and address of the trustee authorized by the Association to enforce the lien by nonjudicial sale. A copy of said Notice of Claim of Lien shall be deposited in the United States mail, certified or registered, and postage prepaid, addressed to the Owner of the Condominium using the address of the said condominium or using such other address as may have been previously given in writing to the Association by such Owner.

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

(f) Upon the timely curing of any default for which a Notice of Claim of Lien under Section 6.08(d) or Section 3.18 of this Declaration was recorded by the Association, the officers of the Association are hereby authorized to record an appropriate release of such notice, upon payment by the defaulting Owner of a reasonable fee to be determined by the Association to cover the cost of preparing and recording such release together with the payment of such other costs, interest or fees as shall have been incurred (including but limited to reasonable attorneys' fees).

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

VI-7

88 1419228

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

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

Notwithstanding any other provisions of this Declaration, the Declarant, for each uncompleted Unit which the Declarant owns, shall be exempted from the payment of that portion of any assessment, or other monetary obligation under any assessment, subsidy or maintenance program, which is for the purpose of defraying expenses and reserves directly attributable to the existence of the Unit which is part of such Condominium. This exemption shall include without limitation : (1) roof replacement reserves; (2) exterior painting reserves and other exterior maintenance and reserve expense; (3) cable television; (4) minor repairs; (5) fire insurance; (6) walkway and carport lighting; (7) refuse disposal; and (8) domestic water supplied to living units. For each and every Condominium owned by the Declarant, this exemption shall remain in effect until a notice of completion for the Unit which is part of such Condominium has been recorded.

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

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

6.12 Extraordinary Charges. Declarant, for each Condominium owned by it within the Property, hereby covenants and agrees to pay, and each Owner of any Condominium within the Property by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such instrument, is deemed to covenant and agree to pay the Association, the following :

VI-8

88 1419228

(a) Charges levied against individual Condominium Owners by the Board in accordance with Section 5.02(d) or 5.05 ;

(b) Charges required to pay for or reimburse the Association for extra costs for maintenance and repairs caused by the wilful or negligent act of the individual Owner, his or her family, guests, tenants, lessees and/or invitees and not caused by ordinary wear and tear ; and/or

(c) Charges levied by the board to pay for or reimburse the Association for costs incurred in bringing any Owner of his Condominium into compliance with the provisions of the Restrictions.

Each such charge shall be the personal obligation of the person(s) who was the Owner of such Condominium at the time the charge arose and shall bind his heirs, devisees, personal representatives and assigns, provided however, that the personal obligation for the delinquent charge shall not pass to the Owner's successor in title unless expressly assumed by them, and provide further, that unlike the regular, special or reconstruction assessments, the above-described charges shall not become a lien against the Owner's Condominium which is enforceable by a sale of the interest pursuant to Sections 2924, 2924(b) or 2924(c) of the California Civil Code. The basis and due date for such charge and Owner(s) responsibility for same shall be fixed by resolution of the Board. Written notice of the charge shall be delivered to the responsible Owner(s). An extraordinary charge not paid when due shall be subject to the same late charge and payment of interest as provided for delinquent assessments pursuant to Section 6.08 above. An extraordinary charge, together with late charge, interest thereon and costs of collection including without limitation reasonable attorneys' fees, may be fixed and established by the Board from time to time as herein provided and may be enforced by judgment of a court of competent jurisdiction.

VI-9

88 1419228

ARTICLE VII**ARCHITECTURAL COMMITTEE****AND ARCHITECTURAL CONTROL****7.01 Architectural Control.**

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

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

(c) No person shall perform any of the prohibited acts specifically described in Section 7.01(a) and (b) above until the complete plans and specifications showing the nature, type, shape, color, size, materials and locations of such improvements, alterations, etc., shall have been submitted to and approved in writing by the Architectural Committee; in making its determination, the Architectural Committee shall consider, inter alia, the factors described in Section 7.07 below. Nothing contained herein shall be deemed to require Declarant and/or its successors and assigns described in Section 1.14 above to obtain Architectural Committee approval in connection with the original construction of the improvements on the Property or any portion thereof.

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

VII-1

88 1419228

(a) Declarant may appoint all of the original Members of the Architectural Committee and all replacements until the first anniversary of the issuance by the California Department of Real Estate of the initial final public report for the Property.

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

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

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

(e) The Architectural Committee shall act by majority vote.

(f) The Architectural Committee shall meet from time to time as necessary to perform its duties.

(g) The number of members of the Architectural Committee shall be set forth and governed by the Bylaws.

~~7.03 Certain Procedures of Architectural Committee.~~ -In the event any member is unable to or unwilling to serve on said Architectural Committee, the remaining member or members shall have full authority to approve or disapprove such proposed alteration, modification, addition, deletion, or other proposed form of change. The membership of said committee or any representative appointed thereby if other than as stated in this Declaration, shall be evidenced by a certificate of identity, which shall be executed by at least one member of said committee or by Declarant or by an authorized officer of the Association, as appropriate; which certificate shall then be conclusive

evidence thereof in favor of any person relying thereon in good faith. In the event the Architectural Committee or the representative appointed by the committee fails to approve or disapprove such proposed alteration, modification, addition, deletion or other proposed form of change within thirty (30) days after said complete plans and specifications have been submitted to it, such approval will be deemed to have been given and the provisions of this Declaration requiring any such approval shall be deemed to have been complied with. Such complete plans and specifications shall be personally delivered to any member of the Architectural Committee or mailed to the committee via certified mail, return receipt requested, postage prepaid. The plans and specifications shall be deemed submitted to the Architectural Committee upon the date of receipt by the committee of such plans and specifications.

7.04 Entry. The Architectural Committee, in performing its duties, shall have the same rights of entry as the Association as set forth in Section 5.08 hereof.

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

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

7.07 No Liability; Basis for Review.

(a) Neither the Architectural Committee nor any member thereof shall be liable in damages or otherwise to the Association or to anyone submitting plans and specifications for approval or to any owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee and/or any individual member thereof (in which event only those persons actually guilty of misconduct and/or bad faith shall be liable).

(b) The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed

improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the Property in the immediate area surrounding the Property. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials, harmony of external design with existing structures, location in relation to surrounding structures, topography and finished grade elevation, and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. Notwithstanding the foregoing, the Architectural Committee's approval of the installation of solar heating units shall not be unreasonably withheld.

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

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

ARTICLE VIII

MORTGAGEE PROTECTION

Notwithstanding any other provisions of this Declaration :

8.01 Subordination of Lien and Foreclosure.

(a) Any lien created or claimed under the provisions of this Declaration (including without limitation any assessment lien provided for under the provisions of Article VI above) is expressly made subject and subordinate to the rights of any first mortgage upon any condominium made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such first mortgage unless the mortgagee expressly subordinates his interest, in writing, to such lien.

(b) If any Condominium is encumbered by a first mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of such mortgage. Upon foreclosure of a first mortgage, the foreclosure purchaser shall take title to the Condominium free of the lien for assessments, or installments, that have accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure purchaser acquired title to the Condominium. The subsequently levied assessments or other charges may include previously unpaid assessments provided all Owners, including the foreclosure purchaser and his successors and assigns, are required to pay their proportionate share as provided for herein.

8.02 Mortgages Not Required to Cure Certain Breaches. A first mortgagee who acquires title by judicial foreclosure or as a result of a trustee's sale under the power of sale provisions of such first mortgage shall not be obligated to cure a then existing breach of this Declaration which is of a type not reasonably practical or feasible for such acquirer to cure.

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

VIII-1

NN 1419228

be enjoined or abated by Declarant, its successors and assigns, by the Association, or by any Owner by action of court of competent jurisdiction, and damages may also be awarded against any such violation.

8.04 Notification of Breach. Subject to Section 8.15, the holder of a first mortgage on a Condominium located within the Property, upon written request, shall be entitled to written notification from the Association of any default by the mortgagor of such Condominium in the performance of such mortgagor's obligations under this Declaration, the Association Bylaws, and/or with respect to any rule promulgated by the Association or the Architectural Committee pursuant to the provisions of this Declaration, which default is not cured within thirty (30) days.

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

8.06 Restrictions on Certain Changes. Unless at least sixty-seven percent (67%) of the holders of first mortgages (based upon one vote for each first mortgage) or sixty-seven percent (67%) of the Owners (other than Declarant) of Condominiums located within the Property have given their prior written approval, the Association shall not be entitled to :

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

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

(c) Partition or subdivide any Condominium.

VIII-2

88 1419228

(d) By act or omission seek to abandon or terminate the Condominium Project, except for abandonment provided by statute in case of substantial loss to the Units and/or Common Areas within the Property.

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

(f) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, the exterior appearance or the maintenance of the Units or the Common Property.

(g) Fail to maintain or cause to be maintained Fire and Extended Coverage on insurable Common Area as provided in Article V of this Declaration.

(h) Amend any provision of a project document, concerning:

- (i) Voting rights;
- (ii) Rights to use the Common Property;
- (iii) Reserves and responsibility for maintenance, repair and replacement of the Common Property;
- (iv) Boundaries of any Unit;
- (v) Owners' interests in the Common Area;
- (vi) Convertibility of Common Area into Units or Units into Common Area;
- (vii) Leasing of Units;
- (viii) Establishment of self-management by the Association where professional management has been required by any beneficiary, insurer or guarantor of a first mortgage;
- (ix) Annexation or disannexation of real property to or from the Property;
- (x) Assessments, assessment liens, or the subordination of such liens;
- (xi) Casualty and liability insurance or fidelity bonds

VIII-3

88 1419228

(xii) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey the Condominium.

(xiii) Any provisions that are for the express benefit of first mortgagees or insurers or governmental guarantors of first mortgages.

Notwithstanding the foregoing, if a first mortgagee who receives a written request from the Board to approve a proposed amendment or amendments to the Declaration does not deliver a negative response 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 the proposed amendment or amendments.

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

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

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

8.10 Payment by Mortgagees. Mortgagees of Condominiums within the Property may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area improvements within the Property and, upon making any such payments, such mortgagees shall be owed immediate reimbursement therefor from the Association.

8.11 Loss Payable Endorsement. All applicable fire and physical loss or extended coverage insurance policies shall contain loss payable clauses naming the mortgagee who encumber Condominiums by mortgage, as their interests may appear.

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

VIII-4

88 1419228

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

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

8.15 Filing of Notice; Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Unit within the Property. Such notice shall state which Unit or Units are encumbered by such Mortgage and shall further state whether such Mortgage is a first mortgage. Except as provided in this Section 8.15, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgage over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain substantially unchanged.

8.16 Governmental Financing Programs. If Declarant at any time or from time to time elects to use a financing program for all or any portion of the Property which involves any type of mortgage insurance issued by a governmental agency or quasi governmental agency such as the Federal Housing Administration (FHA herein) and/or involves the sale of first mortgages to a governmental agency or quasi governmental agency such as Federal Home Loan Mortgage Corporation (FHLMC herein) and/or involves a Federal National Mortgage Association (FNMA herein) type of

VIII-5

88 1419228

program (the aforementioned programs being collectively referred to herein as "Governmental Financing Programs"), then, it is intended that the Association and the Owners shall take whatever reasonable steps are necessary to satisfy the then existing requirements for any such Governmental Financing Program selected by Declarant, including without limitation the requirement that, when available, the Association shall obtain and maintain such types of coverages of insurance, evidenced by policies of insurance and endorsements, when applicable, in such form and issued by such carriers as shall from time to time meet the requirements of the particular Governmental Financing Program involved which apply to the Property. Under such circumstances, all policies of hazard insurance required to be obtained and maintained pursuant to the provisions of this paragraph 8.16 must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors for similar projects in the area in which the Property is located. The Association agrees to give written notice to the Federal Home Loan Mortgage Corporation ("FHLMC") or its designated representative of any loss to, or taking of, the Common Area if such loss or taking exceed Ten Thousand Dollars (\$10,000.00) or damage to a Condominium covered by a first Mortgage purchased in whole or in part by the FHLMC which damage exceeds One Thousand Dollars (\$1,000.00).

8.17 Estoppel Certificate. The Association shall, at the request of a mortgagee of an interest in any Condominium located within the Property, report any unpaid assessments due from the Owner of such interest in the Condominium.

VIII-6

88 1419228