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OF
1578 INDIANA STREET
A CONDOMINIUM PROJECT**

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**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
OF
1578 INDIANA STREET
A CONDOMINIUM PROJECT**

THIS DECLARATION is made on the date hereinafter set forth by 1578 Indiana Corporation, (hereinafter collectively called "Declarant" or "Grantor").

WHEREAS, Grantor is the owner of all that certain real property located at 1578 Indiana Street , more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Map").

WHEREAS, the project is a condominium project within the meaning of California Civil Code Section 1351(f) and is subject to the provisions of the Davis-Stirling Common Interest Development Act (Civil Code Sections 1350-1372, inclusive); and

WHEREAS, it is Grantor's intention to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all of said condominiums and the owners thereof; and

WHEREAS, Grantor hereby establishes by this Declaration a plan for the individual ownership of the real property estates, consisting of the area of space contained in each unit as well as the co-ownership by the individual owners as hereafter set forth of all the remaining portions of the Project (hereinafter called the "Common Area").

NOW THEREFORE, Grantor hereby declares that the property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the improvement of the property and the division thereof into condominiums and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Project and every part thereof. All of the limitations, covenants, restrictions, and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title, or interest therein or any part thereof, and shall be for the benefit of each owner of any portion of said Project or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest.

ARTICLE I - DEFINITIONS

"Assessment" means any Regular or Special Assessment made or assessed by the Association against an Owner and his or her Condominium according to the provisions of Article V of this Declaration.

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The "Association" means the 1578 Indiana Street Homeowners' Association, a California non-profit mutual benefit corporation, membership in which shall be limited to Owners (as hereinafter defined) and in which all Owners have a membership interest.

"Beneficiary" means and refers to a mortgagee under a mortgage or a beneficiary under a deed of trust encumbering a unit.

"Board" or "Board of Directors" means the governing body of the Association.

"By-Laws" means the By-Laws of the Association which are or shall be adopted by the Board.

"Common Area" means and refers to those portions of the Property to which the Association holds title or a license to use, and those portions of the Property to which title is held by the Owners as tenants-in-common, as more particularly described in general Note 3 of the Map and excepting the individual units.

"Condominium" means an estate in real property as defined in California Civil Code Section 1351(f) consisting of an undivided interest in a common area together with an interest in a unit including certain easements appurtenant to such unit. For the purpose of this Declaration, the ownership of each Condominium includes a unit together with the easements appurtenant to such unit, the respective undivided interests in a common area and a membership in the Association (as hereinafter defined).

"Declarant" means and refers to the parties mentioned in the first paragraph of page 1 of this document, and all successors and assigns of Declarant, if such successors and assigns acquire more than one unit for the purpose of resale to another.

"Declaration" means and refers to the within Declaration of Covenants, Conditions and Restrictions.

"Director" means and refers to a member of the Board of Directors.

"Eligible Mortgage Holder" means and refers to those holders of a first mortgage on a unit estate who have requested the Association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

"Final Public Report" means the subdivision public report issued by the Department of Real Estate of the State of California which shall allow Declarant to sell one or more Units in the Project.

"Governing Documents" mean the Bylaws, the Declaration, the Parking Easement Agreement and the Rules adopted by the Association.

"Institutional Lender" means any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any unit.

"Map" refers to that certain subdivision or parcel map more particularly described in Exhibit A attached hereto and incorporated herein by reference.

"Member" means and refers to those unit owners who are members of the Association pursuant to Article III hereof.

"Mortgage" means a deed of trust as well as a mortgage.

"Mortgagee" means a beneficiary under or holder of a deed of trust as well as a mortgage.

"Owner" or "Owners" mean the holder or holders of record of fee title to a condominium, and a contract vendee of a condominium, including Grantor.

"Plan" shall mean and refer to that certain diagrammatic floor plan of the units built on the property which identifies each unit and shows its dimensions pursuant to Civil Code Section 1351(f), which plan is shown on the Map.

"Project" and "Property" means the entire parcel of real property divided or to be divided into condominiums including all present and future structures thereon, and including all easements and licenses appurtenant to the real property.

"Restricted (exclusive use) Common Area" means and refers to those portions of the Common Area set aside for exclusive use of a unit owner or owners, as hereinafter set forth in Article II, Section 4 of this Declaration. This term shall have the same meaning as "Exclusive Use Common Area" as defined in Civil Code Section 1351(i).

"Rules" means the Rules adopted by the Association pursuant to this Declaration, the Bylaws, and the Parking Easement Agreement.

"Unit" shall mean the elements of a condominium which are not owned in common with the owners of the other condominiums in the Project. Each Unit is shown, numbered and delineated on the Map. The boundaries of each unit are defined in General Note 2 of the Map.

Each unit is subject to such encroachments as are contained in the building, whether the same now exist or may be later caused or created in any manner referred to in Article VI of this Declaration. In interpreting deeds and plans, the then existing physical boundaries of a Unit, whether in its original state or reconstructed in substantial

accordance with the original plans thereof will be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or the Plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the Plan or the deed and those of the building.

**ARTICLE II - DESCRIPTION OF PROJECT,
DIVISION OF PROPERTY AND CREATION OF
PROPERTY RIGHTS**

Section 1. Property Subject to Declarations:

All of the real property shown on the Map is hereby declared to be subject to this Declaration.

Section 2. Partition Prohibited:

The Common Area will remain undivided as set forth above. Except as provided by California Civil Code Section 1359, no Owner shall bring any action for partition. It is agreed that this restriction is necessary in order to preserve the rights of the Owners regarding the operation and management of the Project. Judicial partition by sale of a single Unit owned by two or more persons and division of the sale proceeds is not prohibited hereby but physical partition of a single Unit is prohibited.

Section 3. Common Area Ownership:

There will be conveyed with each respective Unit an undivided interest in Common Area in the percentages set forth in the Map and on Exhibit B hereto. The undivided interest in Common Area to be conveyed with the respective Units cannot be changed, and Declarant, its successors, assigns and grantees covenant and agree that the undivided interests in Common Area, and the fee title to the respective Units conveyed therewith, will not be separated or separately conveyed, and each such undivided interest is to be deemed conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit.

Each Unit and each Unit Owner will share the expense of the Common Area equally.

Section 4. Restricted (Exclusive Use) Common Areas:

Certain restricted (exclusive use) Common Areas are hereby set aside and allocated for the exclusive use of the owner of the Unit to which they are assigned by Unit designation on the Map and/or by grant deed from Declarant.

Where a Restricted (exclusive use) Common Area has not been assigned by notation on the Map, Declarant shall permanently assign the exclusive use of such Restricted (exclusive use) Common Area to particular Units upon conveyance of such

Units, which assignments shall become an irrevocable portion of the ownership interest in the Unit to which assigned by Declarant.

Notwithstanding any other provision in this Declaration, the internal and external telephone wiring designed to serve a separate Unit are restricted (exclusive use) areas allocated exclusively to that particular Unit.

A Unit Owner shall be entitled to reasonable access to the Common Area for the purpose of maintaining the internal and external telephone wiring made part of a Restricted (exclusive use) Common Area pursuant to this section. Such access shall be subject to the consent of the Board of Directors of the Association, whose approval shall not be unreasonably withheld, and which may include the Board's approval of telephone wiring upon the exterior of the Common Area, and other conditions as the Board determines reasonable.

ARTICLE III - HOMEOWNERS ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Organization:

The Association is a California non-profit mutual benefit corporation charged with the duties and empowered with the rights set forth herein and in the By-Laws and Articles of Incorporation. Its affairs shall be governed by this Declaration, the Articles, the By-Laws and the Rules of the Association. In the event that the Association as a corporate entity is dissolved, a non-profit, unincorporated association shall forthwith and without further action or notice be formed to succeed to all the rights and duties of the Association. The affairs of such unincorporated association will be governed by the laws of the State of California and, to the extent consistent therewith, by this Declaration, the Articles and the By-Laws of the Association as if they were created for the purpose of governing the affairs of an unincorporated association.

Section 2. Membership:

The Owner of a Unit shall automatically, upon taking title to a Unit, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association will automatically cease. Membership is to be held in accordance with the Articles and By-Laws of the Association.

Section 3. Transferred Membership:

Membership in the Association may not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the Unit to which it is appurtenant, and then only to the purchaser, in the case of a sale, or Mortgagee, in the case of an encumbrance of such Unit. A Mortgagee does not have membership rights until he

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becomes an Owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void.

Section 4. Voting Classes:

The Association shall have two (2) classes of voting membership:

(1) **Class A:** Class A Members shall be all Owners with the exception of the Declarant, and Class A Members shall be entitled to one vote for each Unit owned. When more than one person holds an ownership interest in any Unit, all such persons shall be Members; provided, however, that regarding any matter requiring the vote or consent of Members, no more than one vote shall be cast regarding any Unit. The vote for such Unit shall be exercised as the Members holding an interest in such Unit among themselves determine. In the event of a disagreement, the decision of Members holding a majority of interest in such Unit shall govern.

(2) **Class B:** The Class B Member(s) shall be the Declarant, and Declarant shall be entitled to three (3) votes for each Unit owned. The Class B membership shall cease and be converted to Class A membership when the first of the following events occur:

1. when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
2. a prescribed date which is not later than the second anniversary of the first conveyance of a subdivision interest in the development.

Any action by the Association (with the exception of enforcing a bond) which must have the approval of the Members other than the Declarant before being undertaken shall require the vote or written assent of fifty-one percent (51%) of each class of membership during the time that there are two outstanding classes of membership. When only a single class exists after conversion of Class B to Class A membership, any action by the Association which is subject to the approval of Members other than the Declarant shall require the vote or written assent of fifty-one percent (51%) of the total voting power of the Association as well as the vote or written assent of fifty-one percent (51%) of the total voting power of Members other than the Declarant. Declarant can waive any of the above provisions which are for the benefit of Declarant.

Voting rights attributable to Unit ownership shall not be vested until assessments against the particular Unit have been levied by the Association.

Section 5. Voting Procedures and Meetings:

The Bylaws shall provide the voting procedures and the notice, quorum requirements and location of meetings of the Association.

Section 6. Board of Directors:

The Board shall undertake all duties and responsibilities of the Association and the management and conduct of the affairs thereof, except as expressly is reserved herein to a vote of the Members. The initial Board of the Association consisting of three (3) Directors shall be appointed by Declarant. Such Board shall hold office until the first regular meeting of the Members is held pursuant to the By-Laws. At said meeting, a new Board of three (3) Directors shall be elected to serve until the next regular annual meeting of the Association Members or until their successors are elected. The number of Directors may be changed by amendment of the By-Laws.

ARTICLE IV - DUTIES AND POWERS OF THE ASSOCIATION

Section 1. Duties:

In addition to the duties stated in its By-Laws, or elsewhere in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

Subsection 1.1 Maintenance:

The Association shall maintain, repair, replace, restore, operate and manage all of the Common Area.

Maintenance shall include (without limitation): painting, maintaining, repairing and replacing of all Common Area glass surfaces other than exterior windows or glass doors of Units, landscaping not lying upon the Restricted (exclusive use) Common Areas, decks (except as provided in Article VI, Section 4 below), patios, storage areas, entry areas, mechanical rooms, elevators and parking areas. The Association shall not have responsibility to maintain skylights which are for the benefit of individual units. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner, or his guest, tenants or invitees, the cost of which is not covered by insurance.

The repair or replacement of a Unit exterior resulting from such excluded items shall be the responsibility of each Owner. However, if an Owner fails to make the repairs or replacements which are the responsibility of such Owner, as provided above, then, upon a vote of a majority of the Board of Directors, and after not less than thirty (30) days notice to the Owner, and a hearing, the Association shall have the right, but not the obligation, to enter the Units and make such repairs or replacements. The cost thereof shall be added to any amount due to the Association and shall be payable to the Association by the Owner of such Unit.

**Subsection 1.2 Repair and Maintenance of Common Area
Damaged by Pests and Organisms:**

The Association shall be responsible for repairing, replacing, or maintaining the Common Area, other than Restricted (exclusive use) Common Areas, regarding any damage caused by the presence of wood-destroying pests or organisms.

Each Owner of a Unit shall bear the costs of any damage to his Unit residence caused by the presence of wood-destroying pests or organisms. However, by a majority vote of all Unit Owners, such responsibility may be delegated to the Association which in turn may levy a special assessment to recover such costs. In the event such a vote is taken, and the Association assumes responsibility for such maintenance and repair, the following shall apply:

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; and

The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the Association shall be borne by the individual Unit Owner; and

The Association shall give notice of the need to temporarily vacate a Unit to the occupants and to the Owner(s), 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 the 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; and

Notice by the Association shall be deemed complete upon either 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 or 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.

For purposes of the above sections, "occupant" means an Owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession of the Unit residence.

Subsection 1.3 Insurance:

The Association shall maintain a policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable value of the Units and the Residential Common Area payable to the Association and held for the benefit of the Owners, the Mortgagees, the licensees and such other persons as their interests may

appear, or such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection to the Owners, and their Mortgagees, as their respective interests may appear. Each policy shall provide that it shall not be canceled without at least thirty (30) days prior written notice to the Association and to each Unit Owner. Each such policy may be for a period of not to exceed three (3) years provided that the policy permits a short rate cancellation by the insured.

On an annual basis, the Board shall distribute to the members of the Association an insurance summary in conformance with Article V of the By-Laws. In addition, the Board shall review the limits of such insurance at least every other year, and shall increase or adjust the same if necessary to provide such adequate coverage and protection as is customarily carried by prudent property owners. Said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgages of each Condominium, if any.

The Association shall maintain a policy or policies of comprehensive public liability insurance in the amount of two million dollars (\$2,000,000) or more (or, in the case of projects exceeding 100 units, three million dollars (\$3,000,000) or more) insuring the Association, the Declarant, the Board, the Owners, and any Manager appointed as hereinafter provided against any liability to the public or to the Unit Owners incident to the ownership and/or use of the Project to protect against any liability to the public or to any Unit Owner incident to the use of, or resulting from any accident or intentional act occurring in or about, any Unit, the Common Area. The minimum limits of such insurance shall be established to provide such coverage and protection as is customarily carried by prudent owners of similar property and to meet the minimum amounts required by Civil Code Section 1365.9 or a comparable superseding statute. Each such policy may be for a period of not to exceed three (3) years, provided that the policy permits a short rate cancellation by the insured. The Board shall review the limits and coverage of such insurance at least every other year and shall increase or adjust the same, if necessary, to provide adequate coverage and protection to the Association, Board, Manager, if any, and Unit Owners. Said policy or policies shall provide a cross liability endorsement wherein the rights of a named insured thereunder shall not be prejudiced as respects any action by one insured thereunder against another named insured.

The Association shall maintain a policy of Workers' Compensation Insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project, and any other types of insurance, or insurance in amounts in excess of the limits provided above if the Board shall determine the same to be necessary in its sole discretion to fully protect the interest of the Unit Owners. Any insurance acquired by the Board may be taken in the name of the Association, as trustee, for the use and benefit of the Board, the Manager, if any, and all Unit owners.

In the event any insurance policy, or any endorsement thereof, required by Section I is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board shall notify the Owners of any material adverse changes in the Association's coverage.

The Association shall maintain a policy which includes a fidelity bond or insurance covering loss or theft of funds, naming the Manager (if any) and such other persons as may be designated by Declarant as principals and the Owners as obligees in an amount equal to at least the sum of three months' assessments on all lots within the Project. Separate bank accounts should be maintained for the working account and reserve account, or any management company must maintain separate records and bank accounts for each Owners' Association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Owners' Association reserve account. Two members of the Board must sign any checks written on the reserve account.

Subject to any restrictions imposed by any Mortgagees and Civil Code Section 1365.9 or a comparable superseding statute, the Board shall have the power and right to deviate from the insurance requirements contained in this Subsection, in any manner that the Board, in its discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Subsection, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least 30 days before the effective date of the reduction.

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim, or to enforce any claim by legal action or otherwise, and to execute releases in favor of any insurer.

Each Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association as the Owner's attorney-in-fact for purposes of negotiating, accepting, compromising, releasing, settling, distributing, and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

The Board periodically (and not less than once every 2 years) shall review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Board considers to be in the best interests of the Association. The review shall include an appraisal by a qualified appraiser of the current replacement costs of all covered property under the Association's policy unless the Board is satisfied that the current dollar limit of the property policy, coupled with the amount of actual reserves on

hand, is equal to or greater than the current replacement costs. On an annual basis, the Board shall distribute to the members of the Association an insurance summary in conformance with Article V of the By-laws.

Subsection 1.4 Discharge of Liens:

The Association shall discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof to the Member or Members responsible for the existence of said lien. Prior to any Board decision to discharge a lien, the Owner shall be given written notice and an opportunity for a hearing before the Board in order to present any defenses which may exist.

Subsection 1.5 Assessments:

The Association shall fix, levy, collect and enforce assessments as set forth in Article V hereof.

Subsection 1.6 Payment of Expenses:

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

Subsection 1.7 Enforcement:

The Association shall enforce this Declaration.

Subsection 1.8 Budget and Annual Report:

Regardless of the number of Members or the amount of assets of the Association, the Board shall cause to be maintained a full set of books and records and statements according to the provisions of the By-Laws, Article V, Section 2, Subsection 2.3.

Subsection 1.9 Documents to be provided to Requesting Owner:

Upon written request, the Association shall provide to each requesting owner a copy of the items set forth in Civil Code Section 1368 (a), within 10 days of the mailing or delivery of the request. The Association's fee for providing these documents shall not exceed the reasonable cost to prepare and copy the requested items. The Association shall not impose or collect any assessment, penalty, or fee in connection with a transfer of title or any other interest except the Association's actual costs to change its records, and the preparation and cost of reproducing the documents.

Section 2. Powers:

In addition to the powers stated in its Articles and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

Subsection 2.1 Easements:

The Association shall have authority to grant easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area(s) and the Condominium Units.

Subsection 2.2 Access:

The Board and its agents or employees shall have the exclusive right to enter a Unit as necessary in connection with construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common. Except in case of emergency, forty-eight (48) hours notice shall be given to the Owner or the occupant.

Subsection 2.3 Manager:

The Association may employ a professional manager or other persons and hire independent contractors or employees to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record or foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent, or any contract providing for services by the Declarant, sponsor or builder, shall not exceed a one (1) year term, shall provide for termination by either party without cause on ninety (90) days or less written notice, and shall provide for the right of the Association to terminate the same for cause on thirty (30) days' written notice.

Subsection 2.4 Association Rules:

The Board may, from time to time, and subject to the provisions of this Declaration, the By-Laws, and the Articles of Incorporation, adopt rules for the management of the Project in accordance with the provisions set forth in the By-Laws, Article V, Section 1, Subsection 1.1.

A copy of the Rules so adopted shall be furnished to each Owner, and each Owner, his family, guests, employees, invitees, licensees and tenants shall comply with such Rules.

Subsection 2.5 Enforcement of Rules and Restrictions:

The Board shall have the power, obligation and duty to enforce the provisions of this Declaration, the By-Laws, and the Rules. In the event of a breach of any of the restrictions contained in this Declaration, the Bylaws, or of any Rules by an Owner, his family, guests, employees, invitees, licensees or tenants, the Board may enforce the obligations of each Owner and licensee to obey such Rules or restrictions in any manner provided by law or in equity, including but not limited to, appropriate legal action, suspension of the Owner's voting right and right to use the common facilities of the Project; provided, however, such suspension may not be for a period in excess of thirty (30) days, and may not be imposed without notice and hearing as herein provided, for an infraction of such Rules and restrictions.

In addition to the other remedies herein set forth, the Board, by majority vote, may levy a fine in accordance with the schedule and monetary penalties adopted by the Board against such Owner, in accordance with the schedule of monetary penalties adopted by the Board, after appropriate notice and hearing as herein provided, in an amount (for each such violation) which bears a reasonable relationship to the gravity of the infraction and the burden on the Association. The right to levy fines, hold disciplinary hearings or otherwise impose discipline on Members under this section is vested solely in the Board and may not be delegated to any Director, officer, or manager or other employees of the Board or Declarant.

Prior to making any decision that a breach has occurred or to impose any penalty provided herein for breach of any Rules enacted hereunder or restrictions contained in this Declaration, the Board shall send written notice to the Unit Owner specifying the nature of the alleged infraction and provide an opportunity to the Unit Owner for a hearing before the Board regarding such infraction and the penalty to be imposed.

Notwithstanding anything to the contrary in this Declaration, neither the Board nor the Association or Members shall have the power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his individually owned Unit, including access thereto over and across the Common Area, because of such Owner's failure to comply with the provisions of this Declaration or of the By-Laws or any Rules adopted by the Association relating to the operation of the Common Area or Common Area facilities except when such loss or abridgment results from a judgment or arbitration award or on account of a foreclosure or under the power of sale granted herein for failure of the Owner to pay the assessments levied pursuant to the provisions of this Declaration. In the event the Board institutes legal action pursuant to this section, any judgment rendered in any such action shall include costs of collection, court costs and reasonable attorneys' fees. A monetary penalty or reimbursement charge imposed by the Association as a disciplinary measure for failure of a Member to comply with the governing instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas and facilities for which the Member was allegedly responsible or in bringing the Member and his Unit into compliance with the governing instruments may not be characterized nor treated in the Governing Documents as an assessment which may become a lien against the Member's Unit enforceable by a sale of the Unit in accordance with Section 2924 of the California Civil Code.

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

Subsection 2.6 Acquisition of Property:

The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate

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for public use or otherwise dispose of real or personal property in connection with the affairs of the Association. However, except with the vote or written assent of a majority of the voting power of the Association residing in Members other than the Declarant, the Board is prohibited from (1) 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 and (2) 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.

Subsection 2.7 Loans:

The Association shall have the power to borrow money and, with the assent (by vote or written consent) of three-fourths (3/4) of each class of Members, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Subsection 2.8 Dedication:

The Association shall have the power to dedicate, sell or transfer all or any part of the Common Area A to any public agency, authority, or utility for such purposes and subject to such conditions upon which the Members may agree. No such dedication or transfer shall be effective unless an instrument has been signed by three-fourths (3/4) of each class of Members, or three-fourths (3/4) of the total voting membership other than the Declarant after conversion to a single class of Members, agreeing to such dedication, sale or transfer.

Subsection 2.9 Contracts:

The Association shall have the power to contract for goods and/or services for the Common Area(s), for the common facilities or interests of the Owners or for the Association, subject to limitations set forth elsewhere in this Declaration or the By-Laws of the Association.

Subsection 2.10 Delegation:

The Association shall have the power to delegate certain portions of its authority and powers to committees, officers or employees of the Association. However, the Association may not delegate the authority to levy fines, hold hearings, impose discipline, make capital expenditures, file suit on behalf of the Association, record a claim of lien or institute foreclosure proceedings for failure to pay assessments, to an officer, employee or committee.

Subsection 2.11 Litigation/Alternative Dispute Resolution.

The Association shall have the power to institute, defend, settle or intervene in litigation, mediation, arbitration or administrative proceedings on behalf of the Association pursuant to Code of Civil Procedure Section 383, or a comparable superseding statute. If, and to the extent that, there is any inconsistency between this subsection 2.11, and the applicable provisions of the Code of Civil Procedure and the Civil Code pertaining to the commencement of an action by the Association to recover

damages for construction defects, the applicable provisions of the California statutes shall control.

Subsection 2.12 Power of Attorney:

Each Owner, for himself, his successors and assigns, shall be deemed upon purchasing his Condominium to have appointed the officers of the Association, or any of them, as his true and lawful attorney, in his name, place and stead, to prosecute, settle and/or release any claims arising out of the Owners' acquisition and/or joint ownership of the Common Areas of the Project. Such power shall be utilized only upon express authorization of the Board given by resolution adopted by the Board at a meeting for which all Members are given advance written notice specifying the nature of the proposed action for which the power of attorney is to be utilized.

ARTICLE V - ASSESSMENTS

Section 1. Covenants for Maintenance Assessments:

Declarant hereby covenants and agrees for each Condominium owned by it within the Project, and each Owner of any Condominium, by acceptance of a deed is deemed to covenant and agree, to pay to the Association the assessments levied pursuant to this Article. Declarant and each Owner thereby vest in the Association the right to bring all actions for the collection of such charges and to enforce the lien created hereby. Such right remains with the Association and such obligations run with the land so that each successive Owner or Owners of record of a Condominium in the Project will become liable to pay all assessments which become a lien during the time he or she is the record Owner of any Unit in the Project.

Each assessment levied by the Association under this Article constitutes a separate assessment. Each assessment, together with interest thereon, costs of collection and reasonable attorneys' fees, will be a charge on the Condominium and be a continuing lien upon the Condominium against which each such assessment is made. The Association, as the agent of all Unit Owners, has a separate lien, and a separate lien with power of sale is hereby created, upon each Condominium against which an assessment is made to secure the payment of any assessments under this Article. Each such lien for any particular month's charge will also secure interest thereon, if the same is not paid when due, and costs of suit and reasonable attorneys' fees to be fixed by the court if action or suit is brought to collect such charge. The priority of all such liens shall be in inverse order so that upon foreclosure of the lien for a particular month's charge, any foreclosure sale pursuant thereto will be made subject to all liens securing the respective monthly charge on such Condominium for succeeding months.

Each assessment, together with interest, attorneys' fees and costs of collection, shall also be a separate, distinct and personal obligation of the Owner of the Condominium at the time when the assessment fell due. The personal obligation for delinquent assessments will not pass to a Unit Owner's successor in title unless expressly

assumed by such successor, but the lien for such delinquent assessment shall remain and, if unpaid by such successive Unit Owner, may be foreclosed as provided in this Declaration. After a record Unit Owner transfers record title to his Condominium, he will not be liable for any charge thereafter assessed against such Condominium. A contract seller of any Condominium will continue to be liable for all such charges until a conveyance by him of the Condominium subject to the assessment is recorded in the Office of the City and County Recorder.

Section 2. Regular Monthly Assessments:

A. The Board shall establish regular monthly assessments for operation and maintenance of the Project by the procedures established in this Section. The assessments shall be due and payable in monthly installments on the first day of each month commencing on the first day of the first month following close of escrow of the sale of the first Condominium.

Not less than sixty (60) days prior to the beginning of each fiscal year, the Board shall estimate the total charges to be paid from the maintenance fund during such year (including a reasonable reserve for contingencies) and distribute a copy of a pro forma operating statement (budget) to each Member. All funds budgeted, allocated, assessed and collected for deferred maintenance and capital improvements shall be designated and used solely for those specific purposes.

The Board may not impose a regular assessment that is more than twenty percent (20%) greater than the regular assessment for the Association's preceding fiscal year or impose special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the approval of Owners, constituting a quorum, casting a majority of votes at a meeting or election of the Association conducted according to the voting requirements of Article III, Section 4 of this Declaration. For purposes of this section, quorum means more than fifty percent (50%) of the Unit Owners.

The above paragraph does not limit assessment increases necessary for emergency situations, which are defined as extraordinary expenses:

- (1) required by order of a court; or
- (2) necessary to repair or maintain the Project or its Common Area(s) where a threat to personal safety within the Project is discovered; or
- (3) necessary to repair or maintain the Project or its Common Area(s) that the Board could not have reasonably foreseen in preparing and distributing its pro forma operating budget pursuant to the By-Laws of the Association. However, prior to the imposition or collection of an assessment under this subsection (3), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expenses

involved and why the expenses were not or could not have been foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of assessment.

Within one hundred and twenty (120) days after the end of each fiscal year, the Unit Owners shall receive an accounting of assessment receipts and disbursements for that fiscal year.

B. The Board of Directors of the Association must, prior to any increase in assessments, follow one of the following two procedures:

(A) Prepare and distribute to all its members a copy of the operating budget not less than 45 days nor more than 60 days prior to the beginning of the Association's fiscal year, which operating budget shall include:

1) The estimated revenue and expenses on an accrual basis.

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

A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.

B) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain major components.

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain major components.

C) The percentage that the amount determined for purposes of clause (ii) of subparagraph (B) is of the amount determined for purposes of clause (i) of subparagraph (B).

3) A statement as to whether the Board has determined or anticipates that the levy of one or more special Assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor.

4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the Association is obligated to maintain;

or

(B) Obtain the approval of Owners constituting a quorum (more than 50 percent of the owners of the Association), casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

The Association shall provide notice by first-class mail to the Owners of any increase in regular assessments of the Association, not less than 30, nor more than 60 days prior to the increased assessment becoming due.

Section 3. Special Assessments:

In addition to the regular assessments authorized herein, the Board may levy, in any fiscal year, a special assessment applicable to that year for capital improvements, correction of inadequacy of the maintenance fund, defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of improvements in the Common Area(s) and such other matters as the Board may deem appropriate; provided, however, that in any fiscal year the Board may not impose special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses for that fiscal year without the approval of Owners, constituting a quorum, casting a majority of votes at a meeting or election of the Association conducted according to the voting requirements of Article III, Section 4 of this Declaration. For purposes of this section, quorum means more than fifty percent (50%) of the Owners. This section does not limit assessment increases necessary for "emergency situations" as defined in Section 2 of this Article.

Any such special assessment shall be levied upon the same basis as that prescribed herein for the levying of regular assessments except that:

A special assessment against Owners to raise funds for the rebuilding or major repair of the structural Common Area housing Units of the Project shall be levied upon the basis of the ratio of the square footage of the floor area of the Unit to be assessed to the total square footage of the floor area of all Units to be assessed; and

The provisions hereof regarding special assessments do not apply in the case where a reimbursement charge against a Member is a remedy utilized by the Board of Directors to reimburse the Association for costs incurred in bringing the Member and his Unit into compliance with the provisions of this Declaration, the By-Laws, Articles of Incorporation or the Rules.

The Association shall provide notice by first-class mail to the Owners of any increase in special assessments of the Association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

Section 4. Reimbursement Charges:

The Board shall levy a reimbursement charge against any Unit Owner and the Condominium owned by such Owner whose failure to comply with this Declaration, the By-Laws, Articles of Incorporation or the Rules has necessitated an expenditure of moneys by the Association from the maintenance fund to bring such Owner and Condominium into compliance with said instruments or in otherwise performing its functions under this Declaration. Such reimbursement charge shall be for the purpose of reimbursing the Association, and shall be due and payable to the Association when levied.

Section 5. Non-Waiver of Assessments:

The omission by the Board, before the expiration of any year, to fix the assessments for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Unit Owner from the obligations to pay the assessments, or any installment thereof, for that or any subsequent year. In the instance of such omission, the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of the Condominium or any attempt to renounce rights in the Common Area.

Section 6. Enforcement:

Covenant to Pay Assessments and Reasonable Costs of Collection. Each Unit Owner, upon becoming such Owner, shall be deemed to covenant and agree to pay to the Association every assessment provided for in this Declaration and shall be deemed to agree to the enforcement of all such assessments in the manner specified herein.

Fines and penalties for violation of the Governing Documents are not "Assessments" and are not enforceable by assessment lien pursuant to Subsection 6.3 below, but are enforceable by court proceedings.

Regular and Special Assessments shall be delinquent 15 days after they become due. In the event an attorney is employed for collection of any assessment or to enforce compliance with the terms and conditions of this Declaration, each Unit Owner agrees to pay all reasonable costs incurred in collecting delinquent assessments including but not limited to (i) legal expenses incurred; (ii) recording costs; (iii) costs incurred with the title companies or foreclosure service providers; and (iv) costs associated with court actions, in addition to any other amounts due or any other relief or remedy to which the Association is entitled (collectively "reasonable costs of collection").

(1) Late charges. Any assessment not paid when due will be deemed to be delinquent and shall be charged with a late payment equal to ten (10) percent of the delinquent amount.

(2) Interest. Any assessment not paid within thirty (30) days after the date on which it becomes due shall thereafter earn interest from the date of delinquency at the rate of twelve percent (12%) per annum.

(3) Application of Payments. Payments received on delinquent assessments shall be applied to the Owner's account in the following order of priority: first, to the principal owed; then to accrued interest and late charges; then to legal expenses; then to title company and foreclosure service company charges and other reasonable costs of collection. Payments on account of principal shall be applied in reverse order so that the oldest arrearages are retired first. Interest shall continue to accrue on unpaid balances of principal, and other costs and charges imposed according to Civil Code Section 1366(d) or a comparable superseding section.

In addition to any other remedies herein or by law provided, the Association, or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration, and each of them, in any manner provided by law or in equity, by according to the following procedures.

Subsection 6.1 Demand Letter:

When an Owner becomes delinquent in the payment of assessments and before recording a lien pursuant to Subsection 6.3 below, the Association or its authorized representative shall mail, by certified mail return receipt requested, a "Demand" letter to an Owner advising the Owner that he or she is late in the payment of assessments and requesting immediate payment. The letter shall also provide an itemized statement of the total amount of assessments then due and the amount of any late charges, any attorney's fees, collection costs, and interest then posted to the Owner's account (and a statement of how each of those sums was calculated). In addition, the letter shall advise the Owner of the Association's fee and penalty procedures and the Association's collection policies, including the right of the Association to the reasonable costs of collection.

Subsection 6.2 Claims Within the Jurisdiction of Small Claims Court. (Currently \$5,000 or Less).

This subsection shall apply only to claims by the Association for payment of delinquent assessments in the amount of \$5,000 or less.

If the Demand Letter does not result in payment in full and the Owner's assessment account remains delinquent for more than 30 days, and interest charges begin to accrue, the Association shall be entitled to pursue the Association's claims against the Owner in a Small Claims Court Action. If the Association takes this action, Subsection 6.3 does not apply to that collection matter.

Subsection 6.3. Enforcement by Lien

(a) Recordation of a Notice of Delinquent Assessment. At any time after the Demand Letter is sent to an Owner by certified mail and the Association elects not to

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pursue its claims for delinquent assessments in Small Claims Court, the Association shall be entitled to cause to be recorded against the title to the delinquent Owner's Unit. As more particularly provided in California Civil Code Section 1367 or a comparable superseding statute, the amount of any delinquent or Regular or Special or Special Individual Assessment, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Unit of the Owner so assessed only when the Association causes to be recorded in the Office of the County Recorder of the County, a Notice of Delinquent Assessment executed by an authorized representative of the Association, setting forth (a) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this Article VI and California Civil Code Section 1366, (B) the legal description of the Owner's Unit against which the Assessments and other sums are levied, (C) the name of the Owner of record of such Unit, (D) the name and address of the Association, and (E) the name and address of the trustee authorized by the Association to enforce the lien by sale.

(b) Notification of All Record Owners of the Liened Unit. Once a Notice of Delinquent Assessment has been recorded, the Association must send a copy of the Notice to all record Owners of the Unit within ten (10) days following the date of recordation. That mailing shall be certified, with all postage prepaid.

(c) Options Available to Liened Owners. The Owner of the Unit to which the Notice of Delinquent Assessment pertains shall have thirty (30) days from the recordation date of the Notice of Delinquent Assessment to pursue either of the following alternatives:

(i) Payment in Full and Termination of Collection Process. The Owner can pay all amounts shown in the Notice of Delinquent Assessment and thereby conclude the collection process. Upon payment in full of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.

(ii) Alternative of Payment Under Protest; Limitations on Exercise of This Option. Alternatively, an Owner who receives a Notice of Delinquent Assessment can: (A) pay in full and under protest all delinquent sums, interest, late charges, and other noted costs of collection; and (B) send the Association, by certified mail, a written notice that the amount is paid under protest. On receipt of that notice, the Association shall inform the protesting Owner of his or her right to have the matter resolved through alternative dispute resolution according to Civil Code Section 1354 or any superseding statute, through the filing of a civil action or through use of any other dispute resolution procedures available through the Association pursuant to Article XI, Section 7 of this Declaration. The Association shall hold monies received under protest in a segregated account until such time as the alternative dispute resolution process has concluded, provided the Owner's protest is timely and properly made and the limitations described in the immediately following paragraph do not apply. If an Owner elects to pursue alternative dispute resolution according to Civil Code Section 1354 or a superseding

statute, it shall be the responsibility of the Owner to comply with the statutory requirements relating to the preparation and service of a Request for Resolution. The right of an Owner to pay delinquent assessments under protest and to demand alternative dispute resolution pursuant to the above paragraph may be exercised only two times in any single calendar year and not more than three times in any five calendar years. Except to the extent that notices are required by law, the Association shall not provide advice to Owners regarding technical requirements of these alternative dispute procedures. The Association shall advise Owners to consult their own counsel regarding such matters.

(d) Continuation With Foreclosure Proceedings. Following the later of 30 days from recordation of the Notice of Default or the conclusion of alternative dispute resolution procedures following an Owner's protest in a manner that does not result in a binding adverse determination against the Association, the Association's lien may be enforced in any manner permitted by law or this Declaration, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted under Civil Code section 2934a.

Foreclosure by the Association of its lien may be by judicial foreclosure or by nonjudicial foreclosure by the trustee designated in the Notice of Delinquent Assessment or by a trustee substituted pursuant to California Civil Code Section 2934a. Any sale of a Unit by a trustee acting pursuant to this Section shall be conducted according to with California Civil Code Sections 2924, 2924b and 2924c, applicable to the exercise of powers of sale in mortgages or deeds of trust.

Each Owner does hereby waive, to the extent of any liens created pursuant to the Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of California now in effect, or in effect in the future.

Subsection 6.4 Enforcement by Suit for Claims Above \$5,000:

If the sum of the delinquent assessments is in excess of \$5,000, the Association may commence and maintain a suit at law for such delinquent assessments against any Owner or Owners personally obligated to pay assessments and such suit will be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon, costs of collection, court costs and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner. Suit to recover judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien provided for in the preceding Subsection 6.3. The Association may not recover twice in connection with a single delinquent assessment.

Section 7. Power of Foreclosure and Sale:

Each Unit Owner does hereby appoint the Association, as trustee, to enforce any lien created pursuant to this Declaration and to foreclose such lien by private power of sale as provided in Division III, Part 4, Title XIV, Chapter 2, Article I of the Civil Code of the State of California and Civil Code Section 1367, as such statutes may be revised, amended or altered from time to time, or by judicial foreclosure, and does further grant the Association, as such trustee, the power to sell the Unit of any such defaulting Unit Owner, or any part thereof, for lawful money of the United States, to the highest bidder to satisfy such lien.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all Unit Owners and shall secure payment of all sums set forth in the Notice of Delinquent Assessment together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said Notice of Delinquent Assessment. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Unit. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law.

Section 8. Transfer of Unit by Sale or Foreclosure:

The following rules shall govern the Association's rights to enforce its Assessment collection remedies following the sale or foreclosure of a unit.

(a) Except as provided in paragraph (b), below, the sale or transfer of any Unit shall not affect any Assessment lien duly recorded with respect to that Unit before the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

(b) The Association's assessment lien shall be extinguished as to all delinquent sums, late charges, interest, and costs of collection incurred before the sale or transfer of a Unit under a foreclosure or exercise of a power of sale by the holder of a prior encumbrance (but not under a deed-in-lieu of foreclosure). A "prior encumbrance" means any first mortgagee or other mortgage or lien recorded before the Association's assessment lien.

(c) No sale or transfer of a unit as the result of foreclosure, exercise of a power of sale, or otherwise, shall relieve the new Owner of that Unit (whether it be the former beneficiary of the first mortgage or other prior encumbrance, or a third party acquiring an interest in the Unit) from liability for any assessments thereafter becoming due or from the lien thereof.

(d) Any assessments, late charges, interest, and associated costs of collection that are lost as a result of a sale or transfer covered by paragraph (b), above, shall be deemed to be a Common Expense collectible from the Owners of all of the Units, including the person who acquires the Unit and his or her successors and assigns.

(e) No sale or transfer of a Unit as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Association's right to maintain an action against the foreclosed previous Owner of the Unit personally to collect the delinquent assessments, late charges, interest, and associated costs of collection incurred by that prior Owner prior to the sale or transfer.

Section 9. Release of Lien:

Upon payment of the delinquent assessment or the satisfaction thereof, the Association shall record, in the same manner as the Notice of Assessment, a further certificate stating the satisfaction and release of the lien.

Section 10. Status of Assessment Lien:

Upon request by any Unit Owner, the Association will furnish, for the benefit of any prospective purchaser or present or prospective encumbrancer of such Condominium, a statement showing all amounts then due which are secured by such lien. A reasonable fee, not to exceed Fifty Dollars (\$50.00), may be charged for the preparation of such statement.

Section 11. Subordination of Lien to Encumbrance:

Notwithstanding any provision to the contrary in this Declaration, the lien for assessments created by this Declaration shall be subject and subordinate to and shall not affect the rights of the holder of any recorded first Mortgage or first deed of trust upon such Condominium made in good faith and for value. In the event any lien imposed under the provisions hereof is destroyed by reason of the foreclosure of any Mortgage or deed of trust on the Condominium subject to such lien, there shall be a lien on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, charged to such Condominium after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the same manner as provided herein.

For purposes of this Section, a Mortgage or deed of trust may be given in good faith or for value even though the Mortgagee or the Beneficiary of such Mortgage or deed of trust has constructive or actual knowledge of the assessment lien provisions of this Declaration.

No amendment of this Section shall affect the rights of the holder of any mortgage or deed of trust recorded prior to recordation of such amendment unless the Mortgagee or Beneficiary joins in the execution of such amendment.

Section 12. Association Funds:

The assessments collected by the Association shall be held in trust by the Association for and on behalf of each Unit Owner and shall be used solely for the operation, care and maintenance of the Project as provided in this Declaration. The Board shall allocate a portion of said funds as collected for the annual maintenance and operation of the Project as specified in the annual budget and the Board shall allocate a

portion of said funds as collected as reserves for contingencies, replacement and deferred maintenance of the capital improvements of the Project as specified in the annual budget. Said funds shall be deposited, as allocated, into the appropriate bank accounts and said accounts shall be separately maintained by the Association. Upon sale or transfer of any Unit by any Owner, the Owner's interest in the trust funds shall be deemed automatically transferred to the successor or transferee of such Owner.

In the event that the Board retains a manager, the Board may delegate the authority to deposit or withdraw funds to responsible representatives of the manager so retained. The manager may additionally be authorized to establish a common trustee account for deposit of assessments as collected. Any funds deposited in such a common trustee account shall be allocated as previously specified herein.

Section 13. Books of Account:

The Board shall maintain full, complete and correct books of account of the operation of the Project and vouchers supporting expenditures. Any Unit Owner, or the duly authorized representative thereof, may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Association.

ARTICLE VI - EASEMENTS

Section 1. Generally:

There are hereby specifically reserved for the benefit of the Units and Unit Owners, in common and for each Unit and Unit Owner severally, and for the Association, as their respective interests apply, the easements, reciprocal negative easements, secondary easements and rights of way as particularly identified in this Article.

Section 2. Easements for Utilities and Maintenance:

The rights and duties of the Owners regarding sanitary sewer, water, electricity, gas and telephone lines and facilities, and heating facilities shall be as follows:

Whenever sanitary sewer, water, electricity, gas, television reception, cable television telephone lines or connections, heating or air-conditioning conduits, ducts, or flues are installed within or upon Condominiums owned by other than the Owner served by said connections, the Owners served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Condominiums to repair, replace and generally maintain said connections as and when necessary.

Whenever sanitary sewer, water, electricity, gas, television reception, cable television, or telephone lines or connections, heating or air-conditioning conduits, ducts, or flues are installed within the Property which connections serve more than one Condominium, the Owner served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Condominium.

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In the event of a dispute between Owners regarding the repair or rebuilding of said connections, or regarding the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors who shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

Easements over and under the Property as shown on the recorded map of the Property, are hereby reserved by Declarant and his successors and assigns, including the Association. Following sale of the first Unit, the Declarant and its successors and assigns shall only have those powers which result from its voting rights.

Section 3. Ingress and Egress:

There is hereby reserved to each Unit, as dominant tenement, a non-exclusive easement appurtenant to each Unit over and across the Common Area, as servient tenement, for ingress, egress, use and enjoyment of said Common Area subject to the limitations provided in this Declaration.

Section 4. Decks:

Each Unit and Owner shall have an exclusive easement, and such exclusive easement is hereby granted, for the use, possession and enjoyment of the decks assigned to such Unit by grant deed by Declarant. Said exclusive easement shall be subject, however, to the right of the Association to enter in and upon said decks for the purposes of maintaining and repairing the same, if appropriate pursuant to this Declaration, and enforcing the terms hereof. "Areas designated "D" followed by a number shall be granted by Declarant to the Unit with a corresponding number shown on the "Map".

Parking Spaces:

Each Unit and Owner shall have an exclusive easement, and such exclusive easement is hereby granted, for the use, possession and enjoyment of the parking spaces assigned to such Unit by grant deed by Declarant. Said exclusive easement shall be subject, however, to the right of the Association to enter in and upon said parking spaces for the purposes of maintaining and repairing the same, if appropriate pursuant to this Declaration, and enforcing the terms hereof.

Section 6. Intentionally Deleted.

Section 7. Encroachment Easements:

Each Condominium within the Property is hereby declared to have an easement over all adjoining Condominiums and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be

valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event that a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Condominium agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

ARTICLE VII - USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Condominium therein is subject to the following:

Section 1. Condominium Use:

No Condominium shall be occupied and used except for live/work purposes by the Owners and their family members, tenants, and social guests. Declarant, its successors or assigns, may use any Unit owned by Declarant for a model home site and display and sales office until the last Unit is sold by Declarant. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

Section 2. Nuisances:

No noxious, illegal, or offensive activities shall be carried on in any Condominium, or on any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each Owner of his respective Unit, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be canceled or to cause a refusal to renew a policy, or which will impair the structural integrity of any building.

Section 3. Vehicle Restrictions:

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pickup truck), inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the Property. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles are unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property. No off-road unlicensed motor vehicles shall be operated upon the Property.

The Association and its authorized agents shall have the right to enforce all parking and vehicle restrictions set forth in this section, and to remove or cause the

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removal of vehicles, trailers, or other equipment parked in violation of this section in accordance with the provisions of Vehicle Code §22658, or other applicable laws, codes, and statutes. To the extent required by law, the Association shall be authorized to post within the Common Areas all signage required by law to authorize the towing of vehicles parked in violation of these restrictions.

The Board shall have the authority to promulgate further reasonable rules and regulations of uniform application regarding the parking of vehicles within the Properties in order to implement effectively the purposes and intent of this section.

In the event that an Owner or resident believes that he or she should be granted a variance from any of the parking or vehicle restrictions contained in this section, the Owner/resident may apply to the board for a variance. Except as provided in the paragraph below, no variance may be granted by the Board until the following procedures have been satisfied: The Board shall conduct a hearing on the request for a variance. Notice of the hearing (which shall generally describe the desired variance) shall be presented in the notice of the meeting of the Board of Directors at which the matter will be considered and acted on and a copy of that notice shall be delivered to any other Unit owner within 500 feet of the applicant's Unit. The Board meeting at which the matter will be considered shall not take place sooner than 15 days following issuance of the notice. Variances shall be granted only if the Board, in its sole discretion, determines that the activity permitted by the variance will not materially or adversely compromise the purposes and intent of these restrictions.

If a variance is needed for the short-term parking of vehicles in a manner or at a location not authorized by this Section, the Board or management, if authorized by the Board, may grant a short-term variance without complying with the notice and hearing procedures described in subparagraph (i), above. A short-term variance shall be defined as the parking of any vehicle or equipment in a manner or at a location not otherwise authorized by this section for periods not to exceed 72 hours, and which does not create a safety hazard or, in the opinion of the Board/management, materially detract from the aesthetics of the development. One example of a permissible short-term variance situation would be the parking of a well-maintained motor home in a driveway while the guest/owner of the vehicle is making a weekend visit to the Owner of the property where the driveway is located.

Section 4. Signs:

Except as provided in this section and Article XI, Section 5 below regarding the Declarant's right, no signs shall be displayed to public view on any Units or on any portion of the Property except such signs as are approved by the Board or committee appointed by the Board. Each Owner may also display only one (1) "For Sale" or "For Rent" or "For Exchange" sign and may also display one (1) sign advertising directions to the Owner's Unit which is for sale, rent or exchange, provided the design, dimensions

and locations of the signs are reasonable. The Association may establish Rules from the time to time regarding the design, dimension and locations of such signs.

Section 5. Animals:

No animals or birds of any kind, shall be raised, bred, or kept in any Condominium, or on any portion of the Property, except that no more than two (2) usual and ordinary household pets such as a dog, cat, bird, etc., may be kept so long as they are not kept for any commercial purpose, and provided they are kept under reasonable control at all times. No pet may be kept on the Property which results in a nuisance as prohibited in Section 2 of this Article. Pets shall be allowed in the Restricted (exclusive use) Common Area without a leash as long as under verbal control of an occupant of a Unit. In all other Common Areas, pets must be on a leash which is held by a person capable of controlling the pet. Declarant may cause any unleashed dog found within the Common Area to be removed to a pound or animal shelter. No dog whose barking disturbs other Owners shall be permitted to remain on the Property. Owners shall prevent their pets from soiling any portion of the Common Area.

Prior to any decision by the Board pursuant to this section that an Owner is responsible for the maintenance of a nuisance or any decision to remove a pet from the Project, the Owner shall be provided with written notice specifying the nature of the infraction and an opportunity for a hearing before the Board. The remedies for an alleged nuisance shall not include any measures which may be characterized as "private self-help action" and any Board action in connection with this section shall comply with the provisions of Article IV, Section 2.5 of this Declaration.

Section 6. Garbage and Refuse Disposal:

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

Section 7. Radio and Television Antennas and Satellite Dishes:

No alteration to or modification of the central television antenna system or any subsequent cable or other system for television reception as maintained by the Association shall be permitted. No Owner may be permitted to construct and/or operate his own external radio or television antenna or satellite dish without the written consent of the Board, unless such an installation complies with Section 1376 of the California Civil Code and any reasonable restrictions imposed by the Association through such Section 1376.

Section 8. Right To Lease:

The Units shall not be rented for hotel purposes, which shall be defined as any rental if the occupants of the Unit are provided customary hotel service such as room service for food and beverage, maid service, or furnishing laundry and linen. All rental agreements shall be in writing, and shall have a term of no less than three (3) months.

The Board shall approve in advance the terms and conditions of any lease to determine its compliance with this Declaration, the Articles, the Bylaws, and the Rules adopted from time to time. Any lease shall state that it incorporates the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Articles, By-Laws, Rules.

Section 9. Clothes Lines:

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

Section 10. Power Equipment and Car Maintenance:

No major power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the Property except with prior written approval of the Board. In deciding whether to grant approval the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

Section 11. Liability of Owners for Damage to Common Area:

An Owner shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such Owner or any occupant of his Unit or guest, except for that portion of said damage, if any, fully covered by insurance. Liability of an Owner shall be established only after notice to the Owner and a hearing before the Board.

Section 12. Curtains:

All shutters, blinds, drapes, curtains or other window coverings visible from the street or Common Area shall be white or off-white, except with the consent of the Architectural Control Committee.

Section 13. Garage Conversions/Alternative Uses.

No garage shall be converted to living quarters or used for storage, hobbies or recreational activities if those conversions or nonparking uses will prevent the parking of vehicles in each of the parking stalls within the garage, unless the garage contains more parking stalls than the Owner/resident and the zoning rules requires for those authorized and regulated vehicles that the Owner/resident desires to park within the Properties on a regular basis.

ARTICLE VIII - ARCHITECTURAL CONTROL

Section 1. Committee Purpose and Size:

There shall be no modification, reconstruction or exterior change to any portion of the Common Area, including any Restricted (exclusive use) Common Areas, without the express written approval of the Architectural Control Committee which shall consist of three (3) persons. The Board of Directors may choose to act as the Architectural Control Committee.

Section 2. Appointment, Removal and Term of Office:

Declarant shall appoint all of the original members of the Architectural Control Committee and all replacements until the first anniversary of the issuance of the original Final Subdivision Public Report for the Project. Declarant shall have the right to appoint and remove a majority of the members of the Architectural Committee until such time as the Unit Owners other than Declarant own 90% or more of the Units within the Project or five (5) years after the issuance of the original Final Subdivision Public Report of the Department of Real Estate for the Project, whichever occurs first.

After one year from the date of issuance of the original Final Public Report for the Project, the Board shall have the right to appoint one member to the Committee. When Declarant waives or no longer has the right to appoint and remove the members of the Committee, said right shall be vested solely in the Board. All members appointed by the Board shall be Unit Owners. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the specification in the Minutes of the Association of each new Committee member appointed and each Member replaced or removed from the Architectural Control Committee. Vacancies on the Architectural Control Committee, however caused, shall be filled by the Declarant or the Board, whichever then has the power to appoint members.

Section 3. Duties:

It shall be the duty of the Architectural Control Committee to consider and act upon such proposals or plans submitted to it pursuant to the terms of Section 5 hereof, to adopt Architectural Control Committee Rules, to perform other duties delegated to it by the Association and to carry out all other duties imposed upon it by this Declaration.

Section 4. Meetings:

The Architectural Control Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any majority of the Committee shall constitute an act by the Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Committee shall keep and maintain a record of all actions taken by it at such meeting or otherwise. The Architectural Control Committee and its members shall be entitled to reimbursement for

reasonable out-of-pocket expenses incurred in the performance of any Architectural Control Committee function.

Section 5. Application for Approval of Improvements:

Any Unit Owner, except Declarant and its designated agents, proposing to perform any work of any kind whatever which requires the prior approval of the Architectural Control Committee shall apply to such Committee for approval by notifying the Architectural Control Committee of the nature of the proposed work in writing and furnishing such information as the Committee may require.

Section 6. Basis for Approval

When a proposed work of Improvement is submitted to the Architectural Control Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, finds that most, if not all, of the following provisions have been satisfied:

(a) The Owner's plans and specifications: (i) conform to this Declaration and to the Architectural Rules in effect at the time those plans are submitted to the Committee; and (ii) will result in the construction of an improvement that is in harmony with the external design of other structures and/or landscaping within the Properties; and

(b) The proposed improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standard prevailing within the Properties and with the overall plan and scheme of development of the Properties and the purpose of this Declaration.

Though it is recognized that the Committee's determination to approve or disapprove an improvement will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith. Factors commonly considered by the Committee in reviewing proposed improvements include the quality of workmanship and materials proposed for the improvement project; the harmony of the proposed improvement's exterior design, finish materials, and color with that of the existing structures; and the proposed location of the improvement in relation to existing topography, finished grade elevations, roads, Common Areas, and other structure.

Section 7. Approval:

All approvals shall be in writing; provided, however, that any request for approval which has not been rejected within thirty (30) days from the date of submission thereof to the Architectural Control Committee shall be deemed approved.

Section 8. Nonconforming Uses:

If an architectural/land use violation is determined to exist, the Association shall be entitled to pursue either of two courses of action. First, the Association may pursue immediate enforcement remedies as provided in this document. In the alternative, if the

Association determines that the violation has existed for a substantial period of time, thus making current enforcement inequitable under the circumstances, or if the Board determines that other mitigating factors make immediate correction of the violation inequitable or unreasonable, the Board may designate the violation as a "nonconforming use" or "non-complying structure," and the record against the subject Unit a Notice of Noncompliance With Recorded Use Restrictions ("Notice of Noncompliance") that shall identify the subject Unit, describe the nonconforming use, and specify the Article and Section number of the Governing Document that is being violated.

Section 9. Liability:

Neither the Architectural Control Committee nor any member thereof shall be liable to the Association or to any Unit Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development of any property within the Project, or (d) the execution and filing of an estoppel certificate, whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him.

ARTICLE IX - MORTGAGEE RIGHTS AND PROTECTION

Notwithstanding any other provisions of this Declaration to the contrary:

Section 1. Mortgage Permitted:

Any Owner may encumber his Unit with a Mortgage. For purposes of this Declaration a "Mortgage" means a deed of trust; and a "Mortgagee" also means the Beneficiary under a deed of trust. A "first Mortgage" similarly also means "a first deed of trust".

Section 2. Subordination:

Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first Mortgage that encumbers all or a portion of the Project, or any Unit, 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.

Section 3. Amendment:

No amendment to this Declaration, the Articles or the By-laws shall affect the rights of any Mortgagee under any Mortgage made in good faith and for value and recorded before the recordation of any such amendment. However, a

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mortgagee who receives a request for approval of a proposed amendment and fails to respond negatively within thirty days of receipt shall be deemed to have approved the amendment to the same extent as if the mortgagee affirmatively approved such amendment in writing.

Section 4. Rights of Institutional Lenders:

No breach of any of the Covenants, Conditions and Restrictions herein contained nor the enforcement of any lien provisions herein, shall render invalid the lien of any first Mortgage (meaning a Mortgage with first priority over any other Mortgage) on any Unit made in good faith and for value, but all of said Covenants, Conditions and Restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale or otherwise. Notwithstanding any provision in the Declaration to the contrary, Institutional Lenders shall have the following rights:

All Institutional Lenders that have filed with the Association a request for notice of default shall be entitled to receive written notice from the Association of any default by the trustor of any deed of trust on a Unit (the beneficial interest in which is held by said Institutional Lender) in the performance of such trustor's obligations under the Governing Documents, which is not cured within thirty (30) days.

The Association shall discharge its obligation to notify Institutional Lenders by sending written notices required herein to the lender or lenders requesting notice, at the address given on the current request for notice.

First Mortgagees of individual Units may, jointly or singly, pay taxes or other charges which are in default and which may have become a charge against any Association common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first Mortgagees making such payments shall be owed immediate reimbursement for such payment from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of all first Mortgagees of Units duly executed by the Association.

Any Institutional Lender will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, and (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of the fiscal year of the Association, and (c) written notice of all Association meetings and be permitted to designate a representative to attend all such meetings.

Association dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those Common Area improvements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

Each holder of a first Mortgage lien on a Unit who comes into possession of the Unit by virtue of foreclosure of the Mortgage, or any purchaser at a foreclosure sale under a first deed of trust, will take the Unit free of any claims for unpaid assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit except for claims from a pro rata reallocation of such assessments or charges to all Project Units including the mortgaged Unit, and except for assessment liens recorded prior to the Mortgage.

Any agreement for professional management of the Project, or any other contract providing for services of the developer, sponsor or builder, may not exceed one (1) year. Any such agreement must provide for termination by either party for cause on ninety (90) days written notice or without cause and without payment of a termination fee on ninety (90) days or less written notice.

The Project governing instruments contain no provisions creating a "right of first refusal," but should any such rights be created in the future, any such rights shall not impair the rights of any Institutional Lender to: (1) foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage, or (2) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (3) interfere with a subsequent sale or lease of a Unit so acquired by the Mortgagee.

Section 5. Consent to Action:

Except as provided by statute or by other provision of the Project documents in case of substantial destruction or condemnation of the Project, and further excepting any reallocation of interests in the Common Area(s) which might occur pursuant to any plan of expansion or phased development contained in the original Project documents:

A. The consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible Mortgage Holders (as defined in Article I of this Declaration) holding Mortgages on Units which have at least sixty-seven percent (67%) of the votes of Units subject to eligible holder Mortgages, shall be required to terminate the legal status of the Project as a condominium project.

B. The vote required to terminate that legal status of the Project after substantial destruction or condemnation of the Project shall be sixty-seven percent (67%) of the total voting power of the Association and fifty-one percent (51%) of the votes allocated to Units which are subject to first Mortgages held by Eligible Mortgage Holders (as defined in Article I of this Declaration).

C. The consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible Mortgage Holders holding Mortgages on Units which have at least fifty-one percent (51%) of the votes of the Units subject to the approval of Eligible Mortgage Holders shall be required to add or amend any material provisions of the Project documents which establish, provide for,

govern or regulate any of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area(s) (or Units if applicable); (iv) responsibility for maintenance and repair of the several portions of the Project; (v) expansion or contraction of the Project or the addition, annexation or withdrawal of Property to or from the Project (except as provided in the first paragraph above); (vi) boundaries of any Unit; (vii) the interests in the general or Restricted (exclusive use) Common Areas; (viii) convertibility of Units into Common Areas or of Common Areas into Units; (ix) leasing of Units; (x) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit; (xi) any provisions which are for the express benefit of Mortgage Holders, Eligible Mortgage Holders, or eligible insurers or guarantors of first Mortgages on Units.

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

Section 6. Distribution of Insurance and Condemnation Proceeds:

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

Section 7. Notices to Mortgagees of Record:

On any loss to any Unit covered by a Mortgage, if such loss exceeds Five Thousand Dollars (\$5,000.00), or on any loss to the Common Area, if such loss exceeds Twenty Thousand Dollars (\$20,000.00), or any taking of such Common Areas, notice in writing of such loss or taking shall be given to each Mortgagee of record. If any Owner is in default under any provision of this Declaration, or the By-Laws, or the rules and regulations adopted by the Association, which default is not cured within thirty (30) days after written notice to such Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that said thirty (30) day period has expired. Further, if any Unit and/or the Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the first Mortgagee on such Unit shall be given timely written notice by the Association of such proceeding or proposed acquisition.

**ARTICLE X - DAMAGE, DESTRUCTION OR
CONDEMNATION OF COMMON AREA
IMPROVEMENTS**

Section 1. Damage and Destruction:

In the event of damage or destruction of the property of the Association, or any part thereof, the Association shall have the responsibility to repair or replace the same in substantial accordance with the original plans and specifications of the Project.

Subsection 1.1 Insured Losses:

If the damage or destruction to the Association property is an insured loss the loss shall be handled as follows:

Minor Casualties: If the insurance proceeds initially offered or paid by the insurer do not exceed Fifty Thousand Dollars (\$50,000) such insurance proceeds shall be paid to the Association in accordance with Article IV, Section 1, Subsection 1.3 of this Declaration. The Board shall then contract to repair or rebuild the damaged portions of the Association's property in substantial accordance with the original plans and specifications of the Project, obtain bids in accordance with the following paragraphs, and the insurance funds held by the Association shall be used for such reconstruction.

Major Casualty: If the insurance proceeds initially offered or paid by the insurer exceed Fifty Thousand Dollars (\$50,000), then:

1. All insurance proceeds shall be paid to the Association and deposited in a newly-created account, and held for the benefit of the Owner(s) of the relevant Unit and their Mortgagees as their respective interests may appear.
2. The Board shall obtain firm bids from two or more responsible contractors to rebuild the relevant portion of the Project in accordance with its condition prior to damage and destruction, modified at the direction of the Board to comply with the building codes and construction standard in effect at the time of the rebuilding. To be considered, any contractor's bid shall include the premium payable for a performance, labor and material payment bond from a reputable bonding company.
3. The Board shall then call a meeting of all Owners whose Units have been damaged to review all such submitted bids. A simple majority vote of these affected Owners will be required to accept or reject any bid. The failure by such Owners to either accept a bid or reject all bids shall authorize the Board to accept an unrejected bid it considers most favorable, or to seek further bids.

Subsection 1.2 Uninsured or Insufficiently Insured Losses:

If any damage or destruction is uninsured or if the insurance proceeds are insufficient to cover the cost of repairs or replacement of the property damaged or

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destroyed, the Board will make a special assessment, in accordance with the provisions outlined in Article V, Section 3 of this Declaration, to cover such cost. Such special assessment is in addition to any other regular assessments and is subject to the rules herein relating to special assessments. Any special assessment for the rebuilding or major repair work of the structural Common Area housing Units of the Project will be levied upon the basis of the ratio of the square footage of the Unit to be assessed to the total square footage of floor area of all Units to be assessed.

Subsection 1.3 Full Insurance Settlement:

Notwithstanding any provision of this Article X, if the insurance carrier offers the full amount required to repay and restore all of the damage, then the Board shall contract to repair or rebuild the damaged portions of all affected Condominiums and apartments and the buildings containing same in the manner provided in Article X, Subsection 1.1 for a minor casualty.

Subsection 1.4 Emergency Repairs:

Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty as it may deem necessary or desirable under the circumstances, and the Board may charge the operating accounts for the cost thereof. In the event of a casualty, there is a substantial possibility that immediate emergency repairs will be required to eliminate defective or dangerous conditions and to comply with applicable laws, ordinances and regulation, pending settlement of insurance claims and prior to procuring bids for performance of restoration work.

Subsection 1.5 Decision Not to Rebuild:

The decision not to rebuild will require the affirmative vote or written assent of seventy-five percent (75%) of each class of Owners. Upon conversion of Class B membership to Class A membership as provided in this Declaration, the affirmative vote or written assent of seventy-five percent (75%) of the votes of Members other than the Grantor shall be required for the decision not to rebuild. In the event the membership elects not to rebuild, the proceeds received by the Association as a result of such decision shall be distributed by the Association among the Owners and their respective Mortgagees according to the respective fair market values of the Units at the time of destruction. The fair market value shall be determined by taking the average of two independent appraisals as commissioned by the Association.

Section 2. Distribution of Funds in Event of Condemnation:

A condemnation affecting all or part of the structural Common Area of the Project which is not apportioned among the Owners by a court judgment or by agreement between the condemning authority and each of the affected Owners, shall be distributed among the Owners and their respective Mortgagees according to the respective fair market values of the Units at the time of destruction. The fair market value shall be determined by taking the average of two independent appraisals as commissioned by the Association.

ARTICLE XI - GENERAL PROVISIONS

Section 1. Enforcement of Bonded Obligations:

When Common Area improvements have not been completed prior to the issuance of the first final public report for the Project and the Association is obliged under a bond or other arrangement (hereinafter called "Bond") to secure performance of the commitment of Declarant to complete the improvements, the following provisions relative to the initiation of action to enforce the obligations of Declarant and the surety under the Bond shall pertain:

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

There shall be a special meeting of the Members for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question. The meeting shall be required to be held not less than thirty-five (35) nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing not less than five percent (5%) of the total voting power of the Association.

There shall be a vote by the Members other than Declarant at the special meeting called. A vote of the majority of the voting power of the Association residing in Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

Section 2. Invalidity of any Provision:

Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this Project is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

Section 3. Term:

The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or any Owner subject to this Declaration and his legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years,

unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of any successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 4. Amendments:

This Declaration may be amended only by the affirmative vote or written assent of seventy-five percent (75%) of each class of the Owners. Upon conversion of Class B membership to Class A membership as provided in this Declaration, the affirmative vote or written consent of seventy-five percent (75%) of the total voting power of the Association, and seventy-five percent (75%) of the votes of Members other than Declarant, shall be required for amendment of this Declaration. The percentage of voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for the action to be taken under that clause or provision. Any amendment must be recorded and shall become effective upon being recorded in the Official Records of the County.

Section 5. Development Rights:

Declarant is undertaking the work of developing for sale residential Units and certain improvements within the Project. The completion of that work and the sale of said residential Units is essential to the establishment and welfare of the Property as a residential community. In order that this work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, its contractors or subcontractors from obtaining reasonable access over and across the Common Area of the Project or from doing within any unsold Unit owned by it whatever is reasonably necessary or advisable in connection with the completion of said work;

B. Prevent Declarant or its representatives from erecting, constructing and maintaining within the Common Area such structures as may be reasonably necessary for completing said work and conducting its business of establishing said Property as a residential community and disposing of the same in parcels by sale, lease, or otherwise.

C. Prevent Declarant from maintaining such signs on Units still owned by Declarant or on the Common Area as may be necessary for the sale, lease or disposition of the Units therein;

or

Section 6. Enforcement:

Notwithstanding any other provision in this document:

A. Except as otherwise provided herein, the Association or any Owner shall have the right to enforce any and all of the covenants, conditions and restrictions now or hereafter imposed by this Declaration upon the Owners or upon any Property within the Project; and

B. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures herein set forth; and

C. Each remedy provided by this Declaration is cumulative and not exclusive; and

D. The failure to enforce the provisions of any covenant, condition or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provision here.

Section 7. Alternative Dispute Resolution

This section shall only apply to disputes where (1) the amount in controversy is above \$5,000; and (2) the disputes do not concern the payment of delinquent assessments. This section shall not apply to disputes where the amount in controversy is \$5,000 or less, which disputes are subject to the provisions of Article XI, Section 8 of this Declaration. This subsection shall not apply to disputes regarding the payment of delinquent assessments, which disputes are subject to the provisions of Article V, Section 6, Subsections 6.1 - 6.4 of this Declaration. This section does not apply to alternative dispute resolution involving claims between the Association and the Declarant because such claims are subject to the provisions of Article XI, Section 11.

(a) MEDIATION.

If the Association and an Owner (or two Owners) or resident are unsuccessful at resolving any failure or alleged failure by an Owner or resident to comply with any provision of this Declaration (other than the provisions concerning assessments), the Bylaws and the Rules the parties shall attempt in good faith to settle the dispute by nonbinding mediation before resorting to court action or binding arbitration. The neutral mediator shall have at least three (3) recent years of substantial experience mediating construction defect and other disputes arising out of condominium projects. Any party desiring mediation shall notify the other party(s) with whom he has a dispute of such desire, including within such notice the name and address of the neutral mediator, and a proposed time and date for the mediation. If any party so notified is unable to attend the mediation at the proposed date, time and place, he may arrange an alternative acceptable to all other parties provided the alternative date is within ten (10) days of the originally proposed date. All properly notified parties agree to appear for the mediation. Unless otherwise agreed by the parties, the costs of mediation shall be borne equally by the parties. Any party may petition a court of competent jurisdiction for an order compelling appearance at mediation.

(b) ARBITRATION OF DISPUTES:

This provision shall only apply after the parties have attempted in good faith but failed to settle any dispute subject to subsection a. above by nonbinding mediation.

Any dispute or claim in law or equity arising out of the CC&R's or other Governing Documents shall be decided by neutral binding arbitration by an experienced arbitrator with three (3) recent years of substantial experience deciding disputes arising out of condominium projects, and not by court action except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be initiated by written notice to the other party, setting forth in general terms the nature of the dispute and the relief claimed, and nominating two (2) arbitrators qualified pursuant to this subsection (b). The party receiving the notice shall nominate two arbitrators qualified pursuant to this subsection (b). Within seven (7) days of receipt of all four names, the parties, either personally or through their attorneys, shall choose one of the four (4) nominated arbitrators to arbitrate the dispute. Any arbitrator so nominated shall use the procedures set forth in the current version of the American Arbitration Association's Commercial Rules. In selecting the arbitrator, the provisions of Section 1297.121 of the Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed therein or in Section 1297.124 of the Code of Civil Procedure. If the parties are unable to agree on an arbitrator, then either or both the parties shall petition a court of competent jurisdiction to choose one of the four nominated arbitrators, or, if all four nominated arbitrators have conflicts of interest, to appoint a neutral arbitrator qualified pursuant to this subsection (b). The parties shall have the right to discovery in accordance with Code of Civil Procedure Section 1283.05. At the hearing, any relevant evidence may be presented by any party and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence shall be admitted or excluded in the sole discretion of the arbitrator. The arbitration shall proceed with due dispatch and a decision shall be rendered within 30 days after appointment of the arbitrator(s). The arbitrator(s)' decision shall be in writing and in a form sufficient for entry of a judgment in any court of competent jurisdiction in the State of California.

The arbitrator(s)' decision shall pertain, and shall be limited to, the granting of damages not to exceed any party's actual out-of-pocket expenses and the costs of undertaking any repairs, maintenance or reconstruction relating to the dispute and the award of any injunction or other equitable relief. In no event shall the arbitrator(s)' award include any component for punitive or exemplary damages. Costs of the arbitration proceeding shall be borne as determined by the arbitrators.

The following matters are excluded from arbitration hereunder: (a) a judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or real property sales contract as defined in Civil Code Section 2985; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court or a small claims court; (e) an action for bodily

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injury or wrongful death; (f) an action or proceeding to enforce the obligation to pay Regular and Special Assessments, or a non-judicial foreclosure to enforce a lien against a Unit; or (g) an action or proceeding to compel arbitration and/or mediation, including an action to impose sanctions for frivolous or bad faith activity designed to delay or frustrate arbitration and/or mediation. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to arbitrate under this provision.

Section 8. Claims Under \$5,000 and Court Actions for Injunctive or Declaratory Relief.

(a) Section 8 of this Article XI applies only to court actions by the Association or any Owner or resident for (1) declaratory relief to interpret or enforce the Governing Documents; (2) injunction relief to interpret or enforce the Governing Documents; or (3) a claim for damages in the amount of \$5,000 or less coupled with either a claim for declaratory or for injunctive relief to interpret or enforce the Governing Documents.

(b) Section 8 of this Article XI does not apply to any court action by the Association for nonpayment of delinquent Assessments. Section 8 shall not apply under circumstances where the Association or Owner who desires to initiate such action ("Complaining Party") is entitled to a temporary restraining order or preliminary injunction in order to avoid irreparable harm or injury or where the applicable time limitation for commencing the action would run within 120 days.

(c) Before initiating any court action against an Owner or resident pursuant to subsection(a) of this Section 8, the Complaining Party shall first comply with the provisions of Civil Code §1354, or a comparable superseding statute, relating to alternative dispute resolution. The procedures described in paragraph (d), below, are intended to satisfy the Civil Code Section 1354 alternative dispute resolution requirements and all notices issued and procedures followed in the alternative dispute resolution process shall comply with the specific requirements imposed by Civil Code §1354.

(d) For claims subject to this section, the parties shall endeavor, as provided in Section 7 of this Article XI, to submit their dispute to a form of alternative dispute resolution such as mediation or arbitration. The form of alternative dispute resolution chosen may be binding or non-binding at the option of the parties. Any party to such a dispute may initiate this process by serving on another party to the dispute a Request for Resolution. The Request for Resolution shall include (1) a brief description of the dispute between the parties; (2) a request for alternative dispute resolution; and (3) a notice that the party receiving the Request for Resolution is required to respond thereto within thirty (30) days of receipt or it will be deemed rejected. Service of the Request for Resolution shall be in the same manner as prescribed for service in a small claims action as provided in Section 116.340 of the Code of Civil Procedure. Parties receiving a Request for Resolution shall have 30 days following service of the Request for Resolution to accept or reject alternative dispute resolution and, if not accepted within the 30-day period by a

party, shall be deemed rejected by that party. If alternative dispute resolution is accepted by the party upon whom the Request for Resolution is served, the alternative dispute resolution shall be completed within ninety (90) days of receipt of the acceptance by the party initiating the Request for Resolution, unless extended by written stipulation signed by both parties. The costs of the alternative dispute resolution shall be borne by the parties.

(e) At the time of filing a civil action by either the Association or an Owner solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, other than Association Assessments, for five thousand dollars (\$5,000) or less, related to the enforcement of the Governing Documents, the party filing the action shall file with the complaint a certificate stating that alternative dispute resolution has been completed in compliance with subdivision (e). The failure to file a certificate as required by this subdivision (e) shall be grounds for a demurrer pursuant to Section 430.10 of the Code of Civil Procedure or a motion to strike pursuant to Section 435 of the Code of Civil Procedure unless the filing party certifies in writing that one of the other parties to the dispute refused alternative dispute resolution prior to the filing of the complaint, that preliminary or temporary injunctive relief is necessary or that alternative dispute resolution is not required by subdivision (a), because the limitation period for bringing the action would have run within the 120-day period next following the filing of the action, or the court finds that dismissal of the action for failure to comply with subdivision (a) would result in substantial prejudice to one of the parties.

(f) Once a civil action specified in subdivision (b) to enforce the Governing Documents has been filed by either an Association or an Owner, upon written stipulation of the parties the matter may be referred to alternative dispute resolution and stayed. The costs of the alternative dispute resolution shall be borne by the parties. During this referral, the action shall not be subject to the rules implementing subdivision (c) of Section 68603 of the Government Code.

(g) Members shall annually be provided a summary of the provisions of this section, which specifically references this section. The summary shall include the following language:

“Failure by any Member of the Association to comply with the pre-filing requirements of Section 1354 of the Civil Code may result in the loss of your rights to sue the Association or another Member of the Association regarding enforcement of the Governing Documents.”

The summary shall be provided either at the time the pro forma budget required by Section 1365 is distributed or in the manner specified in Section 5016 of the Corporations Code.

(h) Any Request for Resolution sent to any Owner pursuant to subdivision (d) shall include a copy of this section.

Section 10. Notice of Civil Actions; Meeting.

Not later than thirty (30) days prior to the filing by the Association of any civil action against Declarant, the Board shall comply with notification to the Owners of the requirements set forth in Section 1368.4 of the California Civil Code.

Section 11. Alternative Dispute Resolution Involving Claims Between the Association and the Declarant

This section shall apply only to disputes between the Association and the Declarant arising from or relating to alleged deficiencies in the design or construction of the Project, or in the creation of the Association. The procedures provided for herein shall be mandatory and shall provide the sole and exclusive method of resolving disputes to which this section applies other than through a negotiated settlement between the Association and Declarant.

(a) *Formal Negotiation Process Between Association and Declarant.* Before either party hires a consultant to evaluate its claims or submits the dispute to mediation or arbitration as provided for herein, the Association shall send to Declarant by certified mail (I) written notice of the claim(s) specifying the exact amount demanded and the authority for the claim(s); and (ii) copies of all documents on which the Association will rely to support the claim(s). Within ten (10) days after mailing, the Declarant shall send by certified mail to the Association (I) a written response, setting out its position and specifying the contract or other provision relied upon; and (ii) copies of all documents on which the Declarant will rely to reply to the claim(s).

Within ten business days after mailing of the response, the parties shall meet in person to try to resolve the claim(s). Unless the parties agree otherwise in advance in writing, the written claim notice and response and the documents produced, but not the subsequent oral discussion, shall be admissible in any subsequent mediation or arbitration.

(b) If this formal negotiation process does not resolve the dispute between the Association and the Declarant, the parties shall attempt to settle the dispute by non-binding mediation in accordance with the procedures stated in Section 7 of this Article XI within 120 days after conclusion of the last face-to-face meeting between the parties.

(c) If the mediation does not resolve the dispute between the Association and the Declarant, the issue shall be submitted to binding arbitration within six (6) months after the conclusion of the mediation. The following rules and procedures shall apply to the conduct of the binding arbitration proceeding:

1. The Declarant shall advance the fees necessary to initiate the arbitration, with the costs and fees, including ongoing costs and fees to be paid as agreed to by the parties, and if they cannot agree, as determined by the arbitrator with the costs and fees of the arbitration to ultimately be borne as determined by the arbitrator.

(2) The arbitrator shall be neutral and impartial and shall be selected in accordance with the procedures stated in Section 7(b) of this Article XI within sixty (60) days from the administrator's receipt of the written request for arbitration. In selecting the arbitrator, the provisions of Section 1297.121 of the Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed therein or in Section 1297.124 of the Code of Civil Procedure.

(3) The venue for the arbitration shall be in the county in which the Project is located unless the Association and the Declarant agree to some other location.

(4) The Association and Declarant shall commence the arbitration within 150 days of the appointment of the arbitrator unless the Association and the Declarant agree to an earlier or later date or unless the arbitrator specifies an earlier or later date.

(5) The arbitration shall be conducted in accordance with the rules and procedures that are equivalent in substance to the commercial arbitration rules of the American Arbitration Association or the Streamlined or Comprehensive Rules and Regulations of JAMS/ENDISPUTE, provided that the rules and procedures for the arbitration, including the commercial arbitration rules of the American Arbitration Association or the Streamlined or Comprehensive Rules and Regulations of JAMS/ENDISPUTE, contain provisions which comply with California Code of Regulations, title 10, section 2791.8, subparagraphs (1) through (8) of subdivision (a).

(6) The arbitration proceedings shall be brought to a prompt and timely conclusion.

(7) The arbitrator is authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of the arbitration. The award of punitive damages, however, shall be prohibited.

(d) If the Association or Declarant submit the dispute to binding arbitration in conjunction with any action for damages by any Owners against Declarant arising from or relating to alleged deficiencies in the design or construction of the Project or in the creation of the Association, the arbitration provisions provided for herein in Section 11 of this Article XI shall control over any conflicting term or provision of any written agreement between any Owner and the Declarant which may pertain to such dispute.

(e) Within 120 days prior to the arbitration proceedings, or before the Association files a civil action against the Declarant, the Authority shall obtain and serve the

Declarant with the written opinion of two qualified consultants certifying that the Association's claims have merit. The failure to serve the Declarant with such written opinion prior to the filing of a civil action shall be grounds for a demurrer pursuant to Section 430.10 of the Code of Civil Procedure or a motion to strike pursuant to Section 435 of the Code of Civil Procedure unless the Association certifies in writing that the limitation period for bringing the action would have run within the 120-day period next following the filing of the action, or the court finds that dismissal of the action for failure to comply with this section would substantially prejudice either party.

(f) A copy of the rules to be applicable to an arbitration shall be submitted as part of the application for a public report (including those rules and regulations that are equivalent in substance to the commercial arbitration rules of the American Arbitration Association or the Streamlined or Comprehensive Rules and Regulations of JAMS/ENDISPUTE. However, if the arbitration is conducted using the actual commercial arbitration rules of the American Arbitration Association or the Streamlined or Comprehensive Rules and Regulations of JAMS/ENDISPUTE, such rules and regulations need not be submitted as part of the application for a public report.

Section 12. Fair Housing.

No Owner shall, either directly or indirectly, forbade or restrict the conveyance, encumbrance, leasing or mortgaging, or occupancy of his Unit to any person for reasons of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry or adulthood of any vendee, lessee or occupant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 4th day of February, 2003

**1578 INDIANA
CORPORATION**

By: 

Name: EDDIE YIM

Title: PRESIDENT

[ALL SIGNATURES MUST BE ACKNOWLEDGED]

**EXHIBIT A TO DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF 1578 INDIANA STREET CONDOMINIUM
PROJECT**

Description:

Lot 20 as shown on the map entitled "PARCEL MAP, BEING A SUBDIVISION OF THE LANDS DESCRIBED IN GRANT DEED FILED AUGUST 2, 1996, IN BOOK G688, OFFICIAL RECORDS, PAGE 53; BEING ALSO A SUBDIVISION OF LOT 16 OF ASSESSOR'S BLOCK 4318, BEING A PORTION OF NEW PORTRERO BLOCK 331, SAN FRANCISCO, CALIFORNIA" which map was filed for record in the office of the County Recorder, City and County of San Francisco, State of California, on November 20, 1996, in Book 43 of PARCEL MAPS, at page 24, (Series Number 96-G077252-00), Official Records.

Assessor's Lot 20; Block 4318

**EXHIBIT B TO DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF 1578 INDIANA STREET, A CONDOMINIUM
PROJECT**

% Interest In Common Area

<u>Unit No</u>	<u>%</u>
<u>1</u>	<u>8.16</u>
<u>2</u>	<u>8.85</u>
<u>3</u>	<u>7.34</u>
<u>4</u>	<u>8.89</u>
<u>5</u>	<u>8.85</u>
<u>6</u>	<u>8.85</u>
<u>7</u>	<u>6.88</u>
<u>8</u>	<u>8.97</u>
<u>9</u>	<u>8.89</u>
<u>10</u>	<u>8.47</u>
<u>11</u>	<u>6.88</u>
<u>12</u>	<u>8.97</u>

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of CALIFORNIA

County of SAN FRANCISCO

On Feb. 14, 2003 before me, Sigrid R. Williams
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Eddie K. Yim
Name(s) of Signer(s)

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



WITNESS my hand and official seal.
Sigrid R. Williams
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: CC+R'S OF 1578 INDIANA STREET

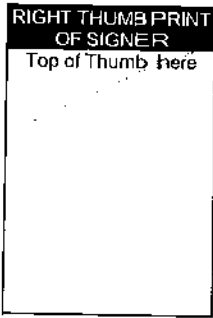
Document Date: 2/14/03 Number of Pages: 52

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: EDDIE K. YIM

- Individual
- Corporate Officer
- Titles(s): PRESIDENT
- Partner - Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other:



1578 INDIANA CORPORATION

Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s):
- Partner - Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other:



Signer Is Representing:

H362746

After Recording Return To:
OLD REPUBLIC TITLE COMPANY
265 Montgomery Street
San Francisco, CA 94104
Attn: Stephanie L. Brochier
Order no. 393296-HK

CONSENT AND SUBORDINATION

The undersigned, First Bank & Trust, as Beneficiary, under that certain Deed of Trust recorded on December 28th 2000, in Book H801, Page 333, under Recorder's Serial Number 2000-G888719-00 of Official Records of the County Recorder of the County of San Francisco, executed by 1578 Indiana Corporation, a California Corporation, as Trustor, with First Bank & Trust, as Trustee, does hereby consent to the execution and recordation of the Declaration of Covenants, Conditions and Restrictions of 1578 Indiana Street, a Condominium Project attached hereto and does hereby subordinate said Deed of Trust to said Declaration of Covenants, Conditions and Restrictions of 1578 Indiana Street, a Condominium Project to the same extent and with the same force and effect as if said Declaration of Covenants, Conditions and Restrictions of 1578 Indiana Street, a Condominium Project had been executed and recorded prior to the execution and recordation of said Deed of Trust.

IN WITNESS WHEREOF, the undersigned has executed this Consent and Subordination this day of 4th January, 2003.

First Bank & Trust (Beneficiary)

BY: *Stephanie L. Brochier*

BY: _____

(PLEASE ATTACH NOTARY ACKNOWLEDGEMENT HERETO)

Order: KZCQHTZCV
Address: 1578 Indiana St Apt 4
Order Date: 03-24-2022
Document not for resale
HomeWiseDocs

H362746

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

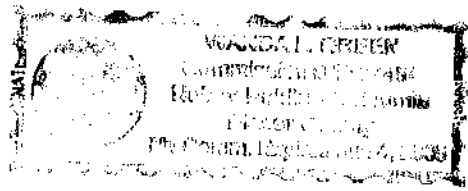
County of Placer } ss.

On Jan. 9, 2003, before me, Wanda L. Green, Notary
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Patricia Caskey
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

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



WITNESS my hand and official seal
Wanda L. Green
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

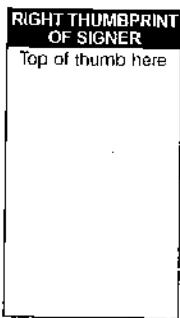
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer -- Title(s): _____
 - Partner -- Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer is Representing: _____



Order: RZCQM12CV
Address: 1578 Indiana St Apt 4
Order Date: 03-24-2022
Document not for resale
HomeWiseDocs

BY-LAWS
OF
1578 INDIANA STREET
HOMEOWNER'S ASSOCIATION

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THE MEMBERS HAVE THE ULTIMATE RESPONSIBILITY FOR THE ADMINISTRATION OF THE PROJECT. EXCEPT AS DAY TO DAY RESPONSIBILITY, AS SPECIFIED BY THE DECLARATION AND THESE BY-LAWS, ARE DELEGATED TO THE BOARD OF DIRECTORS, OR COMMITTEES, ALL MEMBERS SHARE EQUALLY IN THE RESPONSIBILITY FOR THE APPROPRIATE OPERATION OF THE PROJECT.5

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