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DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS

for

BAYSHORE SKI & RACQUET CLUB
A Condominium Project

Lot 1, of Tract No. 8869, in the City of Big
Bear Lake, County of San Bernardino, State of
California, as per map filed in Book 159,
Pages 10-11 of Maps in the Office of the
County Recorder of San Bernardino.

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

for

BAYSHORE SKI & RACQUET CLUB
A Condominium Project

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

for

BAYSHORE SKI & RACQUET CLUB
A Condominium Project

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 19th day of February, 1982, by American West Development Company, a California corporation ("Declarant" herein) with reference to the following facts:

A. Declarant is the owner of a certain parcel of real property in the City of Big Bear Lake, County of San Bernardino, State of California, more particularly described as all of Lot 1, of Tract No. 8869, in the City of Big Bear Lake, County of San Bernardino, State of California, as per map filed in Book 159, Pages 10-11 of Maps in the Office of the County Recorder of San Bernardino ("Property" herein).

B. Declarant intends to develop the Property into condominiums ("Improvements" herein) in accordance with that certain Condominium Plan recorded concurrently herewith together with any future revocation or amendment thereof, in the Office of the County Recorder of San Bernardino County, State of California ("Condominium Plan" herein). The Property and the Improvements together with all of the appurtenances and facilities thereof are hereinafter collectively referred to as the "Project".

C. Declarant intends by this Declaration to establish a plan for the individual ownership by persons, corporations, partnerships, associations and other firms, subject to certain protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights-of-way, liens, charges and equitable servitudes as set forth in this Declaration, of real property consisting of the area or space contained within a condominium unit located on the Property and the co-ownership by the individual and separate owners thereof, as tenants-in-common, of the other portions of the Project.

D. Declarant has caused an association, the members of which shall be the respective Owners of condominium units on the Property, to be incorporated under the laws of the State of California as a nonprofit corporation for the purpose of preserving the values and amenities of the Property and of collecting and disbursing assessments, all as hereinafter provided.

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NOW, THEREFORE, pursuant to the provisions of Chapter I of Title 6 of Part IV of Division 2 of the California Civil Code and Section 1468 of the California Civil Code, Declarant hereby declares that the Property, the Improvements and the Project shall be held, conveyed, divided, encumbered, hypothecated, leased, rented, used, occupied and improved only upon and subject to the following covenants, conditions, restrictions, limitations, reservations, easements, rights-of-way, liens, charges and equitable servitudes (hereinafter collectively referred to as "Covenants" for convenience), all of which are hereby declared, established, expressed, and agreed (i) to be in furtherance of a plan for the subdivision and sale of "Condominiums" as defined in Section 783 of the California Civil Code in a condominium "Project" as defined in Section 1350 of the California Civil Code; (ii) to be for the benefit and protection of the Project, its desirability, value and attractiveness; (iii) to be for the benefit of the Property and Owners of Condominiums in the Project; (iv) to run with the land and be binding upon all parties having or acquiring any right, title or interest in the Project or any portion thereof whether as sole owners, joint owners, lessees, tenants, occupants or otherwise; (v) to inure to the benefit of every portion of the Project and any interest therein; and (vi) to inure to the benefit of and be binding upon each successor and assignee in interest of each Owner and of Declarant. Any conveyance, transfer, sale, assignment, lease or sublease of a Condominium in the Project will be and hereby is deemed to incorporate by reference the provisions of this Declaration and the Covenants herein contained. The provisions of this Declaration shall be enforceable by Declarant, any Owner of a Condominium, or his successor in interest, and shall also be enforceable by the Association, its Board of Directors or any person, firm, corporation or other association duly authorized by the Association or its Board of Directors to enforce all or any one or more of the provisions hereof.

ARTICLE ONE

DEFINITIONS

As used herein, the following terms shall have the following definitions:

1.01 "Approval" or "Consent".

"Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making or suffering that for which such approval or consent is required.

1.02 "Articles of Incorporation".

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may from time to time be amended.

1.03 "Assessment".

"Assessment" shall mean and refer to an assessment, whether a Common Assessment, Capital Assessment or Special Assessment, levied, charged or assessed against an Owner and/or his Condominium in accordance with the provisions of this Declaration and shall become a debt of such Owner and deemed to have been "made" within the meaning of Section 1356 of the California Civil Code when such assessment is entered upon the assessment roll of the Association as provided in Section 7.06 of this Declaration and notice thereof has been mailed to the Owner of the Condominium so assessed.

1.04 "Association".

"Association" shall mean and refer to Bayshore Ski & Racquet Club Homeowners Association, Inc., a California nonprofit mutual benefit corporation, its successors or assigns, whether by way of merger, consolidation, transfer or otherwise. The Association shall include, when the context requires, its Board of Directors, officers, and duly authorized representatives and agents as the same, or any of them, may from time to time be constituted.

1.05 "Balcony".

"Balcony", if any, shall mean and refer to a balcony which is attached to the dwelling area of a Unit and accessible only through the Unit of which it is a part, all as more particularly described as a balcony in the Condominium Plan.

1.06 "Board".

"Board" shall mean and refer to the Board of Directors of the Association as the same may from time to time be constituted.

1.07 "Building".

"Building" shall mean and refer to any building or structure which is part of the Improvements on the Property.

1.08 "By-Laws".

"By-Laws" shall mean and refer to the duly adopted By-Laws of the Association, as the same may from time to time be amended.

1.09 "Capital Assessment".

"Capital Assessment" shall mean and refer to an extraordinary Assessment duly made and levied by the Association against an Owner and his Condominium in any fiscal year, and applicable to that fiscal year only, for the purpose of defraying, in whole or

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in part, the cost of any new construction, or unanticipated repair or replacement, of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto.

1.10 "Common Area".

"Common Area" shall mean and refer to the entire Project excepting all of the Units. Without limiting the foregoing, the Common Area shall include, but shall not be limited to, the Property, all bearing walls, columns, vertical supports, floors, (as distinguished from the surfaces thereof located within any Unit), roofs, foundations, beams, balcony railings, planter walls, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires, sprinkler systems and other utility installations, wherever located (except outlets thereof when located within a Unit), and shall also include all equipment and mechanical devices making up any system or systems installed by Declarant or the Association for security or for announcing those who would gain access to a Unit, even when located within the airspace of a Unit as shown on the Condominium Plan, and all lobbies, stairs and stairways (except stairs and stairways within the airspace as shown on the Condominium Plan of Units which occupy more than one floor), all basements, sub-basements, surface and guest parking facilities and ramps, yards, gardens, planters, fountains, swimming pools and all other recreational or community facilities, mail rooms and facilities, driveway areas, all space, if any, devoted to the use of the Manager and his staff, or other persons connected with the operation of the Project, all compressors and control equipment serving the Common Area and/or more than one Unit as distinguished from those compressors and control equipment serving individual Units, and all other parts, apparatus and installations existing in any Building necessary or convenient to the existence, maintenance or safety of the Project as a whole.

1.11 "Common Assessment".

"Common Assessment" shall mean and refer to an Assessment duly made and levied by the Association against an Owner and his Condominium to pay for the Common Expenses.

1.12 "Common Expenses".

"Common Expenses" shall mean and refer to the costs, expenses and charges in connection with maintaining, managing, insuring, operating, repairing and replacing the Common Area as the same may be estimated from time to time by the Board of Directors of the Association, including, but not limited to, any amounts reasonably necessary for reserves for anticipated long-term main-

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tenance, repair and replacement of capital improvements upon the Common Area (the cost of which would not ordinarily be incurred on an annual basis), contingencies and the service obligations of the Association. Common Expenses, however, shall not include the cost of any new construction, or unanticipated repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto.

1.13 "Common Funds".

"Common Funds" shall mean and refer to all funds collected or received by the Association, including, but not limited to, the proceeds from insurance carried or obtained by the Association which are payable to or received by the Association as trustee for the benefit of the Owners or otherwise.

1.14. "Condominium".

"Condominium" shall mean and refer to a condominium as defined in Section 783 of the California Civil Code, located within the Project and shall be an estate in real property consisting of (i) a separate fee estate in the air space and interior surfaces within a Unit, as more particularly described in the Condominium Plan, and (ii) an undivided Percentage Interest in the Common Area. Additionally, each Owner of a Condominium shall receive a membership in the Association.

1.15 "Condominium Documents".

"Condominium Documents" shall mean and refer, unless the context otherwise requires, only to this Declaration, the Articles of Incorporation, the By-laws, the Condominium Plan and such other written documents, reports, maps, schedules and exhibits as are required by law to be recorded, filed or issued in connection with the subdivision, creation and regulation of the Project as a condominium project and shall be deemed to include both the preliminary subdivision public report, if any, and the final subdivision public report issued by the California Real Estate Commissioner for the Project.

1.16 "Condominium Plan".

"Condominium Plan" shall mean and refer to that certain Condominium Plan referred to in Recital "B" of this Declaration.

1.17 "Declarant".

"Declarant" shall mean and refer to American West Development Company, a California corporation and its successors and assigns if such successors and assigns should acquire all or any portion of the Property for the purpose of development or sale and are designated by American West Development Company, a California

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corporation as the Declarant for the purpose hereof by a duly recorded written instrument executed by American West Development Company, a California corporation.

1.18 "Declaration".

"Declaration" shall mean and refer to this Declaration as the same may be amended, changed or modified from time to time.

1.19 "Improvements".

"Improvements" shall mean and refer to all improvements now or hereafter constructed on the Property.

1.20 "Manager".

"Manager" shall mean and refer to any Person appointed or employed by the Association or its Board of Directors to operate, maintain and manage the Project.

1.21 "Member".

"Member" shall mean and refer to an Owner who by reason of his record ownership of a Condominium holds a membership in the Association.

1.22 "Mortgage".

"Mortgage" shall mean and refer to any mortgage or deed of trust or other security device encumbering all or any portion of the Project or any Condominium located therein.

1.23 "Mortgagee"; "Mortgagor".

"Mortgagee" shall mean and include mortgagees, trustees, beneficiaries and holders of deeds of trusts, and the holders of any indebtedness secured by mortgages. "Mortgagor" shall mean and include mortgagors and trustors under deeds of trust.

1.24 "Owner".

"Owner" shall mean and refer to any person, firm, contract buyer, corporation or other association in which title to a Condominium is vested, as shown by the Official Records of the Office of the County Recorder of San Bernardino, State of California, but excluding those having such an interest in a Condominium merely as security for the performance of an obligation. Declarant shall be deemed the Owner of all unsold or retained Condominiums until Declarant shall have executed and caused to be recorded in the Office of the County Recorder of San Bernardino County, State of California, an instrument of conveyance conveying the respective Condominium.

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1.25 "Parking Areas".

"Parking Areas" shall mean and refer to those portions of the Common Area more particularly shown on the Parking Area Plan, attached hereto as Exhibit "C" and made a part hereof, with respect to which exclusive rights of use for parking purposes shall be assigned to Owners pursuant to Section 3.10 hereinafter.

1.26 "Patio".

"Patio", if any, shall mean and refer to a patio which is attached to the dwelling area of a Unit and accessible only through the Unit of which it is a part, all as more particularly described as a patio in the Condominium Plan.

1.27 "Percentage Interest".

"Percentage Interest" shall mean and refer to that percentage interest set forth in the Percentage Interest Schedule attached hereto as Exhibit "A" and made a part hereof, which represents each Owner's undivided interest in and to the Common Area.

1.28 "Person".

"Person" shall mean and refer to a natural person, corporation, partnership, association or firm and shall include (except where the context otherwise requires) an Owner, the Association, each member of its Board, each of its officers, the Manager, and each member of his staff, and any Mortgagee.

1.29 "Personal Property" or "Personal Property of the Association".

"Personal Property" or "Personal Property of the Association" may be used interchangeably herein and shall mean and refer to all tangible and intangible personal property now owned or which shall hereafter be acquired, owned, held or controlled by the Association for the use, benefit and enjoyment of the Owners as a whole, and any replacements, substitutions or additions thereto. No Owner shall have any Percentage Interest in the Personal Property of the Association and the transfer of a Condominium to an Owner shall not transfer to him any proprietary interest therein.

1.30 "Project".

"Project" shall mean and refer to the Property and the Improvements together with all of the appurtenances and facilities thereof.

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1.31 "Special Assessment".

"Special Assessment" shall mean and refer to an Assessment against a Particular Owner and his Condominium duly made and levied by the Association as provided in Article 7 hereof.

1.32 "Storage Area".

"Storage Area" or "Storage" shall mean and refer to an enclosed area adjacent to the Patio of a Unit, which area is accessible only through the Patio of the Unit of which it is a part, as more particularly described and illustrated in the Condominium Plan.

1.33 "Unit".

"Unit" shall mean and refer to the element of a Condominium which is not owned in common with other Owners of other Condominiums. The boundaries of each Unit shall be the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, where they exist, or horizontal and vertical planes at the limits of the dimensions and elevations shown on the Condominium Plan. Each Unit shall include the surfaces so described, the portions of the buildings and improvements lying within said boundaries (except as noted in the Condominium Plan) and the airspace so encompassed; provided, however, that a Unit shall not include any equipment or mechanical devices which are part of any system or systems installed by Declarant or the Association for security or for announcing those who would gain access to a Unit, even when located within the airspace of a Unit as shown on the Condominium Plan. A Unit may include a patio attached to the dwelling area of the Unit, all as more particularly described in the Condominium Plan. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the Condominium Plan, shall be conclusively presumed to be its boundaries, rather than the metes and bounds, or other description, expressed in the deed or Condominium Plan, regardless of settling or lateral movement of a Building and regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of a Building.

1.34 "Unit Fair Market Percentage Interest".

"Unit Fair Market Percentage Interest" shall mean and refer to that percentage interest for each Unit calculated pursuant to the procedures as set forth in Section 12 of this Declaration.

ARTICLE TWO

CONDOMINIUM OWNERSHIP AND INTEREST IN PROPERTY

2.01 Condominium Ownership.

Declarant by this Declaration and by the Condominium Plan establishes a plan for the individual ownership by Persons of real property estates consisting of the area or space contained in each of the fifty-nine (59) Units contained within Buildings to be constructed on the Property in accordance with the Condominium Plan, and the co-ownership by the individual Owners thereof, as tenants-in-common, of all remaining portions of the Property.

2.02 Division.

Declarant, in order to establish a plan of condominium ownership for the Property, by this Declaration and by the Condominium Plan, divides the Property into fifty-nine (59) separate feehold estates, each said estate consisting of the following as more particularly described in the Condominium Plan:

- (a) Fifty-nine (59) separately designated and legally described Units; and
- (b) An undivided Percentage Interest in the remaining portions of the Property defined and referred to as the Common Area.

2.03 Ownership Limitations.

Each Owner of a Unit shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his Unit, nor shall said Owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective Unit, which are utilized for, or serve more than one Unit, except, along with the other parts of the Common Area, as tenant-in-common with the other Owners. An Owner, however, shall be deemed to own the walls and partitions which are contained in the Owner's respective Unit, and also shall be deemed to own the interior decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including without limitation plaster, paint, wallpaper, or paneling. Notwithstanding the foregoing an Owner shall not be deemed to own any equipment or mechanical devices which are part of any system or systems installed by Declarant or the Association for security or for announcing those who would gain access to a Unit, even when located within the airspace of a Unit as shown on the Condominium Plan.

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ARTICLE THREE

RIGHTS IN COMMON AREA

3.01 Interest in Common Area.

The Owner of each Unit shall own, as a tenant-in-common with all other Owners of Units, an undivided Percentage Interest in the Common Area, the quantum of which with respect to each Unit is more particularly set forth in the Percentage Interest Schedule attached hereto as Exhibit "A".

3.02 Easement for Ingress, Egress, Support.

In accordance with Section 1353(c) of the California Civil Code, each Owner shall enjoy and each shall have, a nonexclusive easement, appurtenant to and for the benefit of his Unit, for ingress, egress and support over, across and through the Common Area and every portion of any Unit within the Project required for the structural support of any Building within which the Unit is located.

3.03 Easement of Enjoyment.

Every Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and for the benefit of his Unit, subject to the following:

- (a) The right of the Association to limit the number of or exclude social guests, employees, servants, or invitees of an Owner or an Owner's tenant from using the Common Area or any portion thereof.
- (b) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereof.
- (c) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.
- (d) The right of the Board of Directors of the Association, in accordance with the Articles and By-Laws, to borrow money for the purpose of improving the Common Area and the facilities thereon.
- (e) The right of the Board of Directors of the Association to suspend the voting rights of an Owner of a Condominium for a period not to exceed thirty (30) days for any infraction of the rules and

regulations of the Association committed by any Owner or his family, tenants, social guests, servants, employees or invitees; provided that any such suspension of voting rights shall be made only after notice and hearing duly given and held by the Board.

- (f) The right of the Board of Directors of the Association to assess, in accordance with Section 4.26 hereof, a monetary penalty for violation of the provisions of Article Four hereof.
- (g) All rights reserved to Declarant as in this Declaration provided.

3.04 Rights of City of Big Bear Lake.

The City of Big Bear Lake, California, or any authorized agent thereof, shall have the right of entry onto and upon the Common Area of the Project for the purpose of performing maintenance in the Common Area in the event that the Association shall default in its obligation to maintain the Common Area as herein provided; and the City of Big Bear Lake, California shall be reimbursed by the Association for any and all costs incurred thereby. The provisions of this Section 3.04 are for the sole and express benefit of the City of Big Bear Lake, California and may be enforced by it in any manner provided by law.

3.05 Delegation of Use.

Subject to the provisions of this Declaration, each Owner of a Condominium may delegate his right of enjoyment to the Common Area to the members of his family or his tenants, social guests, servants, employees or invitees; provided, however, that no servant or employee of an Owner shall have the right to use the recreational and community facilities included within the Common Area without first obtaining the prior written consent of the Board of Directors.

3.06 Waiver of Use.

No Owner of a Condominium may exempt himself from liability for Assessments duly made and levied by the Association, nor release the Condominium owned by him from the liens and charges thereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Condominium.

3.07 Encroachment.

If any part of the Common Area encroaches or shall hereafter encroach upon a Unit, a valid easement exists for the encroachment and for the maintenance of same, so long as said encroachment shall and does exist. If any part of a Unit encroaches or

shall hereafter encroach upon the Common Area, or upon another Unit, a valid easement exists for the encroachment and for maintenance of same, so long as the encroachment shall and does exist. In the event a Building is partially or totally destroyed, and then rebuilt, the Owners of Units agree that minor encroachments of parts of the Common Area on Units or of parts of Units on the Common Area or on other Units due to construction shall be permitted and that valid easements for said encroachments and the maintenance thereof shall exist. Such encroachments shall not be considered to be encumbrances either on the Units or the Common Area.

3.08 Utility Rights.

The rights and duties of the Owners with respect to lines for sanitary sewer, storm drains, water, electricity, gas, telephone, television cables, and air conditioning, shall be governed by the following:

- (a) Wherever sanitary sewer house connections and lines, facilities and/or water house connections and lines, or electricity, gas, telephone lines, air conditioning lines, or television cables are installed within the Property, which connections, or any portion thereof, lie in or upon portions of the Property owned by others than the Owner of a Unit served by said connections, the Owner of any Unit served by said connection and the Association shall have the right, and is hereby granted an easement which may be exercised for such Owner by the Association, to enter upon such portions of the Property or to have the utility companies enter thereupon to repair, replace and generally maintain said connection as and when the same may be necessary as set forth below.
- (b) Wherever sanitary sewer connections and lines, facilities and/or water connections and lines or electricity, gas and telephone lines, air conditioning lines, or television cables are installed within the Property, which connections serve more than one Unit, the Owner of each Unit served by said connection shall be entitled to the full use and enjoyment of such portions of said connection as services his Unit.
- (c) In the event any portion of said connection or lines is damaged or destroyed through the negligent act or acts or failure to act, or willful misconduct of one Owner or any of his employees, servants, agents, invitees, tenants, guests or members of his family so as to deprive other Owners of the full use and enjoyment of said connection or line,

then such connection or line shall be repaired and restored by the Association, but the expense thereof shall be assessed against the Unit Owner who commits, or whose employees, servants, agents, invitees, tenants, guests or family members commit, such act or acts, as a Special Assessment in accordance with Article Seven hereof.

- (d) In the event any portion of such connection or line is damaged or destroyed by some cause other than the negligence or willful misconduct of one of the Owners, his employees, servants, agents, guests, tenants, invitees or members of his family (including ordinary wear and tear and deterioration from lapse of time) then in such event such connection or line shall be repaired and restored by the Board, the cost of such repair and restoration to be part of the Common Expenses.
- (e) The exercise of any right or easement provided in this Section shall be subject to the conditions precedent that such exercise shall be reasonable and in good faith, and all damage to a Unit or to the Common Area resulting therefrom shall be repaired at the sole cost and expense of the person exercising such easement.

3.09 Right to Combine Units.

An owner shall have the right to combine one or more adjoining units subject to the following provisions:

- (a) Prior Consent of Association. Prior to the owner's combination of adjoining units, the Association must give its approval thereto, which approval shall not be unreasonably withheld. In evaluating its consent to a combination of units, the Association shall first receive and separately approve the following:
 - (1) Architectural plans of the proposed combination of the units;
 - (2) A certificate stating that any portion of the common area to be effected by the proposed combination is not required for the structural support of any other unit or any part of the condominium project. Said certificate shall be given by a structural engineer licensed in the State of California and approved by the Association;

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- (3) A certified bid stating the cost of the proposed combination and the time for its completion. Said bid shall be made by a contractor licensed in the State of California and approved by the Association;
 - (4) A bond or bonds assuring the prompt completion of the proposed combination in a workmanlike manner free of mechanic's liens which names the Association as an obligee thereunder. The Association may also require such other security as is necessary to guarantee the foregoing;
 - (5) All building and other governmental permits required for the construction of the proposed combination;
 - (6) A certificate stating, in detail, the effect of the proposed combination on any common area plumbing and wiring. Said certificate shall be made by electrical and plumbing contractors licensed in the State of California and approved by the Association.
- (b) Prohibition Against Combination. Any proposed combination of the units which in any way would result in the removal of any structural support for any uneffected units and/or any other portion of the condominium project not involved in the proposed combination is strictly prohibited.
- (c) Effect of Combination. The effect of a completed combination shall have the following consequences upon its owner:
- (1) Undivided Interest in Common Area. The undivided interest in the common area allotted to the combined units shall be equal to the sum of the undivided interest in the common area of each of the combined units.
 - (2) Assessments. With respect to the assessments required of each unit's owner, more particularly set forth in Paragraph 7 and Exhibit "B" hereto, the assessments due and owing on the combined units shall be equal to the sum of the assessments levied against each of the respective units so combined.
 - (3) Voting Rights. The owner of the combined unit shall have the number of votes equal to the

number of votes of the units that were combined. For example, if three prior units were combined into one, the owner of the new unit would retain three votes as a member of the Association.

- (4) Prior Easements. Any easements existing in, over, across, or through the common area, which, subsequent to the combination of the units, is located within the new perimeter area of the combined units shall cease to exist, and shall be deemed conveyed to the owner of the combined units.

Notwithstanding the foregoing, the declarant shall not be required to obtain the prior written consent of the Association for the combination of the units described herein as provided in Sub-section (a) above, but shall be bound by Sub-paragraphs (b) and (c) above.

3.10 Parking Areas.

Certain elements of the common area are hereby set aside and reserved for the exclusive use of certain Units and such Units shall have appurtenant thereto the exclusive right to use such parts of the Common Area for the purposes hereinafter provided. The elements of the Common area so set aside and reserved are as follows: Two (2) parking spaces to be assigned by Declarant for each Unit shall be appurtenant to and for the exclusive use for such Unit; provided, however, the Declarant shall have the irrevocable right to assign the exclusive right to use additional parking spaces to purchasers of Units and the assignment of such additional spaces for such Units shall also be appurtenant to and for the exclusive use for such Unit without an additional charge to such Unit owner. The particular parking spaces to be assigned shall be designated by Declarant from the Parking Area Plan attached hereto as Exhibit "C". All of such assignments and designations shall be binding upon the Association. Should any parking spaces designated as exclusive easements in said parking area plan remain unassigned after the sale of all of the Units by Declarant, then the right to assign said parking spaces shall thereafter vest exclusively in the Board on behalf of the Association. Parking spaces not designated as exclusive easements shall be so designated on the Parking Area Plan.

3.11 Patios and Storage Area.

Patios are adjacent to a Unit and Storage Areas are adjacent to the Patio of a Unit and each is appurtenant to a Unit and shall be an element of a Unit which element is not owned in common with other Owners.

ARTICLE FOUR

USE RESTRICTIONS

4.01 Use by Declarant and Association.

Notwithstanding anything contained herein, the Declarant, its agents and employees, expressly reserves unto itself the right to enter and make such temporary use of the Project as is reasonably necessary to facilitate and complete the improvement and sale of the Condominiums and the construction, excavation, grading and/or completion of any additional landscaping, subterranean parking and service facilities, storage facilities and/or recreational facilities, if any, for the Project together with alterations and interior decoration in and to lobbies and unsold or model Units, including but not limited to the right to (i) maintain and operate for sales purposes two (2) or (no more than 15%) of the units, (ii) to show the Project and any unsold Condominiums therein, (iii) to use the Common Area recreational facilities in connection with any sales program, (iv) to display signs in aid of the sale of an unsold Condominium, (v) to maintain and operate a fully staffed sales office complex in the Project until all of the units have been sold by Declarant and escrows closed for such sales. In addition, the Association, its Board, officers, Manager and his staff, shall have the right to make use of all areas and space, including Parking Areas, and office areas and space reasonably necessary for use in connection with the operation and maintenance of the Project as well as other portions of the Common Area and any Personal Property of the Association. The foregoing rights of Declarant shall terminate upon the earlier occurrence of three years from the date of issuance of the California Department of Real Estate's Final Subdivision Public Report on this Project or the sale of all of the Units within the Project.

4.02 Residential.

No Owner shall occupy or use his Unit, or permit the same or any portion thereof to be occupied or used for any purpose other than a private single-family residence for such Owner and his family, or his tenants, social guests, servants, employees and invitees. The use and occupancy of a Unit shall be by no more persons than can be reasonably and comfortably accommodated therein.

4.03 Interior of Units.

Subject to the provisions of Sections 4.04 and 15.01, each Owner shall maintain in clean and sanitary condition and in good repair the interior of his Unit, and each Owner shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise

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furnish and decorate the interior surfaces of the walls, partitions, ceilings, floors, windows and doors within his Unit and the furniture and furnishings included therein; provided, however, that in the event an Owner shall do anything with respect to his Unit that might have the effect of increasing the level of noise or sounds that can be heard outside of his Unit during normal use and occupancy of his Unit, including but not limited to the replacement of carpeting with tile, parquet or other hard floor covering, he shall be required to take at his own expense all reasonable measures to deaden, insulate and otherwise decrease the level of such noise or sounds to the minimum level reasonably possible. Each Owner shall keep clean and in good condition the interior and exterior of the windows of his Unit, and shall not replace the glass in such windows except with glass of a similar color and quality to that which is supplied with the Unit.

4.04 Patios.

Wherever a patio and/or balcony is attached to a Unit, the Owner shall not have the right, without the Approval of the Board or its designee, to paint, alter, remodel or enclose, any such patio and/or balcony, and then only in a manner which does not impair the uniform appearance of such patio and/or balcony in comparison with other patios or balconies within the Project. Each Owner of a Unit which has a patio or balcony attached to it shall have the right to furnish such patio or balcony with outdoor furniture in keeping with the architecture of the Project and reasonable family use, and shall keep such patio or balcony in a clean and sanitary condition. In no event shall unsightly objects be placed or stored on a patio or balcony where they may be seen by other Owners using the Common Areas or by the public in general.

4.05 Insurance.

Nothing shall be done or kept in or on any Unit or any Common Area or any portion thereof which will increase the rate of insurance in or on any other Unit or the Common Area or any portion thereof. No Owner shall permit anything to be done or kept in his Unit or in any Common Area which would result in uninsurability or in the cancellation, suspension, modification or reduction of insurance in, on or covering any other Unit, Common Area or item of Personal Property within the Project. If, by reason of the occupancy or use of any Unit or any Common Area by any Owner, the rate of insurance on all or any portion of the Project shall be increased, such Owner shall become personally liable to the Association for any increase in insurance premiums caused thereby and the cost thereof shall be assessed to such Owner and his Condominium as a Special Assessment in accordance with the provisions of Article Seven hereof.

4.06 Structural.

Nothing shall be done in, on or to any Unit or any Common Area which will impair the structural integrity of any Building or any portion thereof.

4.07 Alteration and Decoration of Common Area.

Subject to the provisions of Section 4.01 hereof, no Owner shall, whether at his own expense or otherwise, do, make or suffer any alteration, addition or modification to any portion of the Common Area, nor shall he install, attach, paste, hinge, screw, nail, build or construct any lighting, decoration or other article or thing thereto, without the Approval of the Board, provided that Approval of the Board shall not be required for the installation within a Unit of any decorative items such as fixtures, shelving and art work.

4.08 Signs.

Subject to the provisions of Section 4.01, no sign, notice, nameplate, card or advertisement of any kind shall be displayed to the public view on or from any Unit or in or on any Common Area, without the Approval of the Board, provided that a sign of customary and reasonable dimensions advertising the sale of a Condominium, which sign is of a professional type and dignified appearance, may be placed in such location in the Common Area as designated by the Board, and open to public view. The Board shall have the sole authority to determine whether said sign is of a professional type and dignified appearance. The Board shall also provide appropriately marked facilities for the receipt of mail and packages and shall maintain within any Building containing Condominiums a complete and current register of the names of each Owner and his respective Unit.

4.09 Electrical Wiring and Equipment.

No Owner shall install, attach or hang or cause to be installed, attached or hung any equipment or wiring for electrical installation, television or radio transmitting or receiving antenna, machines or air-conditioning units or other like equipment or wiring in or on any portion of the Common Area or that protrudes from any Balcony or through any Common Area wall, floor, ceiling, window or door, except as approved by the Association. All radio, television, air-conditioning units, or other electrical equipment or appliances of any kind or nature or wiring therefor installed or used in a Unit shall fully comply with all rules, regulations and requirements of all state and local public authorities having jurisdiction over same, and the Owner alone shall be liable for any damage or injury caused by any such radio, television or other electrical equipment or appliance installed or used in his Unit. Normal radio, stereo, high fidelity and television installations within a Unit are excepted.

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4.10 Nuisance.

No noxious, offensive or illegal activity shall be carried on, nor shall anything be done or placed in or on any Unit or in or on any portion of the Common Area which is or may become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other Owners in the use and enjoyment of their Units or of the Common Area or in the use and enjoyment of their property. Without limiting the foregoing, no horns, whistles, bells or other sound devices, except security devices approved for use by the Board which are used exclusively to protect persons or property located in or on the Project, shall be placed in or used in or upon any portion of the Project. This Section shall not preclude the use and operation of stereos, radios, televisions, or musical instruments where the volume is maintained at a reasonable level.

Each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations and requirements of any governmental agency or authority with respect to the occupancy and use of his Condominium.

4.11 Power Tools.

No power tools, welding equipment, or carpentry shops shall be maintained or used within the Project without the Consent of the Board.

4.12 Pets.

No bird, reptile or animal of any kind shall be raised, bred or kept in any Unit, or in any Common Area, except that dogs, cats or other domestic household pets, none of which exceeding fifty-five (55) pounds in weight, may (with Approval of the Association) be kept in a Unit and permitted upon any portion of the Common Area designated therefor by the Board, provided that no bird, reptile or animal of any kind shall be kept, bred or maintained (i) for any commercial purpose, (ii) in unreasonable numbers, or (iii) for any purpose if there would be involved an odor or noise which would unreasonably disturb the use and enjoyment of any portion of the Project by other Owners. The Owner of any pet shall and does hereby indemnify all other Owners, the Association, its Board of Directors, officers, the Manager and his staff and agrees to hold each of them harmless from and against any and all loss, cost, liability or expense of any kind or character whatsoever arising from or growing out of his having such pet within the Project. Any inconvenience, damage or injury caused by such domestic pet or pets shall be the responsibility of the Owner to whom such pet belongs. In no event shall any such domestic pet or pets be permitted in or on any portion of the Common Area unless carried or on a leash.

4.13 Vehicles.

No automobile, truck, trailer, camper, boat, aircraft or any other similar vehicle shall be permitted to be stored or remain on any portion of the Common Area other than completely within an Owner's parking space(s), except that, guest parking, if any, limited to automobiles may be permitted to exist in those areas designated as "guest parking" by the Board, for a period of time not in excess of twenty-four (24) hours. No Owner, nor any member of his family, nor his tenants, guests, invitees, agents, licensees, servants or employees shall park or cause to be parked any vehicle in such a manner as to impede or prevent ready access to any entrance or exit of a Building, or any of the Parking Areas as designated in the Condominium Plan by another vehicle. No Owner shall permit any member of his family, or his guests, tenants, agents, licensees, servants or employees to use any of the Parking Areas, the exclusive use of which has been assigned to another Owner. No Owner shall construct, repair, service or maintain any motor vehicle within any portion of the Project, except for emergency repairs thereto to the extent necessary for the movement thereof to a proper repair facility.

4.14 Exterior Fires; Barbecues.

There shall be no exterior fires whatsoever within the Project except for barbecue fires in confined receptacles located on balconies, which are adequately designed for such purposes and approved by the Board.

4.15 Common Area Obstructions.

Subject to the provisions of Section 4.01, the Common Area shall be used only for the purposes intended and no bicycles, scooters, baby carriages or similar vehicles, toys or other vehicles belonging to any Owner, any member of his family, tenants, guests, agents, invitees, or employees will be kept or hung therein unless specifically designated by the Board therefor.

4.16 Laundry.

No exterior clothesline shall be erected or maintained in, on or connecting any Common Area, Patio, Balcony, or Parking or Storage Areas within the Project.

4.17 Commercial Operations.

Except for the management, operation and maintenance of the Project, cable television, laundry and cleaning pickup and delivery, repair work, doormen, security facilities and security guards, and the leasing of Units by individual Owners thereof, and subject to the provisions of Section 4.01 hereof, no profes-

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sional, commercial or industrial operation or business of any kind whatsoever shall be established, maintained, operated, carried on, or conducted on or within the Project by any Owner.

4.18 Trash; Refuse.

No unconcealed trash or rubbish container or similar items visible from public or private streets, other Units, Balconies, or recreational areas shall be kept or maintained within the Project. No trash or refuse cans, ice, milk bottles or other articles shall be placed in the Common Area halls, lobbies or staircases, nor shall any cloth, curtains, rugs or mops, dust, dirt or other articles or substance be hung, shaken, swept or thrown from, on or into any Common Area hallway, staircase, door, window or Patio. However, nothing contained in this section 4.18 shall prohibit the placing of normal deliveries of articles such as packages, newspapers and dairy products in the Common Area halls in front of a Unit's door; provided, however, that an Owner shall not permit such items to accumulate in the Common Area halls in unreasonable numbers or for an unreasonable time.

4.19 Roof.

Owners, the members of their families and their tenants, social guests, employees, servants, agents and invitees shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of any Building without the prior written approval of the Board.

4.20 Keys and Locks.

The Manager, if one is retained by the Board, shall if required by the Board retain a pass key to each Unit. No Owner shall alter any lock or install a new or additional lock in any door providing access to his Unit or any storage, air conditioning or water-heating facility without the Consent of the Association. No such Consent shall be given until the Owner shall first provide to the Board a key to the altered, new or additional lock.

4.21 Drilling; Mining Operations.

The use of any portion of the surface of the Property for drilling operations, mining or quarrying of any kind, including, but not limited to, oil well drilling, oil development or mining operations of any kind, is hereby and shall be prohibited.

4.22 Taxes and Utilities.

Each Owner of a Condominium shall pay any real and personal property taxes or charges assessed against his Condominium, and the utility charges which are separately metered for said Condominium.

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4.23 Rules and Regulations.

Each Owner of a Condominium, the members of his family and his tenants, social guests, employees, servants and invitees shall abide by the uniform rules and regulations pertaining to the Project and the use of the Common Area adopted by the Board, as the same may from time to time be amended. Such rules and regulations shall be binding upon each and every Owner and the members of his family and his tenants, social guests, employees, servants and invitees and said rules shall have the same force and effect as if they were set forth in this Declaration.

4.24 Consent or Approval is Revocable.

Any Consent, Approval or authorization given as permitted by this Declaration by the Association, its Board of Directors, officers, the Manager or any person duly authorized by any of them to give such Consent or Approval or authorize any one or more acts or omissions mentioned in this Declaration shall be revocable at any time.

4.25 Monetary Penalty.

Recognizing the need for a reasonable means of encouraging and insisting upon compliance with the provisions of this Article Four without resorting to suits for injunctive relief, the Board of Directors of the Association is hereby authorized to assess any Owner found to be in violation of any provision of this Article Four, after notice and hearing duly given and held by the Board, a sum not to exceed (i) one hundred dollars (\$100.00) for any one violation, or (ii) five hundred dollars (\$500.00) in any one year. Any assessment made pursuant to this Section is not and shall not become a Special Assessment against such Owner and his Condominium as provided for in Article Seven hereof.

Notice of any assessment made pursuant to this Section shall be given in the following manner:

(a) Notice shall be sent by prepaid, first-class, or registered mail to the most recent address of the Owner as shown on the Association's records, setting forth the violation and the proposed monetary penalty. Such notice shall be sent at least (15) days before the proposed effective date of the penalty.

(b) The Owner being penalized shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held not fewer than (5) days before the effective date of the proposed penalty. The hearing will be held by the Board of Directors of the Association. The notice to the Owner of the proposed penalty shall state the date, time and place of the hearing, and the amount of the proposed penalty.

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(c) Following the hearing, the Board of Directors of the Association shall decide whether or not the Owner should in fact be penalized, and the amount of the penalty. The decision of the Board of Directors shall be final and binding upon the Owner.

In the event that any Owner shall fail to pay any amount assessed against him pursuant to this section 4.25, then the Board of Directors of the Association shall have the authority to seek judicial enforcement of the assessment in any court of competent jurisdiction. The Owner being so assessed shall also be liable for all costs of collection, including, but not limited to, attorney's fees, if any, court costs, etc.

4.26 Owner Liability.

Each Owner shall be liable to the Association for any damage to the Common Area or any improvements, landscaping or equipment thereon which may be sustained by the negligence or willful misconduct of said Owner or members of his family, or his tenants, social guests, employees, servants, agents or invitees, and shall be assessed by the Board for the repair or replacement thereof. In the event of any damages or destruction to any portion of the Common Area caused by any negligent or malicious act or omission of any Owner, or by any member of his family or his guests, tenants, servants, employees, agents or invitees, then the Board shall immediately cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not covered or reduced by insurance proceeds paid to or received by the Association) shall be assessed and charged solely to and against said Owner. Said assessment shall be made by written notification from the Board of the Association within thirty (30) days following such notice. Any assessment made pursuant to this Section is not and shall not become a Special Assessment against such Owner and his Condominium as Special Assessment is defined in Article Seven hereof. In the event that Owner fails to pay for damages assessed to him as a result of damage to the Common Area or any improvements, landscaping or equipment thereon sustained by the negligence or willful misconduct of said Owner or members of his family, or his tenants, lessees, social guests, employees, servants, agents, or invitees then the Board of Directors shall have the right to pursue its available legal rights and remedies in order to satisfy said obligation. In the event that the Board resorts to legal proceedings in order to satisfy said Owner's obligations provided for in this Section, then said Owner shall be liable for all costs and attorneys' fees in connection therewith.

4.27 Tax Assessment.

In the event that a separate tax assessment for each Unit within the Project has not been made by the Assessor's Office but

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rather there exists one (1) tax assessment against the entire condominium Project as a whole, then the total tax assessment shall be prorated among, assessed and charged to and against the individual Owners and their respective condominium Units (including Declarant with respect to any retained or unsold Condominiums) in accordance with the percentage figure appearing after the respective Units in the Assessment Schedule attached hereto as Exhibit "B" and by this reference made a part hereof. The Board of Directors of the Association is hereby authorized to make the above described prorations and assessments, and any assessment made pursuant to this Paragraph 4.27 shall be and constitute a Special Assessment against such Owner and such Owner's Condominium in accordance with the provisions and procedures for Special Assessments contained in Article 7 hereinafter.

4.28 Wharfage-Mooring Area.

Each Owner (or a tenant of an Owner) shall have the right to use the wharfage-mooring area within the Project (as set forth and depicted in the Condominium Plan) for purposes of loading and unloading gear, guests, passengers, etc. on boats owned by Owners or tenants of Owners. The right to use such wharfage-mooring area shall be subject to reasonable rules and regulations as may be established by the Association from time to time, which rules and regulations shall have the same effect as if incorporated herein.

ARTICLE FIVE

ASSOCIATION

5.01 Existence.

Declarant has caused to be formed the Association which, acting alone or through its Board, officers, Manager, or any duly authorized agent or representative, shall constitute the "management body" within the meaning of Section 1355 of the California Civil Code.

5.02 Membership.

Each Person (including Declarant as to any unsold or retained Condominium) shall automatically, upon becoming an Owner of a Condominium, become a Member of the Association and shall remain a Member thereof until he shall cease to be an Owner. The foregoing is not intended to include persons or entities who hold such an interest in a Condominium merely as security for the performance of an obligation.

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5.03 Membership Appurtenant to Units.

The membership of each Owner in the Association is for the benefit of, and appurtenant to, the Condominium to which it relates, and consequently, membership may not be separated from the ownership of such Condominium.

5.04 Transfer.

An Owner shall not transfer, pledge or alienate in any way his membership in the Association, except upon the sale of the Condominium to which it is appurtenant, and then only to the purchaser of such Condominium. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in his name to the purchaser of the Condominium to which it is appurtenant, the Association, shall have the right to record the transfer upon the books of the Association, and thereupon the membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

5.05 Voting Rights.

The Association shall have two classes of voting membership:

Class A. Class A members shall be all unit owners with the exception of Declarant. Class A members shall be entitled to one vote for each condominium owned by them. When more than one such person holds such interest in any condominium, all such persons shall be members. The vote for such unit shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such condominium.

Class B. The Class B member shall be Declarant. The Class B member shall be entitled to three (3) votes for each condominium owned by it, provided that the Class B membership shall cease and be converted to Class A membership on the happening of the following events, whichever occurs earlier:

A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

B. Two (2) years from the date of the original issuance of the Final Subdivision Public Report issued by The Department of Real Estate for the Project.

The voting rights of all classes of membership shall be subject to the restrictions and limitations provided in this Declaration and in the Articles and in the By-Laws. Where the

Declaration, Articles, or By-Laws prescribe two classes of voting membership and require the vote or written consent of each class of membership for the initiation of action by or in the name of the Association, any requirement in the Declaration, Articles or By-Laws, other than in Section 15.08 of the Declaration, Article IX of the Articles, Section 12.02 of the By-Laws, and Section 18.1 of the Declaration, that the vote of the Declarant shall be excluded in any such determination shall be applicable only if there has been a conversion of Class B membership to Class A membership, in which case the vote or written consent of a prescribed percentage of the total voting power of the Association as well as the vote or written consent of the prescribed percentage of the total voting power of members other than the Subdivider shall be required. Except as stated in the above referenced provisions of the Declaration, Articles or By-Laws, so long as there is in existence two (2) outstanding classes of membership, the approval of any action to be taken by the Association shall expressly require the vote or written consent of a prescribed percentage of the Class B voting power as well as the vote or written consent of the prescribed percentage of the Class A voting power.

5.06 Joint Owner Disputes.

The vote for each such Condominium may be cast only as a unit, and fractional votes shall not be allowed. In the event that more than one person owns a Condominium and they are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Condominium, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Condominium. In the event more than one vote is cast for a particular Condominium, none of said votes shall be counted and all of said votes shall be deemed void.

5.07 Initial Board of Directors.

The initial Board of Directors shall be the three (3) persons named in and executing the Articles of Incorporation.

5.08 Election of Board of Directors.

At the time of the first annual meeting of the Association, the Members thereof (including Declarant with respect to any unsold or retained condominium) shall elect, in accordance with the By-Laws, a Board of Directors replacing the initial Board of Directors.

5.09 Meetings.

- (a) Place of Meetings. Meetings of the Association shall be held at a suitable location on the

Property, or such other suitable place convenient to the Members, as may be designated by the Board of Directors; provided, however, that all meetings shall be held in the City of Big Bear Lake, County of San Bernardino, State of California.

- (b) Time of Meetings. The first annual meeting of the Association shall be held within forty-five (45) days after the close of the sales escrow of the first thirty-one (31) units in the Project authorized for sale under the first Public Subdivision Report for the Project, but in no event shall the meeting be held later than six (6) months after the close of the sales escrow of the first unit in the Project, at which time a Board of Directors shall be elected by secret written ballot of the Association members. Prior to said first meeting, the initial Board named by the Declarant shall manage the affairs of the Association. Thereafter, the Association shall hold annual and special meetings at such times as shall be designated by the By-Laws, and shall conduct at such meetings such business as shall be provided for in the By-Laws.

- (c) Notice of Meetings. Declarant shall call the first annual meeting and give notice thereof in the manner set forth in the By-Laws. Thereafter annual and special meetings of the Association shall be called, noticed and held as provided in the By-Laws.

ARTICLE SIX

MANAGEMENT DUTIES AND POWER OF ASSOCIATION

6.01 Management of the Project.

The management and control of the Project shall be the responsibility of the Association, acting alone or through its Board of Directors, its officers or other duly authorized representatives or agents, in accordance with the provisions of this Declaration, the Articles of Incorporation, the By-Laws and such rules and regulations as may be adopted by the Board, and amendments, changes, modifications thereto as may come into effect from time to time. Such management and control shall be transferred from Declarant to the Association on the close of the first escrow for the sale of a Condominium to a purchaser.

6.02 Powers and Duties Generally.

In addition to the powers of assessment, collection and enforcement set forth in Articles Seven and Eight hereof, the

Association may exercise any and all rights and powers herein-after enumerated together with any and all rights and powers which are necessary or proper to maintain and keep the Project in first-class condition and in a good state of repair, to enforce any of the provisions of this Declaration, the By-Laws or the rules and regulations duly adopted by the Board of Directors of the Association, or to carry out and perform its powers and responsibilities, including but not limited to the right to grant permits, licenses and easements over the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project. Notwithstanding the foregoing, in no event shall the Board of Directors of the Association perform any of the following acts without the vote or written consent of the majority of the voting power of the Owners excluding the Declarant: (a) sell, during any fiscal year, property owned by the Association having an aggregate market value in excess of five percent (5%) of the budgeted gross expenses of the Association for such fiscal year, (b) incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, (c) pay compensation to Association members or officers, and (d) fill a vacancy on the Board of Directors created by the removal of a Director.

6.03 Powers and Duties.

The Association shall provide, perform, cause to be performed, maintain, acquire, contract and/or pay for out of Common Funds all or any of the following:

- (a) Utilities. Water, sewer, electrical and gas and other necessary utility services for the Common Area if (but only if) not separately metered or charged to individual Owners.
- (b) Insurance. Such policies of casualty, liability and other insurance covering such persons, property and risks as are more particularly set forth in Article Ten hereof, except that in no event shall prepaid casualty and/or liability insurance policies exceed three years duration or fail to provide for short rate cancellation by the insured.
- (c) Management Services. The services of a Manager, together with the services of such other Persons as the Board shall from time to time determine to be necessary or proper to the daily management, operation and maintenance of the Project; provided that no contract for such services shall be made and entered into which binds the Association for a period in excess of one (1) year, with the follow-

ing exceptions: (i) the approval of the Owners (not including Declarant) of a majority of the voting power, (ii) a management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration, (iii) a contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate, and (iv) pre-paid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policies permit for short rate cancellation by the insured.

- (d) Materials. All supplies and materials necessary or proper to the daily management, operation and maintenance of the Project; provided, however, that no contract for such supplies and materials shall be made and entered into which binds the Association for a period in excess of one (1) year, except with the Approval of the Owners (not including Declarant) of a majority of the voting power.
- (e) Operations. Those portions, if any, of the Common Area used exclusively by such Persons as are employed by the Association to provide for the daily operation and maintenance of the Project.
- (f) Repairs; Maintenance; Reconstruction. Subject to the provisions hereof, arrangements for cleaning, painting, maintenance, repairs, reconstruction and replacement of and to all or any portion of the Project or the Personal Property which is required to be cleaned, painted, maintained, repaired, reconstructed or replaced by the Association.
- (g) Gardening and Landscaping. The services of a gardener to maintain, renew, and replace all or any portion of the landscaping, gardens and green areas within the Common Area, together with all tools, supplies, plants and equipment reasonably necessary for such purpose.
- (h) Trash; Rubbish Collection. The services of a trash, rubbish and garbage collection company or agency, whether public or private, for the purpose of promptly, regularly and efficiently collecting from designated areas within the Project and removing from the Project all trash, rubbish, garbage and refuse.

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- (i) Miscellaneous Services. Such other services for the use, enjoyment and protection of the Project and the residents thereof as the Association may determine from time to time are reasonable, proper or desirable, including, but not limited to, valet and/or garage parking, doormen, cleaning pick-up and delivery, and security guards and security facilities.
- (j) Financial Statements. A pro forma operating statement (budget) for each fiscal year shall be distributed to all Owners not less than sixty (60) days prior to the beginning of each fiscal year. A balance sheet, as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first escrow for the sale of an interest in the subdivision, and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed to all Owners within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed. An annual report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year: (i) a balance sheet as of the end of the fiscal year, (ii) an operating (income) statement for the fiscal year, (iii) a statement of changes in financial position for the fiscal year, and (iv) any information required to be reported under Section 8322 of the California Corporation Code.
- (k) Legal and Accounting. Legal and accounting services and fees for the Association, the Board, officers, the Manager and his staff, provided that said services and fees are incurred solely in connection with (i) the management, operation and maintenance of the Project, (ii) the performance of enforcement (including the collection of Assessments) of the provisions of this Declaration, the Articles of Incorporation, or the By-Laws, (iii) protests or litigation to contest local real estate taxes levied against a majority of the Condominiums, or (iv) litigation arising out of the condemnation of all or any portion of the Common Area.

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- (l) Fidelity Bonds. Such fidelity bond or bonds naming the Board of Directors of the Association, its officers, Members, the Manager, his staff and/or such other person or persons as may be designated by the Association as principals with the Association (as trustee) as the obligee.
- (m) Taxes and Assessments. Taxes and/or assessments of whatever type duly assessed against all or any portion of the Project or the Personal Property of the Association whether or not a lien upon said property or any portion thereof which taxes and/or assessments are not separately assessed to individual Owners.

6.04 Additional Authority.

The Association, acting through its Board, officers or other duly authorized representatives or agents shall have authority to:

- (a) Establish and publish uniform rules and regulations as may be deemed by them to be reasonable in connection with the use, occupancy and maintenance of the Project, and to alter, amend or modify such rules and regulations from time to time. A copy of such rules and regulations shall be:
 - (i) Posted in one or more conspicuous places in each Building located on the Project;
 - (ii) Distributed to each Owner; and
 - (iii) Posted in a conspicuous place near the major recreational facilities on the Common Area.

Such rules and regulations shall be binding upon each and every Owner and the members of his family and his tenants, social guests, employees, servants, and invitees, forty-eight (48) hours after the happening of any one of the foregoing and said rules shall have the same force and effect as if they were set forth in this Declaration.

- (b) Charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area.

6.05 Delegation of Powers.

The Association or the Board may delegate any of its duties, powers or functions to any qualified person to act as Manager.

Said Manager may further be authorized to file any notice and take any legal action on behalf of the Owners which filing or taking of such action is within the authority of the Association or the Board. Neither the Association, nor the members of its Board, nor its officers shall be liable for any omission or improper exercise by the Manager or his staff of any such duty, power or function so delegated.

6.06 Right of Entry.

The Manager, or any one or more qualified persons designated by the Association or the Manager, shall have the right and authority to enter upon and within any Unit, in the presence of the Owner thereof where reasonably possible, for the purpose of (i) making emergency repairs therein, (ii) performing necessary maintenance or repairs to portions of the Common Area, (iii) abating any nuisance, or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Unit, (iv) protecting the property rights and welfare of the other Owners or (v) for any other purpose reasonably related to the performance by the Association or the Manager of their responsibilities under the terms of this Declaration as the same may from time to time be amended or modified by the Association. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use and/or enjoyment of the Owner or occupant of such Unit and shall be preceded by reasonable notice to the Owner or occupant thereof wherever the circumstances permit. Any damages to a Unit or to the furniture, furnishings, decorations or improvements contained therein resulting from the exercise of such right of entry shall be repaired.

6.07 Financial Records and Accounts; Inspection.

The Secretary and Treasurer and/or such other officers of the Association, as may from time to time be designated by the Board, shall keep or cause to be kept a membership register setting forth all names of Owners of Units within the Project, detailed records of the actions of the Board, the officers of the Association, the Manager, his staff, minutes of the meetings of the Board, officers and Owners and financial records and books of account of the Association, including a chronological listing of all receipts and expenditures of Common Funds, as well as a separate account for each Common Assessment, Capital Assessment and Special Assessment levied or charged against each Condominium or the Owner thereof, the dates when so assessed and when the same is due, the amounts paid thereon, and the balance, if any, of any Assessment remaining unpaid. Said register, books and records may be inspected, copied or audited by any Owner or his duly authorized representatives at the Owner's sole expense at any reasonable time and for a purpose reasonably related to his interest as an Owner, at the office of the Association or at such

other place within the Project as the governing body shall prescribe. The Board of Directors shall establish reasonable rules with respect to:

- (a) Notice to be given to the custodian of the records by the Owner desiring to make the inspection.
- (b) Hours and days of the week when such inspection may be made.
- (c) Payment of the cost of reproducing copies of documents requested by Owner.

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Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

6.08 Limitation of Liability.

Neither the Declarant nor its agents or employees nor the Association, nor its Board of Directors (nor any member thereof), nor its officers (nor any of them), nor the Manager nor his staff shall be liable for any failure to provide any service or perform any duty, function or responsibility designated, or provided in this Declaration or in any other Condominium Document to be performed by the same, or for injury or damage to persons or property caused by fire, explosion, the elements or by another Owner or person in the Project or resulting from electricity, water, rain, dust or sand which may leak or flow from outside any Unit or from any part of any Building or from any pipes, drains, conduits, appliances or equipment, or from any other place or cause unless caused by the bad faith of Declarant, the Association or its Board or officers, or the Manager or his staff.

6.09 Indemnification.

The Association shall and does hereby indemnify the Board of Directors (and each member thereof), the officers of the Association (and each of them), the Manager and each member of his staff and each of the employees of the Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by such person or persons in connection with any proceeding to which he may be a party, by reason of his being or having been a Director, officer or Manager or employee of the Association, except in such cases where he is adjudged to have acted in bad faith in the performance of his duties.

6.10 Board May Cause Repairs to Units.

In the event any Owner fails to maintain the interior of his Unit and make repairs thereto in such a manner as deemed reasonably necessary in the judgment of a majority of the Board to preserve and protect the value of such Unit, the value and/or attractive appearance of the Project as a whole, or the safety and welfare of the other Owners, the Board shall give written notice to such Owner, stating with particularity the work, maintenance or repair which the Board finds to be required and requesting that the same be carried out within a period of twenty (20) days from the giving of such notice or such longer period as may be reasonably required for the prompt completion thereof. In the event such Owner fails to carry out such maintenance or repair within the period specified by the notice, or within such longer period as may be reasonably required for the prompt completion thereof, the Board shall cause such work to be done in the name of such Owner and shall assess the cost thereof, including the cost of all necessary building or other permits, to such Owner, provided, however, that such an assessment is not and shall not become a Special Assessment as provided for in Article Seven hereof. Said Assessment shall be made by written notification from the Board of Directors of the Association within thirty (30) days following such notice. In the event that any Owner shall fail to pay any amount assessed against him pursuant to this Section, then the Board of Directors of the Association shall have the right to pursue its available legal rights and remedies in order to satisfy said obligation. In the event that the Board resorts to legal proceedings in order to satisfy said Owner's obligations provided for in this Section, then said Owner shall be liable for all costs and attorneys' fees in connection therewith. Prior to the commencement of any work described above for which a building or special permit is required by any governmental department or agency having jurisdiction, said Owner shall apply for and obtain such permit. For the purposes only of this Section and Section 1357 of the California Civil Code, any work, maintenance or repairs the Board shall cause to be performed in accordance with this Section shall be and the same is hereby expressly agreed and deemed to be (i) "emergency repairs" to the Unit involved and (ii) performed or furnished with the express consent of the Owner of the Unit involved.

6.11 Personal Property of Association.

The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to the provisions of Section 6.02. Upon termination of condominium ownership of the Project and dissolution of the Association the beneficial interest in any such property shall be deemed to be owned by the then Owners in accordance with their Percentage Interests.

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6.12 Nonprofit Character of Association.

Notwithstanding anything contained in this Declaration to the contrary, neither the Association nor its Board of Directors, the Manager or the Manager's staff may do, conduct or engage in any activity, or cause the same to be done, which may jeopardize the nonprofit character of the Association.

6.13 Association Power to Discipline Members for Breach of Declaration.

The Association does not have the right to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his Unit as a result of said Owner's failure to comply with provisions of this Declaration or of the By-Laws or Articles of Incorporation of the Association or of duly-enacted rules of operation for the Common Areas, except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a Power of Sale for failure of the Owner to pay Assessments duly levied by the Association. Notwithstanding anything to the contrary contained in the foregoing, the Board of Directors of the Association has the right to impose monetary penalties, temporary suspensions of an Owner's rights as a Member of the Association or other appropriate discipline, for failure to comply with the Declaration, the Articles of Incorporation or the By-Laws of the Association, provided, however, that the procedures for notice and hearing set forth in Section 4.24 of this Declaration are followed with respect to the accused Member before a decision to impose discipline is reached.

Notwithstanding anything to the contrary contained herein, a monetary penalty imposed by the Association (1) as a disciplinary measure for failure of a member to comply with the Declaration; (2) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas for which the member was allegedly responsible; or (3) in bringing the Member and his Condominium into compliance with the Declaration, may not be characterized nor treated in the Declaration as an Assessment which may become a lien against the Member's Condominium enforceable by a sale of the interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the California Civil Code. The immediately foregoing provision does not apply to Assessments 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, court costs, etc.) in its efforts to collect delinquent Assessments.

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ARTICLE SEVEN

ASSESSMENTS

7.01 Purpose of Assessments.

The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association, their social guests, tenants, employees, servants and invitees, and in particular shall be used for the purpose of improving, protecting, operating and maintaining the Common Area and the facilities, improvements, landscaping and structures located thereon, and providing for the acquisition and maintenance of property, services and facilities devoted to this purpose, and directly related to the use and enjoyment of the Common Area and the Units, and otherwise providing for the performance by the Board of each and every one of the powers and duties of the Board.

7.02 Common Assessment.

- (a) Purpose. The Common Assessment shall be levied by the Association for the purpose of obtaining Common Funds to pay Common Expenses.
- (b) Commencement. The Common Assessment shall commence as to all units on the first day of the month following the close of escrow of a sale of a Unit located on the Project.
- (c) Initial Common Assessment. The first Common Assessment shall be based on a budget for the anticipated Common Expenses for the first fiscal year of the Association prepared by Declarant and presented to potential purchasers of Units. Notwithstanding the foregoing, the Declarant shall have the right to collect from each Owner who purchases a Unit from Declarant, in addition to the Common Assessments, an amount equal to two (2) month's Common Assessment, which additional amount shall be contributed to the Association as for additional initial working capital for the Association.
- (d) Budgets. Not less than sixty (60) days prior to the beginning of each fiscal year, the Board of Directors of the Association shall estimate and prepare a budget for the anticipated Common Expenses for the next succeeding fiscal year. A budget shall set forth in reasonable detail the elements making up the Common Expenses, including reserves for anticipated long-term maintenance, repair and replacement of capital improvements upon

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the Common Area, the cost of which would not ordinarily be incurred on an annual basis. Said budget along with information as to the amount of the Common Assessment against each Condominium shall be distributed to the Owners at least sixty (60) days prior to the commencement of the fiscal year. The Board of Directors of the Association shall not, without the vote or written assent of the Owners of a majority of the voting power (excluding Declarant), impose a Common Assessment per Condominium which is more than twenty percent (20%) greater than the Common Assessment for the immediately preceding fiscal year.

- (e) Individual Assessment. The total estimated Common Expenses shall be divided among, assessed and charged to and against the individual Owners and their Condominiums (including Declarant with respect to any retained or unsold Condominium) in accordance with the percentage figure appearing after the respective Units in the Assessment Schedule attached hereto as Exhibit "B" and by this reference made a part hereof. If an annual Common Assessment is not made as required for a new fiscal year, the Common Assessment for the prior fiscal year shall apply and govern each Owner's payments until changed by a new Common Assessment.
- (f) Payable Monthly. The Common Assessment shall be payable by each Owner against whom assessed in twelve (12) equal monthly installments on the first day of each calendar month (commencing with the date on which he becomes an Owner and prorated to that date) or at such other date or times and in such other installments as the Association shall determine. Delinquent installments shall bear interest at the rate of ten percent (10%) per annum.

7.03 Capital Assessment.

In addition to the Common Assessment, the Association may levy during any fiscal year a Capital Assessment, applicable to that fiscal year only, for the purpose of defraying, in whole or in part, the cost of any new construction, or unanticipated repair or replacement, of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto; provided, however, that no Capital Assessments shall be levied to defray costs, exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for such fiscal year, without first being approved by the Owners (excluding Declarant) of a majority of the voting power at a

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special or regular meeting of the Association, at which a quorum is present, called and noticed for such purpose, in accordance with the By-Laws, but in no event less than ten (10) days nor more than thirty (30) days in advance of the meeting. The total estimated Capital Assessment shall be divided among, assessed and charged to and against the individual Owners and their Condominiums (including Declarant with respect to any retained or unsold Condominium) in proportion to each Owner's percentage interest in the Common Assessments. A Capital Assessment shall be made by written notification from the Board to each Owner of a Condominium at least thirty (30) days in advance of the first payment due under such Capital Assessment, and shall be payable in the manner specified in said notice. Delinquent payments shall bear interest at the rate of ten percent (10%) per annum.

7.04. Special Assessment.

Special Assessments may only be levied against Owners and their respective Condominiums in the following circumstances:

- (a) Insurance Proceeds Unavailable. In the event the proceeds of insurance obtained by the Association are paid to any Mortgagee of a Unit and by reason of such payment, said insurance proceeds are not made available to the Association as trustee or otherwise to effect any repair, reconstruction or restoration of any damage and/or destruction to all or any portion of the Project as provided in Article Eleven hereof, then the amount of such proceeds not made available shall be assessed and charged solely to and against the Owner of such Unit and his Condominium as a Special Assessment. Said Special Assessment shall be made by written notification from the Board of the Association to the Owner or Owners against whom made and shall be payable in full to the Association as trustee within sixty (60) days following such notice.
- (b) Owner's Failure to Maintain Unit. In the event any Owner fails to maintain the interior of his Unit and make repairs thereto, and the Board causes such maintenance and/or repair to be performed in accordance with the provisions hereof, all costs and expenses incurred in connection with such work, maintenance and/or repairs shall be immediately assessed and charged solely to and against such Owner and his Condominium as a Special Assessment. Said Special Assessment shall be made by written notification from the Board of the Association to the Owner and shall be payable in full to the Association within thirty (30) days following such notice.

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- (c) Damage to Common Area. In the event of any damage or destruction to any portion of the Common Area caused by any grossly negligent or malicious act or omission of any Owner, any member of his family or his guests, tenants, servants, employees, agents or invitees, the Board shall immediately cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not covered or reduced by insurance proceeds paid to or received by the Association) shall be assessed and charged solely to and against said Owner and his Condominium as a Special Assessment. Said Special Assessment shall be made by written notification from the Board of the Association to the Owner and shall be payable in full to the Association within thirty (30) days following such notice.
- (d) Act Increasing Insurance Premiums. In the event any act or omission of any Owner, any member of his family, or any of his guests, servants, employees, licensees, agents or invitees, shall increase the premiums for any insurance policy purchased or obtained by the Association for the benefit of the Project and the residents thereof, the amount of said increase shall be assessed and charged solely to and against such Owner and his Condominium as a Special Assessment. Said Special Assessment shall be made by written notification from the Board of the Association to the Owner and shall be payable in full to the Association at least ten (10) days in advance of the date or dates for the payment of such increased insurance premiums, or within ten (10) days following such notice, whichever is later.
- (e) Other Special Assessments Authorized by this Declaration. In addition to the Special Assessments hereinabove authorized by this Section, whenever in this Declaration it is provided that the Association shall have the right to assess a cost or expense against an Owner and his Condominium as a Special Assessment, said Special Assessment shall be made by written notification from the Board of the Association to the Owner and shall be payable in full to the Association within thirty (30) days from such notice, or within such extended period as the Association shall determine shall be applicable to any such Special Assessment.

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- (f) Interest; Limitations. Any Special Assessment made in accordance with this Declaration shall be the separate debt of each Owner against whom the same is specially assessed and shall bear interest upon any unpaid portion thereof at the rate of ten (10%) percent per annum. With the exception of a levy of a Special Assessment against an Owner for the purpose of reimbursing the Association for costs incurred in bringing that Owner and his interest in the Project into compliance with the terms of this Declaration, or the terms of the Articles of Incorporation or By-Laws of the Association, the Board of Directors of the Association may not, in any fiscal year, without the vote or written assent of the Owners (excluding Declarant) of a majority of the voting power levy Special Assessments to defray the cost of any action or undertaking on behalf of the Association which, exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for such fiscal year and, furthermore, no Special Assessment authorized herein shall be in excess of the amount of the assessed fair market value of the Condominium against which said Special Assessment is levied, as determined from the latest tax bill for real property taxes attributable to said Condominium.
- (g) Procedure for Levy of Special Assessment. Every Special Assessment shall be levied upon in the manner prescribed for the levying of Common Assessments as set forth in Article 7.02 herein, with the exception of a Special Assessment levied against Owners for the purpose of rebuilding or making major repairs to the structural common area, which Special Assessment shall be computed and 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.

7.05 Liability for Assessments.

The Owner of a Unit shall be personally liable for any and all Common Assessments, Capital Assessments or Special Assessments made by the Board of Directors of the Association in accordance with the provisions hereof. In a voluntary conveyance of a Unit by an Owner, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

7.06 Assessment Roll.

Each Assessment, whether Common Assessment, Capital Assessment or Special Assessment, against an Owner and his Condominium shall be set forth and recorded upon an assessment roll which shall be accurately maintained and available in the office of the Manager for inspection at all reasonable times by any Owner or his duly authorized representative. Said Assessment roll shall indicate for each Condominium, the name and address of the Owner thereof and the amount of all Assessments, paid and unpaid. A certificate executed and acknowledged by the Secretary or Treasurer of the Association stating all unpaid Assessments against an Owner and his Condominium shall be conclusive upon the Association and the Owner of such Condominium as to the amount of such unpaid Assessments as of the date of such certificate, in favor of all persons who rely thereon in good faith, and such a certificate shall be furnished by the Association to any Owner or to any Mortgagee under a Mortgage encumbering a Condominium upon written request therefor at a reasonable fee payable to the Association, not to exceed Fifteen Dollars (\$15.00).

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7.07 Deposits; Bank Account.

Subject to the provisions of Section 7.09 hereof, all sums received or collected by the Association from Assessments, together with any interest charges attributable thereto, shall be promptly deposited in a checking or savings account in a bank or savings and loan association located within the County of San Bernardino, State of California and selected by the Board of Directors of the Association, which account shall be clearly designated "Bayshore Ski & Racquet Club Homeowners Association, Inc. Common Funds Account". The Board and such officers of the Association as the Board shall designate, shall have exclusive control of said account and shall be responsible to the Owners for the maintenance at all times of accurate records thereof.

7.08 Commingling.

Subject to the provisions of Sections 7.07 and 7.09 hereof, all sums received or collected by the Association from Assessments or otherwise, together with any interest charges attributable thereto, may be commingled in a single fund and without the necessity of a specific accounting for each element for which any such Assessment was made. Any interest payable with respect to any funds deposited in accordance with Sections 7.07 and 7.09 hereof shall be applied to reduce Common Expenses for the next fiscal year. No Owner shall have the right to receive interest on any such funds deposited.

7.09 Reserves.

Notwithstanding the provisions of Sections 7.07 and 7.08 hereof, all sums assessed and collected by the Association as part of the Common Assessments which are budgeted to fund reserves for anticipated long-term maintenance, repair and replacement of capital improvements upon the Common Area, the cost of which would not ordinarily be incurred on an annual basis, shall be received by the Association as contributions to the capital of the Association by the member assessed, and shall be received in trust by the Board, set aside and segregated from the other Common Funds, invested at interest in savings accounts or certificates of deposit of banks or savings and loan associations within the County of San Bernardino, State of California, or forms of indebtedness backed by the full faith and credit of the United States Federal Government, and shall be used for the sole purpose of paying the cost of long-term maintenance, repair and replacement of capital improvements upon the Common Area, the cost of which would not ordinarily be incurred on an annual basis.

ARTICLE EIGHT

ASSESSMENT LIENS; ENFORCEMENT

8.01 Creation of Lien and Personal Obligation.

Declarant, for each Unit in the Project owned by it, hereby covenants and agrees, and each purchaser of any one of said Units by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association the Common Assessment, any Capital Assessment and any Special Assessment and any other assessment as provided for herein, together with such interest thereon and the cost of collection thereof (including attorneys' fees), all as provided for herein. The Common Assessment, any Capital Assessment and any Special Assessment, together with such interest thereon and cost of collection thereof (including attorneys' fees) as hereinafter provided, shall be a charge on, and a continuing lien upon, the real property against which each such Assessment is made as hereinafter provided, and shall also be the joint and several obligation of each person who was an Owner of the Condominium at the time such Assessment fell due.

8.02 Enforcement by Suit.

The Association may cause a suit at law to be commenced and maintained against an Owner personally obligated to pay Assessments for any delinquent Assessments as to which he is personally obligated. Any judgment rendered in any such action shall

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include the amount of the delinquency, together with interest and costs (including attorneys' fees) attributable thereto. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien as herein provided for.

8.03 Enforcement of Lien.

In accordance with the provisions of Section 1356 of the California Civil Code, the amount of any delinquent Assessment, together with any interest and costs (including attorneys' fees) attributable thereto or incurred in the collection thereof, shall be and the same is hereby declared and agreed to be a lien only upon the Condominium of the Owner so assessed when the Association causes to be recorded in the Office of the County Recorder of San Bernardino County, State of California a notice of Assessment executed by an authorized representative of the Association, setting forth the matters required by said Section 1356; provided that no such Notice of Assessment shall be so recorded until the Association or a person designated by the Association shall have first mailed to the Owner of the Condominium against which such Assessment was assessed at the street address of said Owner's Condominium or such other place as said Owner may designate in writing, a Notice of Default in the form prescribed by Section 2924 of the California Civil Code, together with a demand upon such Owner to pay any such delinquent Assessment and any interest charges attributable thereto. If the Association has not received full payment of all such delinquent Assessments and any interest charges attributable thereto within fifteen (15) days from the mailing of said Notice of Default, the Association may promptly cause said Notice of Assessment to be recorded as provided above. Within thirty (30) days after the recordation of said Notice of Assessment, the Association may cause the above-mentioned Notice of Default to be recorded in the Office of the County Recorder of San Bernardino, State of California and thereafter cause the Condominium of the defaulting Owner to be sold in the manner provided in Section 2924, et seq., of the California Civil Code as said Sections may from time to time be amended, or in any other manner permitted by law. Any such sale shall be held as promptly as possible. The Association shall have the power to bid on the Condominium of the defaulting Owner at such foreclosure sale and thereafter to hold, lease, mortgage and convey the same. Upon payment (prior to such a foreclosure) of any delinquent Assessment, together with interest and costs (including attorneys' fees), with respect to which a Notice of Assessment has been recorded, the Association shall promptly cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. Except as otherwise provided herein or by law, the lien created as provided herein shall be prior to all other liens recorded subsequent to the recordation of said Notice of Assessment, and unless sooner satisfied and released or the enforcement thereof initiated as

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herein provided, such lien shall expire and be of no further force or effect one (1) year from the date of recordation of said Notice of Assessment; provided that said one (1) year period may be extended by the Association for a period not to exceed one (1) additional year by recording in the Office of the County Recorder of San Bernardino, State of California, a written extension of said Notice of Assessment.

8.04 Additional Remedies.

The remedies and liens provided in this Article Eight and enforcement thereof as herein provided shall be in addition to and not in substitution for any other rights and remedies which the Association may have hereunder or by law.

8.05 Rights of Board; Waiver by Owners.

Each Owner hereby vests in and delegates to the Board or its duly authorized representative the right and power to bring all actions at law or lien foreclosures, whether judicially or by power of sale, or otherwise, against any Owner or Owners for the collection of delinquent Assessments in accordance herewith, and hereby expressly waives any objection to the enforcement in accordance with this Declaration of the obligation to pay Assessments as set forth in this Declaration.

8.06 Waiver of Homestead Exemption.

Each Condominium Owner does hereby waive to the fullest extent permitted by law, with respect only to liens created pursuant to this Article Eight, the benefit of any homestead or exemption or redemption laws of the State of California in effect at the time any payment of any Assessment becomes delinquent as herein provided, and such Owner shall be deemed to be estopped to raise said homestead or other exemption or redemption in any action or proceeding to enforce or foreclose such liens.

ARTICLE NINE

PROTECTION OF LENDERS; RIGHTS OF MORTGAGEE

9.01 Definition of Lender, Mortgage, Mortgagee.

As used herein, the term "Lender" shall denote and refer to the holder of a first mortgage or deed of trust given by an Owner (or his predecessor in interest), the lien of which mortgage or deed of trust is superior to all other monetary encumbrances except real property taxes and assessments, and the term "mortgage" shall mean and include a "deed of trust", the term "mortgagee" shall mean and include a "beneficiary (or its assignee),

under a deed of trust", and the term "first mortgagee" shall mean and include a "beneficiary (or its assignee) under a deed of trust with priority over all other mortgagees and deeds of trust".

9.02 Seventy-Five Percent Vote of Lenders.

Unless at least seventy-five percent (75%) of the Lenders (based upon one vote for each first mortgage or first deed of trust held) have given their prior written approval, neither the Association nor the Owners shall be entitled to take any of the following actions:

- (a) The abandonment, termination, partition or subdivision of the Common Area, except as provided by law in the case of substantial destruction by fire or other casualty or in the case of taking by condemnation or eminent domain;
- (b) An amendment to the Declaration or to the By-Laws of the Association governing the following subjects:
 - (i) The percentage interest of the Owners in the Common Areas of the Project;
 - (ii) The fundamental purpose for which the Project has been created;
 - (iii) Voting rights;
 - (iv) Assessments, assessment liens, and subordination thereof;
 - (v) The reserve for repair and replacement of common elements;
 - (vi) Property maintenance obligations;
 - (vii) Casualty and liability insurance;
 - (viii) Reconstruction in the event of damage or destruction;
 - (ix) Rights to use the common elements;
 - (x) Annexation of additional real property.
- (c) By act or omission, change, waive or abandon any material scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Units, the exterior

maintenance of the Units, the maintenance of the Common Area, party walks or common fences and driveways, or the upkeep of lawns and plantings within the Project;

- (d) Change the pro rata interest or obligations of any Unit for the purposes of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium unit in the Common Area and common elements;
- (e) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Project shall not be deemed a transfer within the meaning of this clause;
- (f) Use hazard insurance proceeds for losses to any of the properties within the Project (whether to Units or to the Common Area) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the Units and/or Common Area of the Project.
- (g) By act or omission seek to abandon or terminate the Condominium status of the Project;
- (h) Partition or subdivide any Unit or the Common Area.

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9.03 Relationship with Assessment Liens.

Any lien which the Association may have on any Unit in the Project for the payment of Common Area assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any Lender with a first trust deed or mortgage on the entire Project, or upon any Unit therein, made in good faith and for value, and no such lien shall in any way impair the obligation or the priority of such trust deed or mortgage unless the Lender thereof shall expressly subordinate its interest, in writing, to such lien.

9.04 Furnishing of Information.

Each Lender shall, upon request, be entitled to:

- (a) Inspect the books and records of the Association during normal business hours;

- (b) Receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association; and
- (c) Receive written notice of all meetings of the Association and/or the Board and be permitted to designate a representative to attend all such meetings. The Lender or its representative may draw attention to violations of this Declaration and to the By-Laws which have not been corrected or made the subject of remedial proceedings or assessments.
- (d) Written notification from the Association of any default by the mortgagor of a Unit in the performance of such mortgagor's obligations pursuant to this Declaration, the By-Laws, and the Association's rules and regulations, and any resolution by the Board of Directors, which is not cured within sixty (60) days.
- (e) Written notification of any material amendment to this Declaration and/or to the By-Laws.

9.05 Notice of Destruction or Taking; No Priority Over Rights of First Mortgagees.

No provision herein shall give a condominium owner or any other party priority over any rights of first mortgagees of condominiums pursuant to their mortgages in the case of a distribution to condominium owners of insurance proceeds or condemnation awards for losses to or a taking of condominiums and/or the Common Area. Such first mortgagees shall be entitled to timely written notice of any such damage or destruction, if such loss or taking exceeds \$10,000.00 or damage to a condominium covered by a mortgage exceeds \$1,000.00. Additionally, if any condominium or portion thereof is made the subject matter of any condemnation or eminent domain proceeding, no provision herein shall entitle the owner of a condominium or any other party, to priority over a first mortgagee of a condominium with respect to any distribution to such condominium of the proceeds of any award or settlement. Such first mortgagees shall be entitled to timely written notice of any such proceeding or proposed acquisition.

9.06 Common Area Loss.

The Association shall, with respect to any mortgage purchased by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Government National Mortgage Association notify each such corporation or association (as the case may be) in writing of any loss to or taking of the Common

Area of the Project if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00) in value. Such notice shall be addressed to the local offices of such corporation or association, in care of the Servicer. A copy of such notice shall be filed with the records of the Association.

9.07 Leasing of Unit.

With the exception of a Lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Owner shall be permitted to lease his Unit for transient or hotel purposes; nor lease or rent his Unit for a period of less than thirty (30) days. No Owner may lease less than the entire Unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the By-Laws of the Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. All leases shall be required to be in writing. Other than the foregoing, there shall be no restriction upon the right of any Owner to lease his Unit.

9.08 Subordination of Assessment Lien to Mortgages.

Any holder of a first mortgage who comes into possession of the condominium pursuant to the remedies provided in the mortgage through foreclosure of the mortgage shall take the property free of any claim for unpaid assessments or charges against the mortgaged condominium which accrue prior to the time such person comes into possession of the condominium. The lien assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed on the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure or trustee's sale. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

9.09 Notice of Owner Default.

If requested by a Lender, the Board shall notify such Lender in writing of any default by the Owner in the payment of maintenance charges or of any breach of any other condition of this Declaration by such Owner. Such notification shall be made no later than thirty (30) days from the date when the Board first has notice of such default or breach. In the event of a subsequent curing of such default or breach, the Board shall immediately notify all such Lenders in writing.

9.10 Priority of Mortgage Lien.

No breach of any provision of the Covenants, Conditions or Restrictions, nor the enforcement of any lien created herein, shall affect, impair, defeat or invalidate the lien of any first mortgage or first deed of trust made in good faith and for value, but all of said Covenants, Conditions and Restrictions shall be binding upon any Owner whose title is derived through foreclosure or trustee sale or otherwise.

9.11 Resale.

It is intended that any loan to facilitate the resale of any Units after foreclosure or deed in lieu of foreclosure is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Lenders.

9.12 Lenders Furnishing Information.

A Lender is authorized to furnish information to the Board concerning the status of any loan encumbering a Unit.

9.13 Curing of Breaches.

A Lender who acquires title to any Condominium pursuant to the remedies provided in the mortgage, through foreclosure of the mortgage, by deed in lieu of foreclosure or otherwise shall not be obligated to cure any breach of this Declaration which is noncurable or of a type which is not practical or feasible to cure. For the purposes of this section, should a Lender acquire title by a deed in lieu of foreclosure, then delinquent assessments owed on such Unit by a previous owner shall not be a noncurable breach or a breach which is not practical or feasible to cure. In connection therewith, an assessment lien shall not be rendered invalid or unenforceable by virtue of a Lender's receipt of title on such encumbered Unit by means of deed in lieu of foreclosure.

9.14 Payment of Taxes and Charges.

The Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area within the Project and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area and Lenders making such payments shall be owed immediate reimbursement therefor from the Association.

9.15 Right of First Refusal.

Any "right of first refusal" shall not impair the rights of a Lender to:

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- (a) Foreclosure or take title to a Condominium pursuant to the remedies provided in the mortgage;
- (b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or
- (c) Interfere with a subsequent sale or lease of a Condominium so acquired by the Lender.

9.16 Reserves for Replacement.

An adequate reserve fund for the maintenance, repairs and replacement of the Common Area facilities must be established by the Association and must be funded by regular monthly assessments, rather than by special assessments.

9.17 Flood Insurance.

If at any time flood insurance is required by any first mortgagee of a unit or by any lender who desires to become a first mortgagee of any condominium by reason of any applicable law, ordinance, statute or the like requiring flood insurance as a condition of such first mortgagee's or lender's loan remaining or being made, the Association shall forthwith obtain such flood insurance covering the entirety of the development in an amount and coverage, and with such carrier(s) and subject to such terms as shall satisfy such first mortgagee or lender.

9.18 Insurance.

If any loan secured by a mortgage encumbering a condominium is owned by Federal Home Loan Mortgage Corporation ("FHLMC") or its successors or assigns or is tendered to FHLMC or its successors or assigns for purchase, the Association and the owners shall obtain and maintain in full force and effect all insurance coverages which may at any time and from time to time be required by FHLMC or its successors or assigns, and shall otherwise comply in all respects with all insurance requirements of FHLMC which may be in effect at any time and from time to time.

9.19 Cal Vet Contracts.

As to Cal-Vet contracts, the Board is expressly authorized to adopt such resolutions as may be required in connection with Cal-Vet financing in order to reflect the fact that such Cal-Vet contracts are superior in right to the assessment liens created in the within instrument in the same manner and to the same extent as mortgages and deeds of trust are superior thereto.

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9.20 Professional Management of Property.

Any agreement for professional management of the Project shall provide that the management contract shall be in writing and shall provide for termination by either the Association or the management agent without cause or payment of a termination fee of not more than thirty (30) days written notice, and the term of such agreement shall not exceed one (1) year, renewable by written agreement of the parties for successive periods of one (1) year. In the event the Association determines to terminate professional management and assume self-management of the project, the prior written approval of at least holders of seventy-five percent (75%) of the first mortgages shall be required.

9.21 Conflict.

If there is any conflict between any provisions of this Article NINE and any other provisions in this Declaration or in the By-Laws, the language contained in this Article NINE shall control.

9.22 Insurance Required By Lenders.

The Owners and the Association shall procure and maintain fire and liability insurance and such other insurances as may from time to time be required by Lenders. All such insurance shall contain loss payable clauses naming the Lenders, as their interests may appear.

9.23 Amendment.

No amendment of this Article shall affect the rights of any Lender holding a first deed of trust or mortgage against the Project prior to the recordation of such amendment, who does not join in the execution thereof.

9.24 Liens.

All taxes, assessments and charges which may become liens prior to a first mortgage under local law shall relate only to the individual Condominium and not to the Project as a whole.

ARTICLE TEN

INSURANCE

The insurance, other than title insurance, which shall be carried upon the Project shall be governed by the following provisions:

10.01 Authority to Purchase.

All insurance provided for in this Article Ten (except where otherwise specifically provided) or otherwise deemed prudent by the Association shall be purchased, obtained, carried and maintained by the Association and the premiums thereon shall be part of the Common Expenses to be paid out of Common Funds. The Association shall be deemed for the purpose of this Article Ten to be the agent, coupled with an interest, of all the Owners.

10.02 Casualty.

The Association shall, if economically practical and available, purchase, obtain, carry and maintain a master or blanket policy naming as insureds the Association, its Board and officers, the manager and his staff, employees of the Association and all Owners and their Mortgagees, as their interests may appear; naming the Association as trustee for all of the Owners and for their Mortgagees as their interests may appear; and containing, as a part thereof, the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the full insurable replacement cost (excluding foundations and excavations but without deduction for depreciation) all the Common Area, all Units (but not including the personal property, furniture, furnishings and decorations contained within a Unit, nor any improvements added by an Owner), all Buildings, Improvements and Personal Property of the Association located on or within the Project for or against the following:

- (a) Loss or damage by fire or other risks covered by the standard extended coverage endorsement.
- (b) "Use and occupancy coverage" for the payment of all Assessments attributable to any damaged Condominium during any period of repair or reconstruction thereof.
- (c) Loss or damage to or as a result of theft, vandalism, malicious mischief, boilers, pressure vessels or pressure pipes, flooding, sprinkler leakage or water damage.
- (d) Such other risks, perils or coverage as the Association may determine.

Said master policy and the endorsements made a part thereof may provide for such deductibles from any amounts otherwise payable thereunder as the Association may determine, and should, if economically practical and available at reasonable premiums, also: (i) specify that portion or percentage of the proceeds payable thereunder that are attributable to each Condominium in

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accordance with a fraction whose numerator is the fair market value of the specified Unit, and whose denominator is the aggregate fair market value of all the Units in the Project; (ii) provide that the insurer issuing said policy agrees to abide by the decision of the Association whether to repair; reconstruct or restore all or any damaged or destroyed portion of the Common Area; (iii) contain no "escape" or "other insurance" clause that would cause said policy to become void in whole or in part or cause any proceeds payable thereunder to be reduced, set off, apportioned, prorated or otherwise brought into contribution with or by reason of separate insurance obtained by or for any Owner or his Mortgagee; (iv) provide that only improvements made or installed by the Association shall affect the valuation of any Building or Improvement on the Property for co-insurance purposes; (v) provide for at least a biannual insurance review which shall include an appraisal of all Buildings, Improvements and Personal Property of the Association located on or within the Project by a representative of the insurer issuing said master policy; (vi) contain a waiver by said insurer of any and all rights of subrogation against any Owner, Declarant (and each member of its staff or employees), the Association, its Board (and each member thereof), its officers (and each of them), the Manager, and each member of his staff or employee of the Association; (vii) provide that said master policy cannot be cancelled, invalidated, suspended, substantially modified, terminated, avoided or expire in whole or in part by reason of any act, omission or breach of any Covenant contained in this Declaration by the Association, its Board, officers, Manager, his staff or any one or more Owners without a prior written demand that the Association cure such breach, and that in no event shall said policy be cancelled, invalidated, suspended, substantially modified, terminated, avoided or expire for any reason without thirty (30) days' prior written notice from the insurer to the Association, Declarant and to any Owner or Mortgagee who shall have filed a written request with said insurer for such notice; (viii) provide that the Board or its authorized agent or representative shall have the exclusive authority to adjust any and all losses covered by said policy; (ix) provide that the insurance obtained pursuant to this Article Ten shall not be prejudiced by any act or neglect of any of the insureds when such act or neglect is not within the knowledge and control of the insureds collectively; (x) provide that the insurance obtained pursuant to this Article Ten shall not be prejudiced by failure of the insureds collectively to comply with any warranty or condition with regard to any portion of the premises over which the insureds collectively have no control; (xi) provide that the insurance obtained pursuant to this Article Ten shall not be prejudiced by reason of the vacancy or nonoccupancy of any one or more Units within the Project, provided that this Declaration (as the same may be amended from time to time) is in force and the Project is operating as a Condominium Project; and (xii) provide that all insurance proceeds under said master policy shall be

payable to the Association as trustee to be held and expended as provided in this Declaration for the benefit of the Owners and their respective Mortgagees as their interests may appear.

10.03 Public Liability and Property Damage.

The Association shall, if economically practical and available, purchase, obtain, carry, and maintain one or more comprehensive public liability and property damage policies naming as insureds the Association, its Board (and each member thereof), its Officers (and each of them), the Manager, his staff, all employees of the Association and all of the Owners (including Declarant). Said policy or the endorsements made a part thereof shall provide immediate protection with minimum liability limits of Five Hundred Thousand Dollars (\$500,000.00) for injury or death to one person, One Million Dollars (\$1,000,000.00) for injury or death to more than one person in any one accident or occurrence and Two Hundred Fifty Thousand Dollars (\$250,000.00) for property damage and shall also (i) insure against bodily injury, death, or property damage occurring in, on or about any portion of the Common Area and/or within or on any Unit or Balcony, (ii) contain a cross-liability endorsement so as not to prejudice the rights of a named insured against another named insured, (iii) include "hired automobile" coverage, "nonowned automobile" coverage, theft and collision coverage, elevator liability coverage, "off-premises employee" coverage and (iv) provide for the same waivers of the insurers' rights of subrogation, "other insurance" provisions, loss adjustment clause, cancellation clause, "no control" clause and insurance proceeds payment clause as contained in Section 10.02 hereof.

10.04 Worker's Compensation.

The Association shall purchase, obtain, carry and maintain workmen's compensation and employer's liability insurance to the extent necessary to comply with applicable laws.

10.05 Owner Insurance.

Each Owner, and not the Association, has the responsibility at his sole option to purchase, obtain, carry and maintain, at his sole expense, such casualty, liability, and/or property damage insurance covering the personal property, furniture, furnishings, and decorations within his Unit, any improvements added by an Owner, or otherwise protecting his Condominium and his own interests; provided, however, that all such additional insurance shall contain the same waivers of subrogation and "other insurance" provisions as described in Section 10.02 hereof.

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10.06 Additional Insurance and Bonds.

The Association may also purchase with Common Funds such additional insurance and/or bonds as it may, from time to time, determine to be necessary or desirable, including but not limited to (i) demolition insurance in amounts adequate to cover demolition in the event of destruction and a decision not to rebuild, (ii) fidelity bonds naming the Board, the Manager, his staff and the officers of the Association as principals and all of the Owners as obligees and (iii) insurance to cover unpaid or uncollected Assessments.

10.07 Choice of Contractor.

With respect to any repairs for which proceeds of insurance are paid or are payable to the Association, the Board of Directors of the Association alone shall designate the contractor to perform said repairs, provided that nothing herein contained shall be construed to prohibit the individual Owners from overseeing repairs done to their respective Units.

10.08 Choice of Insurance Company.

All policies of insurance obtained by the Association or its Board of Directors as provided in this Article Ten shall be obtained from an insurance company qualified to do and doing business in the State of California and holding a rating of "AAA" (or such other comparable rating if Best uses a different standard in rating insurance companies) or better in Best's Insurance Reports and may be obtained from one or more companies.

10.09 Expense of Collecting Insurance Proceeds.

All costs and expenses incurred by the Association to collect or recover the proceeds of any insurance policy purchased by the Association as provided in this Article Ten (including but not limited to any and all fees of attorneys, appraisers and adjusters) shall be part of the Common Expenses.

ARTICLE ELEVEN

DAMAGE OR DESTRUCTION; REBUILDING

11.01 Bids and Determination of Available Insurance Proceeds.

As soon as practicable after damage or destruction of all or any portion of the Common Area, the Board of Directors of the Association shall (i) obtain bids from at least two (2) reputable contractors, licensed in California, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Area to substan-

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tially the same condition as they existed prior to such damage and the itemized cost of such work, and (ii) determine the amount of all insurance proceeds available to the Association, as trustee or otherwise, for the purpose of effecting such repair, reconstruction and restoration.

11.02 Sufficient Insurance Proceeds.

In the event of damage or destruction to all or a portion of the Common Area and the insurance proceeds available to the Association, as trustee or otherwise, are sufficient (when added to any sums actually received by the Association as the result of any Special Assessments made in accordance with Sections 7.04(a) and 7.04(c) hereof) to effect the total repair, reconstruction and restoration of the damaged or destroyed Common Area, then the Association, in accordance with the provisions of this Article Eleven, shall cause such Common Area to be repaired, reconstructed and restored to substantially the same condition as the same existed prior to such damage or destruction.

11.03 Insurance Proceeds Partially Sufficient.

In the event of damage or destruction to all or any portion of the Common Area and the insurance proceeds available to the Association, as trustee or otherwise, are sufficient (when added to any sums actually received by the Association as the result of any Special Assessments made in accordance with Sections 7.04(a) and 7.04(c) hereof) to cover at least eighty-five percent (85%) of the cost of such repair, reconstruction and restoration, the Association shall promptly cause the Common Area to be repaired, reconstructed and restored to substantially the same condition as said Common Area existed prior to such damage, and the difference between the insurance proceeds available to the Association for such purpose and the actual cost of such repair, reconstruction and restoration shall be assessed against each Owner as a Special Assessment in accordance with Section 7.04(g) hereof, provided that, notwithstanding anything herein contained to the contrary, no repair, reconstruction or restoration provided for in this Section shall be conducted if, within sixty (60) days from the date of such damage or destruction, the Owners of at least seventy-five percent (75%) of the voting power determine that such repair, reconstruction and/or restoration shall not take place.

11.04 Insurance Proceeds Less Than Eighty-Five Percent (85%) of the Cost to Restore.

If the proceeds of insurance available to the Association, as trustee or otherwise, are insufficient (when added to any sums actually received by the Association as the result of any Special Assessments made in accordance with Sections 7.04(a) and 7.04(c) hereof) to cover at least eighty-five percent (85%) of the cost of

repair, reconstruction and restoration to the damaged or destroyed Common Area, then the Owners of at least seventy-five percent (75%) of the voting power shall determine whether (i) to repair, reconstruct and restore the damaged or destroyed Common Area and assess all Condominium Owners as a Special Assessment in accordance with Section 7.04(g) hereof for all additional funds needed for such purpose, or (ii) not to repair, reconstruct or restore the damaged Common Area but to distribute the insurance proceeds available for such reconstruction together with any other sums otherwise available to the Association for such purpose to the Owners (including Declarant with respect to any retained or unsold condominium), each in proportion to his Unit Fair Market Percentage Interest, as defined in Article Twelve hereof, but subject to rights of Mortgagees holding Mortgages encumbering Condominiums within the Project and all unpaid Assessments together with any interest charges attributable thereto.

Notwithstanding anything to the contrary contained in Article Seven or Article Eleven hereof, a Unit's proportionate share of all Special and Capital Assessments made by the Association against a Unit, in order to cover the cost of repair, reconstruction, and restoration to the Common Area, shall be computed and levied upon the basis 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.

11.05 Duties of Board During Reconstruction.

If repair, reconstruction and restoration are to take place in accordance with the provisions of this Article Eleven, the Board shall (i) enter into a written contract with a contractor licensed in California and submitting the lowest reasonable bid for such repair, reconstruction and restoration; (ii) disburse insurance proceeds available for said work and funds collected by reason of Assessments authorized therefor in appropriate progress payments; and, (iii) take all steps necessary to ensure the commencement and completion of such repair, reconstruction and restoration in a lawful, workmanlike manner at the earliest possible date.

11.06 Certificate of Intention.

After any vote of the Owners as provided in this Article Eleven with respect to whether to repair and restore or not to repair and restore all or any portion of the Common Area, the Board shall, within thirty (30) days after such vote, cause to be executed, acknowledged and recorded in the Office of the County Recorder for the County of San Bernardino, State of California a certificate setting forth the intention to repair and restore the Common Area or not to repair and restore the Common Area. Immediately upon the recordation of such a certificate setting

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forth the intention of the Owners not to repair and restore the damaged portions of the Common Area, the right of partition suspended by Article Thirteen of this Declaration shall be revived.

11.07 Revision of Condominium Documents; Reorganization.

In the event it is the determination and vote of the Owners, as provided in this Article Eleven, not to repair, reconstruct or restore any damaged portion of the Common Area, the Board shall, as soon as practicable, cause to be prepared, filed and/or recorded any revised subdivision map, condominium plan or other documents, reports, schedules or exhibits necessary to show the changed or altered status of the Project, including, without limitation, the elimination of all or part of one or more of the Units as a result of such damage. In the event of the elimination of all of a Unit, the Condominium containing that Unit shall cease to be part of the Project, the Owner thereof shall cease to be a Member of the Association, and the undivided interest in the Common Area appurtenant to that Unit shall automatically become vested in the Owners of the remaining Condominiums in proportion to their respective Percentage Interest in the Common Area. In the event of the elimination of a part of a Unit, the Percentage Interest in the Common Area appurtenant to that Unit shall be reduced in direct proportion to the reduction in square footage of the Unit, and the Percentage Interests of Owners in Common Areas and the Assessment obligations of all Owners shall automatically be adjusted accordingly.

11.08 Interior Damage.

Restoration and repair of any damage to the personal property, furniture, furnishings and decorations contained within a Unit, or any improvements which were added by the Owner to the Unit, shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to rebuild after partial or total destruction, shall be completed as promptly as practical and in a lawful and workmanlike manner.

ARTICLE TWELVE

CONDEMNATION

12.01 Common Area Awards.

In the event that an action in eminent domain is brought to condemn all or any portion of the Common Area within the Project, the award made for such taking shall be payable as follows:

- (a) If the award is for the acquisition of the entire Common Area, the amount payable shall be paid to

the Board, as trustee, for distribution to the Owners, each in proportion to his Unit Fair Value Percentage Interest, subject to (i) the rights of Mortgagees holding Mortgages covering each such Owner's Condominium and (ii) all unpaid Assessments of such Owner together with any interest charges attributable thereto.

- (b) If the award is for the acquisition of only part of the Common Area and is less than Thirty Thousand Dollars (\$30,000.00), the entire amount thereof shall be payable to the Board, as trustee, (subject to the rights of Mortgagees holding Mortgages on Condominiums within the Project) and such an amount, together with any interest earned thereon, shall be held by the Board to reduce the Common Expenses for the next succeeding fiscal year.

All amounts to be received by Owners pursuant to this Section 12 shall be computed by multiplying the total award by the "Fair Market Value" (as hereinafter defined) of all Units within the Project by a fraction, the numerator of which shall be the Fair Market Value of the Unit so assessed and the denominator of which shall be the Fair Market Value of all Units within the Project. The Fair Market Value of each Unit within the Project shall be determined by the following procedures: (i) The Board of Directors shall appoint a competent independent appraiser to determine the "Fair Market Value" of each Unit within the Project, which fair market value shall be based upon, among other things, comparable sales of comparable Units within the Project or surrounding areas, and other data deemed relevant by the independent appraiser, and (ii) all costs of appraisal shall be borne by the Association.

For purposes hereof, the term "Unit Fair Market Percentage Interest" shall mean and refer to a Units proportionate share of any award for the acquisition of Common Area, determined in accordance with the above described calculations and procedures, but subject to (i) the rights of Mortgagees holding Mortgages covering each such Owner's Condominium and (ii) all unpaid Assessments of such Owner together with any interest charges attributable thereto.

- (c) If the award is for the acquisition of only part of the Common Area and is in excess of Thirty Thousand

Dollars (\$30,000.00), it shall be distributed to the Owners, each in proportion to its Unit Fair Market Value Percentage Interest, subject to (i) the rights of Mortgagees holding Mortgages covering such Owner's Condominium and (ii) all unpaid Assessments of such Owner together with any interest charges attributable thereto.

12.02 Unit Awards.

In the event that an action in eminent domain is brought to condemn all or any portion of one or more Units within the Project, the award made for such taking shall be payable to the respective Owners of the Units so taken in proportion to their respective Unit Fair Market Percentage Interest, subject to (i) the rights of Mortgagees holding Mortgages covering such Units and (ii) all unpaid Assessments of each Owner taken together with interest charges attributable thereto.

12.03 Revision of Condominium Documents; Reorganization.

In the event of any condemnation of a part of the Project, the Board shall, as soon as practicable, cause to be prepared, filed and/or recorded any revised subdivision map, condominium plan or other documents, reports, schedules or exhibits necessary to show the changed or altered status of the Project, including, without limitation, the elimination of all or part of one or more of the Units as a result of such condemnation. In the event all of a Unit is taken in condemnation, the Condominium containing that Unit shall cease to be part of the Project, the Owner thereof shall cease to be a Member of the Association, and the undivided interest in Common Area appurtenant to that Unit shall automatically become vested in the Owners of the remaining Condominiums in proportion to their respective Percentage Interests in the Common Area. In the event part of the Unit is taken in condemnation, the Percentage Interest in the Common Area appurtenant to that Unit shall be reduced in direct proportion to the reduction in square footage of the Unit, and the Percentage Interests of Owners in Common Areas and the assessment obligations of all Owners shall automatically be adjusted accordingly.

ARTICLE THIRTEEN

SUSPENSION OF RIGHT OF PARTITION

In accordance with the provisions of Section 1354 of the California Civil Code, the right of partition of the Common Area is hereby suspended and no proceeding shall be brought for the partition of said Common Area, except (i) as provided by Section 1354 of the California Civil Code as said Section may be amended from time to time or (ii) as specifically provided in Section

11.06 of this Declaration, in which event a majority of the Board shall have an irrevocable power of attorney to sell the entire project for the benefit of all the Owners, which power shall be binding upon all the Owners, whether or not they assume the obligations of this Declaration. Nothing contained herein shall prohibit the partition or division of joint or common interest of any two or more Owners in any one Condominium within the Project. In accordance with the provisions of Section 1355(b)(9) of the California Civil Code, each Owner does hereby grant to the Board of Directors (as the same may from time to time be constituted) an irrevocable power of attorney coupled with an interest, to sell the entire Project for the benefit of all of the Owners, but shall be exercisable only after (i) the happening of one of the conditions set forth in said Section 1354, (ii) the Approval of such exercise by a majority of the Board of Directors and (iii) the recordation in the Office of the County Recorder of the County of Los Angeles, California a certificate executed by the secretary of the Association or other authorized person on behalf of the Association and stating that said power of attorney is properly exercisable under said Section 1355(b)(9) and hereunder.

ARTICLE FOURTEEN

PROHIBITION AGAINST SEVERANCE OF COMPONENT INTERESTS IN CONDOMINIUMS

No Owner of a Condominium within the Project shall have the right, for any purpose, to sever his Unit in any Condominium from his undivided interest in the Common Area. The undivided interests in the Common Area established hereby and the fee title to the respective Units conveyed therewith shall not be separated, severed or separately conveyed, encumbered or otherwise transferred, and each such undivided interest in the Common Area shall conclusively be deemed to be conveyed, transferred or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

ARTICLE FIFTEEN

OBLIGATION OF OWNERS

15.01 Maintenance of Units and Patios.

Each Owner shall maintain, service and repair all plumbing fixtures, lighting fixtures, refrigerators, heating and air conditioning equipment, water heaters, dishwashers, disposals, ranges, ovens, washers and dryers, within his Unit and serving same, and all glass doors and windows enclosing such Unit, together with such parts and equipment as are reasonably necessary to comply with the provisions of this Section, and the cost

and expense therefor shall be that of the Owner and not part of the Common Expenses. All maintenance repairs and/or replacement of interior surfaces of walls, floors, ceilings, doors, door frames and moldings within any Unit and all painting, papering, paneling, plastering, tiling and finishing of the interior surfaces thereof shall be at the sole cost and expense of the Owner of such Unit. Notwithstanding anything contained in this Section to the contrary, each Owner shall promptly upon the completion of any repairs or improvements (unless the same was performed by the Association in accordance with the provisions of this Declaration as part of the Common Expenses) notify the Association of the nature and extent of any such repairs or improvements made or caused to be made in his Unit, the cost of which exceeded Two Thousand Dollars (\$2,000.00).

15.02 Mechanic's Liens.

No labor performed or materials furnished for use in connection with any Unit shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting such labor or materials or against any interest in the Common Area except the undivided Percentage Interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Unit of the Owner, or any part thereof, for labor performed or for materials furnished in work on such Owner's Unit.

15.03 Liability for Damage to Common Area.

Each Owner shall be liable to the Association for any damage to the Common Area or any improvements, landscaping or equipment thereon which may be sustained by the negligence or willful misconduct of said Owner or members of his family, or his tenants, social guests, employees, servants, agents, or invitees, and shall be assessed by the Board for the repair or replacement thereof. In the event of any damages or destruction to any portion of the Common Area caused by any negligent or malicious act or omission of any Owner, or by any member of his family or his guests, tenants, servants, employees, agents or invitees, then the Board shall immediately cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not covered or reduced by insurance proceeds paid to or received by the Association) shall be assessed and charged solely to and against said Owner. Said assessment shall be made by written notification from the Board of the Association to the Owner and shall be payable in full to the Association within thirty (30) days following such notice. Any assessment made pursuant to this Section is not and shall not become a Special Assessment against such Owner and his Condomin-

ium as Special Assessment is defined in Article Seven hereof. In the event that Owner fails to pay for damages assessed to him as a result of damage to the Common Area or any improvements, landscaping or equipment thereon sustained by the negligence or willful misconduct of said Owner or members of his family, or his tenants, lessees, social guests, employees, servants, agents, or invitees, then the Board of Directors shall have the right to pursue its available legal rights and remedies in order to satisfy said obligation. In the event that the Board resorts to legal proceedings in order to satisfy said Owner's obligations provided for in this Section, then said Owner shall be liable for all costs and attorneys' fees in connection therewith.

15.04 Personal Injury or Property Damage Sustained Within a Unit.

In the event any personal injury or property damage is sustained by any person while physically within or on a Unit or any Patio attached thereto and shall result in a claim or suit against any other Owner or the Association, any of its officers, members, or its Board of Directors, the Manager or his staff, the Owner of such Unit or Balcony within which such injury or damage occurred (i) shall and does hereby agree to fully indemnify and hold harmless such other Owner and the Association, officer, director, Manager or member of his staff, against whom such claim or suit is brought and (ii) does hereby agree to defend at his own cost and expense any litigation resulting therefrom in which such other Owner and/or the Association, officer, director, Manager or member of his staff has been made a party; provided that no such obligation shall exist with respect to such other Owner or other person whose negligence or willful misconduct caused or contributed to the cause of any such injury or damage. In the event of joint ownership of any Condominium within the Project, the liability of such Owners shall be joint and several.

15.05 Association Not Responsible for Loss.

Neither the Declarant, nor its agents or employees, nor the Association nor any member of its Board of Directors, its officers, Manager or any member of his staff shall be responsible to any Owner nor to any member of his family, social guests, servants, employees or invitees for any loss or damage suffered by reason of theft or otherwise of any article, vehicle or thing which may be stored by such Owner or other Person in or on any portion of the Common Area.

15.06 Notice of Danger.

In the event any Owner observes any equipment, furniture, structure, vehicle, conduct or activity within any portion of the Project which said Owner deems likely to cause or result in serious injury to the health or safety of any resident or occu-

pant within the Project unless immediate corrective action is taken, said Owner shall immediately notify the Manager, a member of his staff, a security guard, an officer of the Association or a member of the Board so that the appropriate action can be taken.

15.07 Notification of Sale of Condominium.

Concurrently with consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth (i) the name of the transferee and his transferor, (ii) the unit number of the Condominium purchased by the transferee, (iii) the transferee's mailing address, and (iv) the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor.

15.08 Enforcement of Bonded Obligations.

If Common Area improvements which are included in a subdivision offering covering this Project have not been completed prior to the issuance of a Final Subdivision Report and the Association is an obligee under a bond or other arrangement (hereinafter referred to as the "Bond") to secure performance of the commitment of the subdivider pursuant to such subdivision offering to complete the improvements, then the following substantive and procedural provisions relative to the initiation of action to enforce the obligations of such subdivider and the surety under the Bond shall govern:

- (1) The Board of Directors of the Association shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any improvement to Common Area, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.
- (2) A special meeting of Members of the Association 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 may be held. Said special meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by members representing five percent (5%) or more of the total voting power of the Association.

- (3) A vote by members of the Association other than the subdivider at the special meeting called for the purpose set forth in (2) above.
- (4) A vote of a majority of the members of the Association who reside at the Project, other than the subdivider, 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.

15.09 Compliance with Declaration.

The Board shall have the power to levy an assessment against an Owner for the purpose of reimbursing the Association for all costs and expenses incurred in bringing that Owner and his interest in the Project into compliance with the terms of this Declaration, or the terms of the Articles of Incorporation or By-Laws of the Association. In the event that any Owner shall fail to pay any amount assessed against him pursuant to this Section, then the Board of Directors of the Association shall have the right to pursue its available legal rights and remedies in order to satisfy said obligation. In the event that the Board resorts to legal proceedings in order to satisfy said Owner's obligations provided for in this Section, then said Owner shall be liable for all costs and attorneys' fees in connection therewith.

ARTICLE SIXTEEN

TAXES AND GOVERNMENTAL ASSESSMENTS

16.01 Taxes Separately Assessed.

Pursuant to an agreement made in accordance with the provisions of Section 2188.3 of the California Revenue and Taxation Code, each Condominium shall be separately assessed to the Owner thereof and the tax on each such Condominium shall constitute a lien solely thereon.

16.02 Unallocated Taxes.

Any unallocated taxes or assessments levied or assessed against the Common Area, the Association or the Personal Property of the Association, which taxes or assessments are not separately assessed pursuant to Section 16.01 hereof, shall be deemed part of the Common Expenses and shall be assessed against each Owner as part of the Common Assessment.

ARTICLE SEVENTEEN

TERM OF DECLARATION

Subject to the other provisions hereof, the Covenants contained in this Declaration shall run with and benefit the land within the Project and shall be binding upon the Owners, Declarant, the Association, its Board of Directors, its officers, its Manager and his staff and their successors or assigns and shall continue in full force and effect for a term of fifty (50) years from the date of recordation of this Declaration, after which time the same shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial fifty (50) year term or any ten (10) year extension period, a written agreement executed and acknowledged by the Owners of at least seventy-five percent (75%) of the Condominiums in the Project shall be placed on record in the Office of the County Recorder of Los Angeles County, State of California, terminating the effectiveness of this Declaration.

ARTICLE EIGHTEEN

AMENDMENTS

18.01 Amendment.

Subject to the provisions of Paragraph 9.02 hereinabove, this Declaration may be amended only by an instrument in writing signed by Class A members of the Association holding not less than seventy-five percent (75%) of the voting power of the Class A membership and at least seventy-five percent (75%) of the voting power of Class A membership other than the vote of the Declarant; provided, however, so long as the Class B membership within the Association is still in effect, this Declaration may be amended only by an instrument in writing signed by members entitled to exercise not less than seventy-five percent (75%) of the voting power of each class of membership. Any such amendment shall become effective immediately upon the recordation in the Office of the County Recorder of San Bernardino County, State of California, of an instrument complying with the requirements of

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this Article. Any other attempt to in any way amend the provisions of this Declaration shall be null and void and of no effect. Notwithstanding the foregoing, for so long as the Declarant is an Owner of one or more Units in the Project, Article 5.02 relating to Association membership, Article 5.05 establishing a two-class voting rights structure for the Association, and Article 5.08 relating to election of the Board of Directors shall not be amended except by an instrument executed and acknowledged by Declarant.

18.02 Amendment in Derogation of Obligation to Maintain Common Area.

Notwithstanding anything in this Declaration to the contrary, any amendment to this Declaration which would defeat the obligation of the Association to maintain the Common Area in a first-class condition and in a good state of repair or which would defeat the Assessment procedure set forth in this Declaration to assure said maintenance, must be approved by the City of Big Bear Lake.

18.03 Consent of Real Estate Commissioner.

Notwithstanding anything in this Declaration to the contrary, no amendment of this Declaration or any other of the Condominium Documents which would materially change the rights, preferences or privileges of any Owner, either directly or as a member of the Association, or the restrictions upon any Condominium affected thereby, shall become effective or legally binding without the written consent of the Real Estate Commissioner of California; provided, however, that such written consent shall not be required from and after such time as the Declarant or its successor in interest ceases to hold or directly control twenty-five percent (25%) of the votes that may be cast to effect such change. Applications for the Approval of the Real Estate Commissioner shall be made in accordance with the provisions of Section 11018.7 of the California Business and Professions Code.

ARTICLE NINETEEN

BREACH OR DEFAULT BY CONDOMINIUM OWNERS

19.01 Remedy at Law Inadequate.

Except for the nonpayment of any Assessments provided for herein, it is hereby expressly declared, stipulated and agreed that the remedy at law to recover damages for the breach, default or violation of any of the Covenants contained in this Declaration is inadequate and the failure of any Owner, tenant, occupant or user of any Condominium or any portion of the Common Area or facilities thereof to comply with each and all of the terms and

provisions of this Declaration, the rules, regulations, decisions, resolutions and By-Laws of the Association and its Board, all as lawfully amended from time to time, may be enjoined by appropriate legal proceedings instituted by Declarant, and Owner, the Association, its Board, its officers, or the Manager, or their respective successors and assigns.

19.02 Costs and Attorneys' Fees.

In any proceeding arising because of any alleged breach or default under this Declaration, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the court.

19.03 Cumulative Remedies.

The respective rights and remedies, provided by this Declaration or by law or available in equity, shall be cumulative and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or for the same or different failures of the Owners or others to perform or observe any provision of this Declaration.

19.04 Failure Not a Waiver.

The failure of Declarant, any Owner, the Board of Directors of the Association, the Association, its officers, Manager or his staff to enforce any of the Covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Declarant.

19.05 Suspension of Voting Rights.

In the event any Owner shall fail for a period of more than thirty (30) days to pay when due any Assessment, said Owner shall not be entitled to vote upon any matter put to a vote at any annual or special meeting of the Association for the period of time said Owner shall remain in default on payment of any such Assessments. For the purposes of this Section, the Manager shall, immediately upon the expiration of the thirtieth (30th) day of default in payment of any such Assessment or Assessments, notify or cause to be notified said Owner in writing of such failure and suspension and also cause a copy of said notice to be sent to the secretary of the Association.

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ARTICLE TWENTY

NOTICES

Any communication or notice of any kind permitted or required herein may be delivered as provided in this Declaration and shall be in writing and may be served, as an alternative to personal service, by mailing same as follows:

If to Declarant:	American West Development Company a California corporation 309 18th Street Santa Monica, California 90402
If to the Owner:	To street address of his Condominium or at such other address as said Owner may from time to time designate in writing to the Association.
If to the Association:	To the Bayshore Ski & Racquet Club Homeowners Association, Inc. at the Street address of the Project.
If to Manager, the Board of Directors, any member of the Board, or any officer of the Association:	To the person by his or its title at the street address of the Project.

All notices or demands to be served by mail shall be mailed by registered or certified mail, with postage thereon fully prepaid. Service shall be deemed to be completed on the actual date of delivery as shown by the addressee's registered or certified mail receipt or at the expiration of three (3) business days after such mailing, whichever first occurs.

ARTICLE TWENTY-ONE

MISCELLANEOUS

21.01 Article, Section and Paragraph Headings.

The headings of the several Articles, Sections and paragraphs of this Declaration are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision of this Declaration.

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21.02 Interpretation.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the use, operation and maintenance of the Project. In case any term, covenant, provision, phrase, Section or other element contained in this Declaration or in any other Condominium Document for any reason shall be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect, alter, modify or impair in any manner whatsoever any other term, covenant, provision, phrase, Section or other element contained in this Declaration or in any other Condominium Document, the provision of which shall be carried out as if such invalid, illegal or unenforceable provision were not contained herein or therein. Whenever the context so requires, the singular number includes the plural, the plural includes the singular, the masculine gender includes the feminine and/or neuter and the neuter gender includes the masculine and/or feminine. In the case of any conflict between the Declaration and the provisions of any other Condominium Document, the Declaration shall control.

21.03 No Representations or Warranties.

No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or

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employees in connection with the Project or any portion thereof, its physical condition, zoning or other legal classification, fitness for intended use, nor in connection with the subdivision, development, sale, operation, cost of maintenance, taxes or regulation thereof as a Condominium Project except as specifically set forth in the Condominium Documents.

21.04 No Dedication Implied.

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Project to the general public or for any public use or purpose whatsoever.

21.05 Successors and Assigns.

This Declaration shall inure to the benefit of and be binding upon the Declarant, the Owners, and their respective heirs, personal representatives, grantees, lessees, licensees, successors and assigns.

21.06 Documents on File.


A true and correct copy of all Condominium Documents, as the same may from time to time be amended, shall at all times be maintained within the Project by the Association or the Manager, and the same may be inspected by any Owner at all reasonable times.

IN WITNESS WHEREOF, Declarant, American West Development Company, a California corporation, has executed this instrument on the day and year first written.

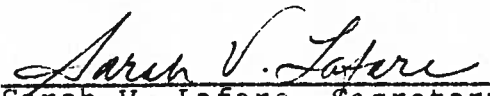
Declarant:

American West Development Company,
a California corporation

By:


Preston F. Thurtle, President

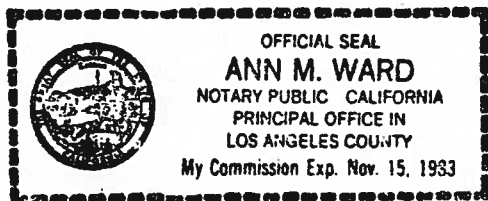
By:


Sarah V. Lafare, Secretary

STATE OF CALIFORNIA)
)SS.
COUNTY OF LOS ANGELES)

On February 19, 1982, before me, the undersigned,
a Notary Public in and for said State, personally appeared
Preston F. Thurtle, known to me to be the President, and Sarah V.
Lafare, known to me to be the Secretary of the corporation that
executed the within Instrument, known to me to be the persons who
executed the within Instrument on behalf of the corporation
therein named, and acknowledged to me that such corporation
executed the within Instrument pursuant to its by-laws or a
resolution of its board of directors.

WITNESS my hand and official seal.



(S E A L)

Ann M Ward
Notary Public in and for said
County and State

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SCHEDULE OF UNDIVIDED PERCENTAGE

INTERESTS IN COMMON AREA

<u>Unit No.</u>	<u>Undivided Percentage Interest</u>
1	1/59
2	1/59
3	1/59
4	1/59
5	1/59
6	1/59
7	1/59
8	1/59
9	1/59
10	1/59
11	1/59
12	1/59
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42	1/59
43	1/59

EXHIBIT "A"

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ASSESSMENT SCHEDULE

<u>Unit No.</u>	<u>Assessment Percentage</u>
1	1/59
2	1/59
3	1/59
4	1/59
5	1/59
6	1/59
7	1/59
8	1/59
9	1/59
10	1/59
11	1/59
12	1/59
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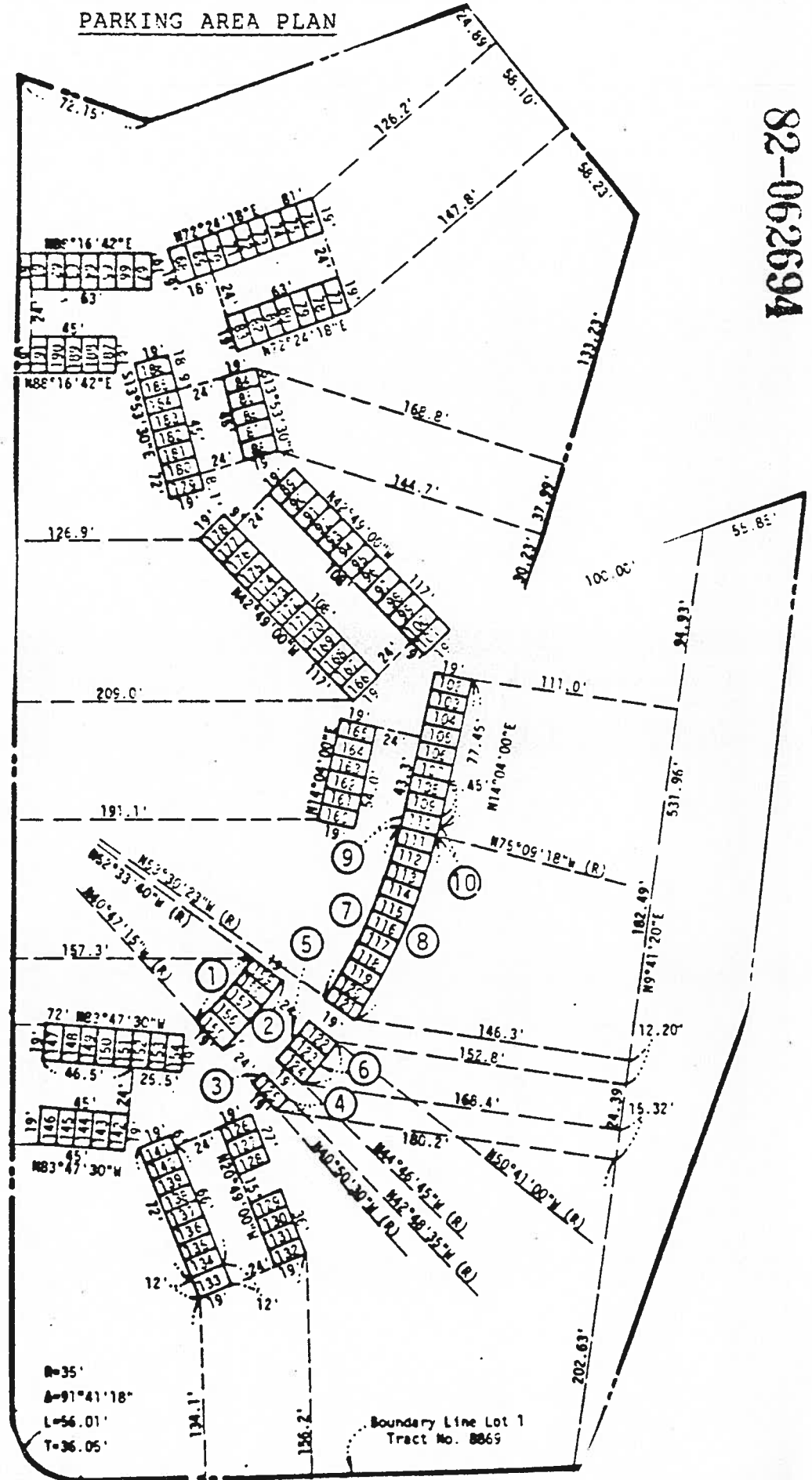
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CONSENT OF LIENHOLDER
AND SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deed of Trust dated September 14, 1981 recorded as Instrument No. 81,203345 of official records of Los Angeles County, California, consents to all of the provisions contained in the attached Declaration of Covenants, Conditions and Restrictions and agrees that the lien of the deed of trust shall be junior and subordinate and subject to said Declaration.

Dated: March 2, 1982

Lienholder

IMPERIAL BANK

By: [Signature]

By: [Signature]

STATE OF CALIFORNIA)
)SS.
COUNTY OF LOS ANGELES)

On March 2, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared L. Glenn City, known to me to be the President, and Helen G. Henderson, known to me to be the Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Kathy N. Hansen
Notary Public in and for said
County and State

(S E A L)

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