

being utilized by the Association to defray the costs of future repairs, replacements or additions to the Common Property Improvements; and

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

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

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

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

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

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

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

This annual report shall ordinarily be prepared by a licensee of the California Board of Accountancy, in accordance with generally accepted accounting principles, for any fiscal year in which the gross income of the Association exceeds Seventy-Five Thousand Dollars (\$75,000.00). However, if, for any reason, the report is not prepared by a licensee of the California Board of Accountancy, said report shall be accompanied by a certificate from an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association. Notwithstanding the foregoing, in lieu of distributing the financial statement required hereinabove, the Board may elect to distribute a summary of the statement to all Members with a written notice, in at least 10-point bold type on the front page, that the statement is

available at the business office of the Association, or at another suitable location within the Project, and that copies will be provided upon request and at the expense of the Association. If any Member requests that a copy of the financial statement required herein be mailed to said Member, the Association shall provide the copy to the Member by first-class mail at the expense of the Association, and mailed within five (5) days of the receipt of said request;

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

(5) The Board shall review on a quarterly basis, the following:

(i) A current reconciliation of the Association's operating accounts;

(ii) A current reconciliation of amounts collected as reserves;

(iii) The current year's actual amounts collected as reserves and expenses compared to the current year's budget;

(iv) An income and expense statement for the Association's operating and reserve accounts; and

(v) The most current account statements prepared by the financial institutions where the Association maintains its operating and reserve accounts.

Withdrawal of funds from the Association's reserve account shall require the signature of either: (i) two (2) members of the Board; or (ii) one (1) member of the Board and an officer of the Association who is not also a member of its Board. As used in this Section, "reserve account" means moneys that the Board has identified from its annual budget for use to defray the future repair or replacement of, or additions to, those major components of the Common Property which the Association is obligated to repair or replace on a periodic basis, rather than on a regular annual basis.

(g) Assume and pay out of the Assessments provided for hereinbelow all costs and expenses incurred by the Association in connection with the performance and execution of all of the aforesaid powers and duties, and any other

powers and duties the Association may assume as provided for in Section 4 hereinbelow;

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

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

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

(k) Within ten (10) days of the mailing or delivery of a written request from an Owner, provide said Owner with a copy of this Declaration and the By-Laws and Articles for the Association, together with a true statement in writing as to the amount of any delinquent Assessments, penalties, attorneys' fees and other charges therein as provided by this Declaration or other management documents of the Board as of the date of such request. The Board may impose a fee for providing the foregoing, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents. In addition, make available during normal working business hours or upon request under reasonable circumstances to any prospective purchaser of a Condominium, any Owner of a Condominium, any first Mortgagee and the holder(s), insurer(s) and guarantor(s) of the first Mortgage on any Condominium, current copies of the Declaration, the Articles of Incorporation, the By-Laws, the Rules and Regulations, the membership register, including mailing addresses and telephone numbers, and all other books, records and financial statements of the Association.

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

(a) Retain the services of a manager for the Project and provide such other personnel as the Association

deems necessary and proper to assist in the operation of the Association and/or management of the Common Property, regardless of whether such other personnel are employed directly by the Association or otherwise;

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

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

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

(e) Enter into a maintenance or subsidy agreement with Declarant, at Declarant's sole discretion, to reduce the financial obligations of Owners in the Project for Assessment.

Section 5. Notification by Association of Defects.

The Board agrees that in the event of any alleged defect in any improved Common Property which the Association believes the Declarant may be responsible, the Board will provide Declarant with written notice of such defect. Declarant shall have a reasonable opportunity to inspect such alleged defect, and if Declarant agrees with the Board (or otherwise elects to perform the work) to repair, replace or otherwise cure any defect in workmanship and/or material. The Association acknowledges and agrees that Declarant, (or its authorized agents), shall be entitled at its sole discretion to determine the material and methods to be used in affecting such repair, replacement or cure.

Section 6. Limitations on Contracts. Except as otherwise provided herein, no contract entered into by the Associa-

tion, or the Board acting for and on behalf of the Association, may run for a term longer than one (1) year, except with the vote or written assent of a majority of the voting power of the Association and a majority of the votes residing in Members, other than the Declarant.

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

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

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

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

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

(1) A management contract, the terms of which have been approved by the VA/FHA;

(2) 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;

(3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years dura-

tion, provided that the policy permits for short-rate cancellation by the insured;

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

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

(6) Agreements for sale or lease of burglar alarm and fire alarm equipment installation and services of not to exceed five (5) years duration, provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

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

(c) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(d) Paying compensation to Directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying on the business of the Association; or

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

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

Declaration and their issue who are in being as of the date hereof, and the right to grant such licenses, easements and rights-of-way is hereby expressly reserved.

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

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

ARTICLE VII

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessment. The Declarant, for each Condominium owned within the Project, hereby covenants, and each Owner of any Condominium, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Regular Assessments; (b) Special Assessments; (c) Compliance Assessments; and (d) such other assessments as the Association may periodically establish. The Regular and Special Assessments, together with a reasonable late charge as may, from time to time, be established by the Board in accordance with California law, interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge against and a continuing lien upon the Condominium against which each such Assessment is levied, and shall also be the personal obligation of the Owner of such property at the time when the Assessment came due. Each Compliance Assessment levied against a Condominium, together with interest, costs, reasonable late charges and reasonable attorneys' fees for the collection thereof, shall be the personal obligation of the Owner of the property at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to the successors in title unless expressly assumed by them.

Section 2. Purpose of Regular Assessments: Levy and Collection. The Regular Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Project and to maintain, repair, replace and improve the Common Property, and any other Improvements or areas which the Association is obligated to maintain, as provided herein. The Association, by and through its Board, shall levy and collect Assessments from the Owner of each Condominium in the Project in an amount sufficient to cover all of the Common Expenses incurred by the Association in connection with the performance and execution of the powers and duties set forth in this Declaration, the By-Laws and Articles. In connection therewith, the Association shall not impose or collect assessments, penalties or fees that exceed the amount reasonably necessary for the purpose or purposes for which they were levied. The percentage rate for the Assessments levied by the Association shall be adjusted at such time as the annexation of an additional Phase becomes effective. Regular Assessments may be collected on a monthly installment basis.

Section 3. Regular Assessments - Basis. Regular Assessments payable to the Association shall be assessed equally against all Owners of Condominiums. Each Owner's proportionate share of the Common Expenses for any fiscal year of the Associa-

tion shall be a fraction, the numerator of which shall be the number of Condominiums owned by such Owner, and the denominator of which shall be the total number of Condominiums in the Project which are subject to Assessment. Until the first day of the fiscal year of the Association immediately following the first close of an escrow for the sale of a Condominium in the Project to an Owner, the maximum Regular Assessment shall be eighteen hundred, sixteen and 68/100 Dollars (\$1816.68). Regular Assessments may be increased as follows:

(a) Subject to the limitations of California Civil Code Section 1366, as same may be amended, from time to time, from and after the first day of the fiscal year immediately following the conveyance of the first Condominium to an Owner, the maximum Regular Assessment may not be increased each fiscal year by more than twenty percent (20%) above the maximum Regular Assessment for the previous year without the vote or written assent of Owners constituting a quorum (which shall mean more than fifty percent [50%] of Owners of the Association) casting a majority of affirmative votes at a meeting or election of the Association, conducted in accordance with Sections 7510, et seq., and 7613 of the Corporations Code.

(b) The limitation set forth above does not apply to increases in Assessments related to emergency situations which shall be deemed to include the following:

(1) Extraordinary expenses required by an order by a court of competent jurisdiction;

(2) Extraordinary expenses for the maintenance or repair of Common Property that is necessary to remedy any dangerous condition in the Project that represents a threat of damage or injury to any person or property; and

(3) Extraordinary expenses necessary to repair or maintain the Common Property that could not have been reasonably anticipated by the Board at the time the most recent Association budget was prepared.

Notwithstanding the foregoing, in the event that the Board increases the Regular Assessment above twenty percent (20%) pursuant to this Section, the Board shall distribute written notice concerning said increase to all Owners and a copy of a resolution adopted by the Board setting forth: (1) the necessity of the extraordinary expenses; and (2) the justification why said expenses were not reasonably foreseeable at the time the most recent budget was prepared.

The Board may fix the Regular Assessment at an amount not in excess of the maximum Regular Assessment. So

long as Declarant is offering Condominiums for sale pursuant to a Final Subdivision Public Report, the Regular Assessment may not be decreased by ten percent (10%) or more without the express written consent of the Declarant and the DRE. Notwithstanding the foregoing, following the annexation of a subsequent Phase of the Project, pursuant to the provisions set forth in this Declaration, the maximum Regular Assessment may be automatically increased (or decreased) for all Condominiums in the Project on the first day of the month following the first close of an escrow for the sale of a Condominium in said Phase without any approval of the Members of the Association to the amount recommended by the DRE and VA/FHA in connection with their respective review and processing of the Association budget for such Phase.

Section 4. Special Assessments.

(a) In any fiscal year the Board may not, subject to the limitations of California Civil Code Section 1366, without the vote or written assent of Owners constituting a quorum (which shall mean more than fifty percent [50%] of Owners of the Association) casting a majority of affirmative votes at a meeting or election of the Association, conducted in accordance with Sections 7510, et seq., and 7613 of the Corporations Code, levy Special Assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. The five percent (5%) limitation shall not apply to increases in Special Assessments related to an emergency situation which shall be deemed to include the following:

(1) Extraordinary expenses required by an order by a court of competent jurisdiction;

(2) Extraordinary expenses for the maintenance or repair of Common Property that is necessary to remedy any dangerous condition in the Project that represents a threat of damage or injury to any person or property; and

(3) Extraordinary expenses necessary to repair or maintain the Common Property that could not have been reasonably anticipated by the Board at the time the most recent Association budget was prepared.

Notwithstanding the foregoing, in the event the Board levies any Special Assessment that exceeds the five percent (5%) limitation pursuant to this Section, the Board shall distribute written notice concerning said Special Assessment to all Owners and a copy of a resolution adopted by the Board setting forth: (1) the necessity of said Special Assessment; and (2) the justification why said Special

Assessment was not reasonably foreseeable at the time the most recent budget was prepared. Except as provided in subsection (b) below, every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments.

(b) A Special Assessment levied against Owners to raise funds for the reconstruction or major repair of the Condominium Buildings in the Project shall be levied on the basis of the ratio of the square footage of the floor area of the Condominium Unit to be assessed, to the square footage of the floor area of all Condominium Units to be assessed.

Section 5. Compliance Assessments. A Compliance Assessment may not be characterized nor treated as an assessment which may become a lien against the Owner's Condominium enforceable by a sale in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code; provided, however, the foregoing shall not apply to any Compliance Assessment imposed against an Owner consisting of a reasonable late payment penalty for delinquent Assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments.

Section 6. Date of Commencement of Regular Assessments: Due Dates. The Regular Assessments provided for herein shall commence on the first day of the month following the close of escrow for the first sale of a Condominium in the Property. The first Regular Assessments shall be adjusted according to the number of months remaining in the fiscal year, as set forth in the By-Laws. The Board shall fix the amount of the Regular Assessment against each Condominium at least thirty (30) days in advance of each Regular Assessment period. Written notice of the Regular Assessment shall be sent to every Owner subject thereto at least thirty (30) days in advance of each Assessment period.

Section 7. Collection of Assessments. Except as otherwise provided above, Regular and Special Assessments shall be levied at a uniform rate for all Condominiums and may be collected on a monthly basis. Compliance Assessments shall be due thirty (30) days after such Assessment has been levied.

Section 8. Certification of Payment. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Condominium have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

Section 9. Delivery by Owner. Each Owner of a Condominium shall, as soon as practicable prior to the transfer of title to the Condominium or the execution of a real property sales contract, as defined in California Civil Code, Section 2985, or as may be amended, from time to time, give to the prospective purchaser a copy of this Declaration and copies of the By-Laws and Articles of the Association, and a true statement, in writing, from the Board as to the amount of any delinquent Assessments and information relating to penalties, attorneys' fees and other charges authorized by this Declaration on the Condominium as of the date the statement is issued.

Section 10. Delivery of Statement. Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, respectively, provide the Owner of a Condominium with a copy of this Declaration, and copies of the By-Laws and Articles of the Association, together with a true statement in writing as to the amount of any delinquent Assessments, penalties, attorneys' fees and other charges authorized by this Declaration on the Condominium as of the date of the request. The Board may impose a fee for providing such documents and statements, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

Section 11. Reserves. The Regular Assessments shall include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair and replacement of all or a portion of the Common Property, or any such other purpose determined by the Board. All amounts collected as reserves shall be deposited by the Board in a separate bank account for the purposes for which they were collected, and are to be segregated from and not commingled with any other funds of the Association.

Section 12. Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessments provided for herein for any reason whatsoever, including, but not limited to, non-use of the Common Property or abandonment of his Condominium, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Association.

Section 13. Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments herein:

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

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

(c) All Association Property owned in fee by the Association.

Section 14. Capitalization of Association. Each purchaser of a Condominium in only this first Phase of the Project shall contribute to the working capital of the Association an amount equal to one/sixth (1/6) the amount of the then Regular Assessment for his respective Condominium. Said amount shall be deposited by each purchaser into his respective escrow for the purchase of his Condominium from Declarant, and shall be disbursed by the escrow holder to the Association at the close of escrow for the sale of the Condominium. Prior to the expiration of six (6) months after the first close of an escrow for the sale of a Condominium in the Property, Declarant shall deposit with a neutral escrow holder an amount equal to one/sixth (1/6) of the Regular Assessment for any and all Condominiums in this first Phase which are not yet sold or otherwise in escrow for the sale thereof. Escrow holder shall promptly remit these funds to the Association. Thereafter, upon the close of each escrow for the sale of a Condominium for which the capitalization fee was prepaid by Declarant, escrow holder shall remit to Declarant, and not to the Association, the capitalization fee collected from the buyer-Owner of said Condominium at the close of each escrow. This capital contribution shall in no way be deemed to be a prepayment of any portion of the Regular Assessment obligation of said Owners.

ARTICLE VIII

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

Section 1. Effect of Nonpayment of Assessments: Remedies of the Association. Any Regular, Special or Compliance Assessment not paid within fifteen (15) days after the due date shall be deemed delinquent and the Owner shall be required to pay (a) reasonable costs of collection, including reasonable attorneys' fees; (b) a reasonable late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), whichever is greater, or as may, from time to time, be established by the Board in accordance with California law; and (c) interest on all sums imposed under this Section at an annual percentage rate not to exceed twelve percent (12%) commencing thirty (30) days after the Assessment was due. The Board, for and on behalf of the Association, may commence legal action against the Owner personally obligated to pay the same, or, in the case of a Regular or Special Assessment, may foreclose the lien against his Condominium. Such lien may also be foreclosed by a power of sale or other nonjudicial procedure provided for by the laws of the State of California. In furtherance thereof, each Owner hereby vests in the Association, its successors or assigns, the right and power to bring all actions at law or to pursue lien foreclosure against any Owner for purposes of collecting such delinquent Assessments.

Section 2. Notice of Delinquent Assessments. No action shall be brought to foreclose a lien for delinquent Assessments or to proceed under the power of sale herein, unless at least thirty (30) days has expired following the date a Notice of Delinquent Assessments is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Condominium, and a copy thereof is recorded by the Association in the Office of the County Recorder of the County in which the Project is located. Said Notice of Delinquent Assessments must recite a good and sufficient legal description of any such Condominium, the record Owner or reputed Owner thereof, the total amount due and payable as provided herein, and the name and address of the principle office of the Association, and, in the event of a nonjudicial foreclosure, as provided in Section 3 below, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice shall be signed and acknowledged by the President, or Vice President, and the Secretary, or assistant Secretary, of the Association. The lien shall continue until fully paid or otherwise satisfied.

Section 3. Foreclosure Sale. Any foreclosure sale provided for above is to be conducted by the Board, its attorney or other persons authorized by the Board, in accordance with the

provisions of Sections 2924, 2924a, 2924b and 2924c of the California Civil Code applicable to the exercise of powers of sale in Mortgages and deeds of trust, as same may be amended from time to time, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Condominium at a foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a Notice of Delinquent Assessments or lien was filed by the Association, the officers thereof are hereby authorized to file or record, as the case may be, an appropriate release of such Notice upon receipt of payment from the defaulting Owner of a reasonable fee to be determined by the Association to cover the costs of preparing and filing or recording such release.

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

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

ARTICLE IX
USE RESTRICTIONS

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

Section 1. Private Dwelling. Each Condominium Unit shall be used as a private dwelling and for no other purpose, except such temporary uses as shall be permitted by Declarant while the Project is being developed and Condominiums are being sold by Declarant; provided, however, that Declarant reserves the right, for a period of seven (7) years from recordation hereof or until all Condominiums in the Project are sold (and escrows closed), whichever shall first occur, to carry on normal sales activity on the Project, including the operation of models, sales office, design center and parking area, provided Declarant shall not unreasonably interfere with any other Owner's use of the Common Property.

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

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

Section 4. Liability for Damage to the Common Property. Each Owner shall be liable to the Association, pursuant to the laws of the State of California, for any and all costs and expenses which may be incurred by the Association to repair any damage to the Common Property which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenants, lessees, or their respective guests or invitees, whether minor or adult. After approval by a majority of the Board, any such costs and expenses shall be levied by the Board as a Compliance Assessment against such Owner.

Section 5. Signs. Subject to the provisions of California Civil Code, Sections 712 and 713, as same may be amended from time to time, no sign of any kind shall be displayed to the public view on or from any Condominium Unit or the Common Property without the approval of the Association, except such signs as may be used by Declarant for a period of time not to exceed

seven (7) years from recordation hereof in connection with the development of the Project and sale of Condominiums, and except one (1) "for sale," "for lease" or "for exchange" sign of reasonable size on any Condominium Unit. All signs permitted under this Section shall conform with the City's sign ordinance, if any, and with all applicable governmental regulations.

Section 6. Maintenance of Animals. No animals of any kind shall be raised, bred or kept in any Condominium Unit, Exclusive Use Common Area or in the Common Property, except that one (1) common domesticated dog, cat, bird or other household pet (other than a small household pet such as fish, which may be kept in reasonable numbers so long as there is no external evidence thereof) may be kept in each Condominium Unit; provided, however, that no animal shall be kept, bred or maintained for any commercial purpose and shall not exceed any weight limitations established by the Board. Each Owner shall be responsible for cleaning up any excrement or other unclean or unsanitary condition caused by said animal in the Project. All permissible pets belonging to Owners, tenants, lessees or guests must be kept within an enclosed area, or on a leash being held by a person capable of controlling the animal. The Association, upon the approval of two-thirds (2/3) of the Board, shall have the right to prohibit maintenance of any animal within the Project which constitutes a private nuisance to any other person. Every person bringing an animal upon or keeping an animal in the Project shall be liable pursuant to the laws of the State of California to each and all persons for any injury or damage to persons or property caused by such animal.

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

Section 8. Structural Changes. There shall be no structural alteration, modification or construction to the exterior of a Condominium Building, fence or other structure whatsoever in the Project without the prior written approval of the Board or its designated Architectural Control Committee, as re-

quired herein, except such works of construction by Declarant during the development of the Project.

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

Section 10. Windows. No window in any Condominium Unit shall be covered in whole or in part, inside or outside, with aluminum foil, newspaper, paint, tint or any other material reasonably deemed inappropriate for such use by the Architectural Control Committee; provided, however, an Owner may use plain white sheets to cover windows for a period not to exceed six (6) months after the close of escrow pending the installation of drapes, curtains, shutters or other appropriate interior window coverings.

Section 11. Commercial Activity. No business, commercial, manufacturing, mercantile, storage, vending or industrial operations of any kind shall be conducted in or upon any Condominium Unit or the Common Property, except such temporary uses as shall be permitted by Declarant while the Project is being constructed and Condominiums are being sold by the Declarant. Notwithstanding the foregoing, this Section shall not preclude professional administrative occupations without external evidence thereof, for so long as such occupations are conducted in conformance with all applicable governmental ordinances and merely incidental to the use of the Condominium Unit as a residence. In no event, however, shall any Owner or the Association use a Condominium Unit as an office for the rental, resale or leasing of Condominiums without the prior written consent of Declarant.

Section 12. Parking. All vehicles in the Project shall be parked in accordance with the following:

(a) All streets within the Project are subject to the Protective Covenants of this Declaration, as well as all applicable laws, ordinances and regulations of all governmental agencies having jurisdiction over the Project. Any unassigned open parking spaces shall be available on a first-come, first-served basis to all guests and visitors.

(b) Except as may be otherwise expressly permitted by the Association pursuant to duly adopted Rules and Regulations, parking along the streets in the Project, other than in designated parking stalls, is prohibited. Notwithstanding the foregoing, temporary on-street parking for service and delivery vehicles is permitted. Prior to the sale of any Condominium in the Project, the respective Owner thereof shall provide the buyer of said Condominium with a copy of Anaheim Municipal Code Section 14.32.500 (a copy of which is attached hereto as Exhibit "B"), or any statute which shall amend or replace such statute pertaining to "parking restricted to facilitate street sweeping." In addition to a copy of said ordinance, the Owner of the Condominium shall provide buyer with written information on the ordinance which clearly indicates when on-street parking is prohibited and the penalty for violation. The covenant regarding the parking information shall continue in effect until terminated and released by a written instrument executed and acknowledged by a representative of the City and the Owner of a Condominium.

(c) Except as otherwise permitted by the Association, as set forth herein, no Owner shall park any vehicle on any portion of the Project, except wholly within his respective garage, his assigned parking area or on his driveway, provided such automobile does not extend beyond the curb-line. No parking space or garage may be sold or assigned to, or retained in the ownership of, any person not an Owner, and no parking space or garage may be rented or leased to a non Owner except in connection with the rental or lease of a Condominium. Without limiting the generality of the foregoing, no Owner shall park any large commercial type vehicle or any recreational vehicle (including, but not limited to, campers, motorhomes, trailers, boat trailers, mobile homes or other similar vehicles) in his garage, unless wholly enclosed within said garage, nor on any portion of the Project, including his parking area; provided, however, camper trucks and similar vehicles, up to and including three-quarter (3/4) ton, may be allowed when used for everyday transportation, subject to approval by the Board.

(d) Each Owner shall keep his garage and any assigned parking area readily available for parking of his respective vehicle, and shall not store any goods or materials therein, nor use any portion thereof for a workshop or other use, if such storage or use would prevent said Owner from parking the number of vehicles therein for which said garage or parking area was originally designed and constructed by Declarant to accommodate. Garage doors shall

remain closed at all times, except as reasonably required for entry to and exit from the garage.

(e) No Owner shall conduct major repairs to any motor vehicle of any kind whatsoever in his garage, assigned parking area or upon any portion of the Common Property, except for emergency repairs thereto and then only to the extent necessary to enable the vehicle to be moved to a proper repair facility.

(f) Any Owner having three (3) or more vehicles registered to such Owner, or to the members of his family, may apply to the Association for special parking permits to park vehicles in any unassigned parking areas, subject to such reasonable Rules and Regulations as may be adopted by the Board.

Section 13. Regulation of Parking. Subject to the rights of the Association, through its officers, committees and agents, the Board is hereby empowered to establish "parking" and "no parking" areas within the Common Property, in accordance with Section 22658.2 of the California Vehicle Code, or any similar statute hereafter enacted, as well as to enforce these parking limitations by all means lawful for such enforcement, including, but not limited to, the levying of fines and the citing and towing of vehicles. The Board shall have the authority to tow away and store any vehicle or similar equipment parked in violation of the above limitations whether the same shall belong to any Owner or a member of his family or to any tenant, lessee, guest or invitee of any Owner. Charges for such towing and storing shall be assessed against the Owner of the Condominium which is responsible for the violation of such restrictions, and such assessment may be enforced as a Compliance Assessment.

Section 14. Vehicle Usage in Association Property. Except where expressly authorized and regulated by the Association, no vehicles of any kind shall be operated, maintained, repaired or otherwise used on, over or across the Association Property.

Section 15. Compliance With Management Documents. All Owners shall comply with all of the Protective Covenants as set forth herein, with the provisions of the Articles and the By-Laws, and with all Rules and Regulations of the Association.

Section 16. Solar Heating. All Owners shall have the right to place and maintain equipment and facilities related to the installation and maintenance of individual solar heating systems. The installation and maintenance of any solar system by an individual Owner shall be subject to all applicable zoning regulations, the Uniform Building Code and City associated ordinances, and reasonable review by the Architectural Control Com-

mittee for compliance with the architectural standards adopted by the Association.

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

Section 18. Water Softeners. No Owner shall install any on-site regenerative water softener within any portion of the Project.

Section 19. Leasing. No Owner shall be permitted to rent or lease his Condominium for transient or hotel purposes or for a period of less than thirty (30) days. All rental and lease agreements shall be in writing and shall provide that the terms of such agreement shall be subject in all respects to the provisions of this Declaration, By-Laws, Articles, and Rules and Regulations, and that any failure by the tenant or lessee to comply with the terms of such documents shall constitute a default under such agreement. Other than the foregoing, there are no restrictions on the right of an Owner to rent or lease his Condominium.

Section 20. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the Common Property or Exclusive Use Common Area, nor shall oil wells, tanks, tunnels or mineral excavations be permitted upon the Common Property or Exclusive Use Common Area. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted within the Project.

Section 21. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any portion of the Project, except in sanitary containers located in appropriate areas improved with trash receptacles, if any, provided for the use of all Owners. If such common trash receptacles are not provided, each Owner shall place all rubbish, trash, garbage or other waste material in garbage cans, garbage bags or other closed containers approved by the City or other appropriate agency. All such garbage cans and other containers shall be stored in an area which is obscured from view from the Common Property and each Owner shall use his best efforts to assure that no odor shall arise therefrom so as to be unreasonably offensive to any adjacent Condominium or other portion of the Project, or to otherwise be unsanitary, unsightly, offensive or detrimental to any other residents in the Project.

Section 22. Special Restrictions Regarding Exclusive Use Common Areas. No patio, carport, balcony or courtyard area including, without limitation, the fences, walls or railings enclosing said areas may be painted, remodeled, or otherwise

altered without the prior written consent of the Architectural Control Committee. Each Owner shall have the right to furnish such areas with appropriate outdoor furniture. All furniture, landscaping, potted plants and Improvements situated therein shall be kept, at all times, in a neat, clean, safe and attractive condition. Clothes, towels, blankets, laundry, similar items or clotheslines shall not be placed on or hung from any patio, balcony, courtyard or any other portion of the Common Area or Exclusive Use Common Area, where doing so would be visible from any other Condominium Unit or the Common Property.

Section 23. Declarant's Exemption From Use Restrictions. Nothing in this Article or elsewhere in this Declaration shall restrict, abridge or limit in any manner whatsoever, Declarant's right to complete the planning, development, construction, advertising, marketing, leasing and sales of the Condominiums, and all other property within the Project (including any property which may be annexed thereto pursuant to the provisions of this Declaration).

ARTICLE X

REPAIR AND MAINTENANCE

Section 1. Repair and Maintenance by Association.

Without limiting the generality of the Article herein entitled "Powers and Duties of the Association," and except as otherwise provided in this Declaration, the Association shall have the duty to maintain the Common Property in a neat, clean, safe, sanitary, attractive and orderly condition at all times. Without limiting the generality, such maintenance shall include, but not be limited to, painting, maintaining, repairing, restoring, replacing and landscaping (as the case may be) the following:

(a) The exterior surfaces of all Condominium Buildings in the Project, including the walls, roofs, doors, garage doors, the walls, fences and/or railings enclosing the patio, carport, balcony and/or courtyard areas, the exterior stairways, fireplaces, (excepting the firebox portion of the fireplace located within the residential element of the Condominium Unit), and chimneys, any air conditioner or forced air heating unit pads located outside the Condominium Unit and any Exclusive Use Common Area patio;

(b) The interior courtyard area walls, including stairways and railings;

(c) Private streets, if any, and entry gates, parkways and streetscapes, natural and manufactured slopes and Project perimeter fences and walls;

(d) Open parking areas and sidewalks;

(e) Private on-site sewer and drainage facilities and devices;

(f) All recreational amenities, and all furnishings, equipment and other personal property owned by the Association;

(g) All Common Property lighting facilities;

(h) Monument signs, if any, located on the Common Property; and

(i) All other areas, facilities, furnishings and Improvements of whatever nature as may, from time to time, be requested by the vote or written consent of three-fourths (3/4) of the voting power of the Members; and

Except as otherwise provided herein, all costs and expenses for such maintenance above shall be a Common Expense, and shall be paid out of the general operating fund of the Association.

Section 2. Repair and Maintenance by Owner. Except as otherwise provided in Section 1 above regarding the Association's maintenance obligations, every Owner shall have the duty to perform the following so as to keep his respective Condominium Unit and Exclusive Use Common Area in a neat, clean, safe, sanitary, attractive and orderly condition at all times:

(a) Paint, maintain, repair, replace, restore, decorate and/or landscape (as the case may be) the following:

(1) The interior surfaces of the walls, ceilings and floors of his Condominium Unit;

(2) All window glass, screens, if any, and doors (including locks, latches, weatherstripping and thresholds);

(3) All interior lighting fixtures, all exterior light bulbs controlled by a switch inside the Unit and all interior plumbing fixtures, including bathtubs, shower stalls, toilets and sinks;

(4) All internal and external telephone wiring designed to serve his Condominium Unit;

(5) All kitchen appliances, forced air heating units, the air conditioning unit, the hot water heater, the firebox portion of the fireplace within his Condominium Unit and the garage door opener; and

(6) The respective courtyard, patio, carport and/or balcony, excluding those portions maintained by the Association.

(b) As set forth in Article III hereinabove, the Owner shall, at his sole cost and expense, be responsible for resurfacing the floor of his balcony with a seal coat material approved by the Architectural Control Committee. In no event shall any Owner install, nor shall the Architec-

tural Control Committee approve the installation of artificial turf on any exterior staircase, landing or on any balcony.

(c) In the event any Owner shall fail to perform his maintenance obligations as set forth herein, the Association shall have the right, but not the duty, to cause such maintenance to be performed. If the Board elects to cause such maintenance work to be performed, the cost thereof shall be assessed against said Owner as a Compliance Assessment.

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

ARTICLE XI

ARCHITECTURAL CONTROL - APPROVAL

Section 1. Exemptions From Architectural Control. Except as otherwise provided herein, all Improvements shall be subject to architectural approval by the Association in accordance with the provisions of this Declaration. Notwithstanding the foregoing, Declarant shall be exempt from compliance with any of the provisions of this Article as they may relate to the original construction and development of the Project by Declarant in accordance with the plans approved by the City and/or VA/FHA; provided, however, if Declarant shall desire to construct any Improvements to the exterior of a Condominium Building after such Condominium Building has been completed and approved by the City and/or the VA/FHA, Declarant shall obtain approval for such Improvements from the City and/or the VA/FHA and, provided further, if Declarant shall retain a Condominium for personal use, any Improvements to such Condominium shall be subject to architectural approval pursuant to this Article.

Section 2. Architectural Control. Except for the purposes of proper maintenance and repair, and except as otherwise permitted hereunder, no person shall build, construct, erect or install any Improvement, or modify the exterior appearance of his Condominium Unit or Exclusive Use Common Area, until all conditions which may be imposed by the City have been satisfied and until any and all plans and specifications required pursuant to this Article shall have been submitted to and approved in writing by the Architectural Control Committee. For the purposes of this Section, the term "exterior" shall mean any outside wall, outside

surface, roof, outside door, balcony or other outside structure which is visible to others in the Project and/or to the public.

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

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

Section 5. Architectural Approval - Review of Plans and Specifications. The Architectural Control Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed plans are in conformance with and are harmonious to the exterior design and existing materials of the Condominium Buildings in the Project. The Archi-

Architectural Control Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration, and perform such other duties as, from time to time, shall be assigned to it by the Board, including the inspection of construction and progress to ensure its conformance with the plans approved by the Architectural Control Committee. No construction, alteration, grading, addition, excavation, modification, decoration, redecoration or reconstruction of an Improvement shall be commenced or maintained by any Owner until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Architectural Control Committee and approved in writing by the Architectural Control Committee. The initial address for submission of such plans and specifications, until changed by the Architectural Control Committee, shall be:

Architectural Control Committee
View Pointe
c/o The Presley Companies
19 Corporate Plaza
Newport Beach, California 92660

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

The Architectural Control Committee may also issue rules or guidelines setting forth procedures for submission of plans for approval, requiring a payment of a fee to the Association to accompany each submission of plans and specifications, or

additional factors which it will take into consideration in reviewing submissions.

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

Section 6. Decisions of the Architectural Control Committee. Until receipt by the Architectural Control Committee of any required plans and specifications, and such other information as may be required in Section 5 above, the Architectural Control Committee may postpone review of any plans submitted for approval. Decisions of the Architectural Control Committee and the reasons therefor should be transmitted by the Architectural Control Committee to the applicant, at the address set forth in the application for approval, within forty-five (45) days after receipt by the Architectural Control Committee of all plans, specifications and materials required. Any application submitted pursuant to the provisions of Section 5 above shall be deemed approved, unless written disapproval or a request for additional information or materials by the Architectural Control Committee shall have been transmitted to the applicant within forty-five (45) days after the receipt by the Architectural Control Committee of all required materials.

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

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

Section 9. Variances. Where circumstances such as topography, location of buildings, location of landscaping or other matters require, the Architectural Control Committee, by the vote or written assent of a majority of the members thereof and the Board, may allow reasonable variances as to any of the Covenants contained in this Declaration or provisions under the rules and regulations promulgated by the Architectural Control Committee, on such terms and conditions as it shall require. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose, except as to the

particular Condominium and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of his Condominium, including, but not limited to, zoning ordinances, lot setback lines or requirements imposed by the City or other governmental authority.

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

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

Section 12. Appeal. In the event plans and specifications submitted to the Architectural Control Committee are disapproved, the party making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Architectural Control Committee. The Board shall submit such request to the Architectural Control Committee for review, and the

written recommendations of the Architectural Control Committee will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure by the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the party making such submission.

ARTICLE XII
DAMAGE OR DESTRUCTION TO
THE COMMON AREA

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

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

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

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

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

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

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

(c) In the event the Owners shall have so voted not to rebuild the Common Area, unless the City shall agree to the contrary, it shall be the obligation of the Association and each of the Owners to rebuild the private streets, if any, utilities and open spaces, at least to the extent said streets, utilities and open spaces were accepted initially by the City, if at all, in lieu of payment of fees due pursuant to law.

Section 3. Restoration of Damaged Condominium Units.

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

Section 4. Architectural Approval of Restoration Plans; Design and Variance.

In connection with the restoration and repair of any damage to the interior of any individual Condominium Unit, the Owner thereof may apply for approval to the Architectural Control Committee for reconstruction, rebuilding or repair of his Condominium Unit in a manner which will provide for an exterior appearance and design different from that which existed prior to the date of the casualty. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations

showing the proposed reconstructions and the end result thereof. The Architectural Control Committee shall grant such approval only if the design proposed by the Owner would result in a finished Condominium Unit in harmony of exterior design with the other Condominium Units in the Project. Failure of the Architectural Control Committee to act within thirty (30) days after receipt of such a request in writing, coupled with the drawings and plot plans showing full and complete nature of the proposed change, shall constitute approval thereof; provided, however, that no such approval described herein shall be granted without the prior written consent of all Owners of Condominium Units within the particular Condominium Building wherein the subject Condominium Unit is located.

Section 5. Distribution of Excess Insurance Proceeds.

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

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