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MAY 22, 1987

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(Space Above for Recorder's Use Only)

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP
FOR
BERNARDO VILLAGE HOMEOWNERS ASSOCIATION
(VILLAGE SERIES)

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP
FOR
BERNARDO VILLAGE HOMEOWNERS ASSOCIATION

This Declaration is made this 29th day of April, 1987, by J.M. Peters Company, Inc., a Nevada corporation (hereinafter called "Declarant").

R E C I T A L S:

A. Declarant is the owner of certain real property located in the City of San Diego, County of San Diego, State of California, and described on Exhibit "A" attached hereto and incorporated herein by this reference ("the Property").

B. Declarant has improved or intends to improve the Property by constructing improvements thereon consisting of dwelling units and recreational and other facilities in accordance with plans and specifications on file with the City of San Diego, California.

C. By this Declaration, Declarant intends to establish a plan of condominium ownership for the Property. The Property shall also be subject to and governed by the previously recorded Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights recorded on September 30, 1980 as File/Page No. 80-319018 in the Official Records of the San Diego County Recorder, as amended.

D. Declarant has deemed it desirable to establish covenants, conditions and restrictions upon the Property and each and every portion thereof, which will constitute a general scheme for the management of the Property and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property.

E. It is desirable for the efficient management of the Property and the preservation of the value, desirability and attractiveness of the Property to create a corporation to which shall be delegated and assigned the powers of managing the Property, maintaining and administering the Common Area and Recreational Facilities and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessments and charges hereinafter created and referred to and to perform such other acts as shall generally benefit the Property.

F. Bernardo Village Homeowners Association, a nonprofit mutual benefit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid.

G. Declarant will hereafter hold and convey title to all of the Property subject to certain protective covenants, conditions and restrictions hereafter set forth.

DECLARATION:

Declarant declares that the Property is, and shall be, held, assigned, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of Condominium ownership as described in California Civil Code Sections 1350-1372 for the subdivision, improvement, protection, maintenance, and sale of Condominiums within the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code, Sections 1353 and 1354.

ARTICLE I

DEFINITIONS

Section 1.1 The "Articles" mean the Association's Articles of Incorporation and their amendments.

Section 1.2 The "Association" means the Bernardo Village Homeowners Association, a California non-profit mutual benefit corporation, its successors and assigns.

Section 1.3 The "Association Rules" mean the rules and regulations regulating the use and enjoyment of the Common Area adopted by the Board from time to time.

Section 1.4 The "Bernardo Heights Community Articles" means the Articles of Incorporation for the Bernardo Heights Community Association.

Section 1.5 The "Bernardo Heights Community Assessment" means the assessments levied by the Bernardo Heights Community Association pursuant to Article IV of the Bernardo Heights Community Declaration.

Section 1.6 The "Bernardo Heights Community Association" means THE COMMUNITY ASSOCIATION OF BERNARDO HEIGHTS, a California non-profit mutual benefit corporation or any successor entity charged with the duties, obligations and powers of said Bernardo Heights Community Association.

Section 1.7 The "Bernardo Heights Community Bylaws" means the Bylaws for the Bernardo Heights Community Association duly adopted by the Bernardo Heights Community Board.

Section 1.8 The "Bernardo Heights Community Declaration" means that certain Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights recorded on September 30, 1980 as File/Page No. 80-319018 in the Official Records of the San Diego County Recorder.

Section 1.9 The "Board" means the Board of Directors of the Association.

Section 1.10 The "Bylaws" mean the Association's Bylaws and their amendments.

Section 1.11 The "Common Area" means the entire Development except all Units as defined in this Declaration or as shown on the Condominium Plan, and without limiting the generality of the foregoing, the Common Area specifically includes all of the Property, and, subject to the following sentence, all gas, water, waste pipes, utility meter cabinets, all sewers, all ducts, chutes, conduits, wires and other utility installations of the Units, the land upon which the Units are located, the air space above and around the Units, the Front Yard as defined in Section 1.28(b) below, and the Recreational Facilities. The Common Area does not include that portion of the sewer, water, gas and electrical pipes maintained by the Owner pursuant to Section 16.2 (a) (ii) and (vi). All exterior bearing walls, columns, the roof, the foundation, exterior doors, exterior staircases, exterior balconies, window and skylight glass and all other portions of the physical structure of the Residence and Garage and the air space encompassed thereby are part of the Unit and not part of the Common Area. The entire Unit and Garage, which means the entire physical structure of the Residence and Garage, is not Common Area.

Section 1.12 The "Restricted Common Area" shall mean and include those portions of the Common Area over which exclusive easements are reserved for the benefit of certain Owners, including, but not limited to, patios, entry walkways, driveways, as those areas are defined in the Condominium Plan, and the Yard, as defined below in Section 1.28. The Restricted Common Area does not include the Front Yard, defined below in Section 1.28(b).

Section 1.13 A "Condominium" means an estate in real property as defined in California Civil Code, Section 783 consisting of an undivided interest as a tenant in common in the Common Area, together with a separate interest in a Unit shown and described on a Condominium Plan, and all easements appurtenant thereto.

Section 1.14 A "Condominium Building" shall mean a separate building containing a Unit.

Section 1.15 "Condominium Elements" shall mean the following elements of a Unit:

(a) "Garage" shall mean a structure designed for use as a Garage, and shall be identified on the Condominium Plan by a Unit number and the letter "G" and shall consist of the entire physical structure of the Garage specifically including exterior bearing walls, columns, the roof, the foundation, exterior doors and window glass (if any) and all other portions of the physical structure of the Garage and the air space encompassed thereby, including the outlets of all utility installations therein.

(b) "Residential Element" shall mean a structure designed for use as a Residence, and shall be identified on the Condominium Plan by a Unit number and shall consist of the entire physical structure of the Residence specifically including, but not limited to, all exterior bearing walls, columns, the roof, the foundation, exterior doors, exterior staircases, exterior balconies, window and skylight glass and all other portions of the physical structure of the Residence and the air space encompassed thereby, including the outlets of all utility installations therein.

Section 1.16 The "Condominium Plan" means the Condominium Plan recorded pursuant to California Civil Code, Section 1351 respecting the Development, and any amendments to the plan. In interpreting deeds, leases, declarations and plans, the existing physical boundaries of a Unit constructed in substantial accordance with the Condominium Plan shall be conclusively presumed to be its boundaries rather than the description expressed in the deed, declaration or plan, regardless of settling or lateral movement of the building and minor variances between boundaries as shown on the plan or in the deed or declaration and those of the buildings as constructed.

Section 1.17 The "Declarant" means J.M. Peters Company, Inc., a Nevada corporation, and its successors and assigns, if such successors and assigns, acquire or hold record title to any portion of the Development for development purposes.

Section 1.18 The "Development" means the property described on Exhibits "A" and "D", including the Units, Restricted Common Area and Common Area.

Section 1.19 The "Governing Instruments" mean the Articles, Bylaws, this Declaration and the Association Rules.

Section 1.20 A "Member" means every person or entity who holds a membership in the Association.

Section 1.21 A "Mortgage" means a Mortgage or deed of trust encumbering a Condominium or other portion of the Development. A "Mortgagee" shall include the beneficiary under a deed of trust. An "Institutional Mortgagee" is a Mortgagee which is a bank or savings and loan association or mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property, or any insurance company or any federal or state agency. A "First Mortgage" or "First

Mortgagee" is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Condominium or other portions of the Development.

Section 1.22 An "Owner" means each person or entity holding a record ownership interest in a Condominium, including Declarant, and contract purchasers under recorded contracts. "Owner" shall not include persons or entities who hold an interest in a Condominium merely as security for the performance of an obligation.

Section 1.23 A "Phase" shall mean and refer to (i) all of the Property described in Exhibit "A" attached hereto (Phase 1); or (ii) all the real property covered by a Notice of Annexation to this Declaration pursuant to Article XVIII of this Declaration.

Section 1.24 The "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto.

Section 1.25 The "Recreational Facilities" shall mean all real property, and the improvements thereon, owned or leased from time to time by the Association for the common use and enjoyment of the Members, including without limitation: pools, spas and restrooms. The Common Area upon which the Recreational Facilities shall be constructed is described in Exhibit "B". On or before the date of the first conveyance of a Condominium by Declarant to an Owner in the third and final Phase in the Development, Declarant shall convey to the Association title to the real property described in Exhibit "B", free and clear of all encumbrances and liens other than those approved by the California Department of Real Estate. All obligations and responsibilities of the Association and rights of the Members in and to the Recreational Facilities shall commence upon its transfer to the Association. Any reference to the Recreational Facilities herein at a time when the Recreational Facilities have not been annexed and transferred to the Association shall be ignored and considered non-applicable.

Section 1.26 A "Residence" shall mean and refer to a Condominium.

Section 1.27 A "Unit" means the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Development, including the Garage and Residential Element, such Units and their respective elements and boundaries being shown and 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 original plans shall be conclusively presumed to be its boundaries rather than the description expressed in the deeds or plans, regardless of minor variance between boundaries shown on the plans or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference is made in this Declaration, in the Condominium Plan, in any deed or elsewhere to a Unit it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements, and to any and all exclusive easements appurtenant to such Unit over Common Area, if any. A Unit consists of the entire physical structure of the Residence and Garage including, but not limited to, all exterior bearing walls, columns, the roof, the foundation, exterior doors, exterior staircases, exterior balconies, window and skylight glass and all other portions of the physical structure of the Residence and Garage and the air space encompassed thereby, including the outlets of all utility installations therein. It is intended that the entire physical structure of the Residence and Garage is part of the Unit.

Section 1.28 A "Yard" shall mean the Back yard as defined below, and the front yard area between the Unit and the front entry gate of a Unit.

(a) "Back yard" shall mean that portion of the Restricted Common Area designed for use as a recreational yard, gardening and/or landscaping area, which consists of the contiguous surfaces of any Common Area walls or fences, the surfaces of the wall or contiguous Condominium Buildings, and the space and the land encompassed by all of the foregoing.

(b) "Front yard" shall mean that portion of the yard outside the front entry gate to a Unit. The Front Yard is Common Area.

ARTICLE II

DESCRIPTION OF COMMON INTERESTS, PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS

Section 2.1 Ownership of Condominium. Ownership of each Condominium within the Development shall include a Unit, an undivided interest in the Common Area, which undivided interest shall be specified in the deed from Declarant to each Owner and which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a Condominium remains in effect as provided in this Declaration, a membership in the Association, and any exclusive or non-exclusive easement or easements appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan, or the deed to the Condominium.

Section 2.2 Reservation of Easements. Declarant expressly reserves for the benefit of the Owners in the Development reciprocal, non-exclusive easements for access, ingress and egress over all of the Common Area, which easements may be conveyed by Declarant to Owners and to the Association for so long as Declarant owns any interest in the Development. Subject to the provisions of this Declaration governing use and enjoyment thereof, such easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Development, for recreational purposes, walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Condominium in the Development. Declarant expressly reserves for the benefit of the Board and all agents, officers and employees of the Association non-exclusive easements over the Common Area as necessary to maintain and repair the Common Area and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Area shall be appurtenant to and shall pass with the title to every Condominium conveyed. Declarant expressly reserves for the benefit of Owners exclusive easements for the use of the Restricted Common Area defined above in Section 1.12 and which Restricted Common Area is depicted and described on the Condominium Plan and assigned to particular Owners for correspondingly numbered Units in the Condominium Plan and on the individual deeds of the respective Condominiums. Declarant expressly reserves, for the benefit of the Association the right of Declarant to grant additional easements and rights-of-way over the Development to utility companies and public agencies, as necessary for the proper development and disposal of the Development, until but in no event longer than five (5) years

from the date of issuance of the original final public report issued by the California Department of Real Estate. The Board of the Association, with a vote or written consent of a majority of both the Class A and Class B Members, shall have the right to grant easements and rights-of-way over the Common Areas after the close of escrow for the sale of the first Condominium from the Declarant in the Development. Declarant, the Association and Owners of contiguous Units shall have a reciprocal easement appurtenant to each of the Units over the Units and the Common Area for the purpose of (1) accommodating any existing encroachments of any wall of the building, and (2) maintaining the same and accommodating authorized construction, reconstruction, repair, shifting, movement or development of their respective Units. There are specifically reserved for the benefit of the Owners easements and reciprocal servient tenements for utility services and repairs, replacement and maintenance of the same over all of the Common Area. Such easements shall not unreasonably interfere with the use and enjoyment by the Owners of other Units.

Certain Units within the Development have atriums ("Atrium Units") which have a fire door that opens into their neighbors ("Adjacent Owners") Restricted Common Area. Pursuant to the Uniform Building Code, the Owners of the Atrium Units must have emergency access over the Adjacent Owners' Restricted Common Area. Declarant expressly reserves for the benefit of those Owners of Atrium Units described on Exhibit "C" a non-exclusive easement for emergency access and egress over a portion of the Restricted Common Area reserved for certain Adjacent Owners which Adjacent Owners' Units are also described on Exhibit "C". Said easements are depicted on Exhibit "E." Said easement shall be used for emergency purposes only.

The Adjacent Owners shall not obstruct, impede, or hinder in any way the access and egress of the Owners of the Atrium Units over said easement area by blocking or placing objects, items, trees or plants in front of, or against the fire door or in any other way obstructing passage through the easement area. Said easement area shall be kept in such condition to allow easy emergency access and egress by the Owner of the Atrium Unit.

Section 2.3 Owners Non-Exclusive Easements of Enjoyment, etc. Every Owner of a Condominium shall have a non-exclusive easement of use and enjoyment in, to and throughout the Common Area and to the Recreational Facilities; however, such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to Units over the Common Area, if any. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Condominium, subject to the following rights and restrictions:

(a) The rights of the Association to limit the number of guests, and to adopt and to enforce the Association Rules.

(b) The right of the Association to charge reasonable admission and other fees for use of any unassigned parking spaces, if any, and any recreational facility situated upon the Common Area.

(c) The right of the Association to borrow money to improve, repair or maintain the Common Area.

(d) The right of the Association to assign, rent, license, or otherwise designate and control use of unassigned parking spaces within the Common Area (other than those portions subject to exclusive easements appurtenant to Units, if any).

(e) The right of the Association 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 Governing Instruments provided that the procedures for notice and hearing, satisfying the minimum requirements of Section 7341 of the Corporations Code, are followed with respect to the accused Members before a decision to impose discipline is reached. Notwithstanding the foregoing, the Association has no power to cause a forfeiture or abridgement of an Owner's rights to the full use and enjoyment of his individually-owned Unit on account of a failure by the Owner to comply with provisions of the Governing Instruments or of duly-enacted rules of operation for the Common Area and Recreational Facilities except where the loss or forfeiture is the result of the 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 levied by the Association.

(f) The right of Declarant or its designees to enter on the Development to construct the Development and to make repairs and remedy construction defects if such entry shall not unreasonably interfere with the use of any occupied Unit unless authorized by the Unit Owner.

(g) The right of the Association, or its agents, to enter any Unit to perform its obligations under this Declaration, including obligations with respect to construction, maintenance or repair for the benefit of the Common Area or Recreational Facilities, or the Owners in common. This right shall be immediate in case of an emergency.

Section 2.4 Delegation of Use; Contract Purchasers; Tenants. Any Owner may delegate his rights of use and enjoyment in the Development, including any Recreational Facilities to Members of his family, guests, invitees, tenants, unrecorded contract purchasers, and to such other persons as may be permitted by the Bylaws and the Association Rules, subject however, to this Declaration, to the Bylaws and to the Association Rules. Any delegated rights of use and enjoyment are subject to monetary penalties, temporary suspensions, or other appropriate discipline to the same extent as are the rights of Owners.

Section 2.5 Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association, nor release the Unit owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws and Association Rules, by waiver of the use and enjoyment of the Common Area or the Recreational Facilities, or the abandonment of his Unit.

Section 2.6 Minor Encroachments. If any portion of the Common Area encroaches on any Unit or if any portion of a Unit encroaches on the Common Area, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements. If any Condominium Building containing a Unit is partially or totally destroyed and then rebuilt and any encroachment on the Common Area results, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements.

Section 2.7 Easements Granted by Association. The Association shall have the right to grant and convey to any third party, easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or such other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to a Condominium, expressly consents to such easement. However, no such easement can be granted if it would interfere with the use, occupancy or enjoyment by any Owner of his Unit.

ARTICLE III

USE RESTRICTIONS

Section 3.1 Residential Use. Units shall be used for residential purposes only. However, Units owned by Declarant may be used by Declarant or its designees as models, sales offices, and construction offices for the purpose of developing, improving and selling Condominiums in the Development. However, this use shall be limited to no longer than five (5) years from the date of issuance of the original final public report by the Department of Real Estate. Nothing in this Declaration shall prevent an Owner from leasing or renting his Condominium. However, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all provisions of this Declaration, the Articles, the Bylaws, and the Association Rules and any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement. Also, no Owner shall rent, lease or let his Condominium for transient or hotel purposes.

Section 3.2 Commercial Use. Except as otherwise provided in Section 3.1, no part of the Development shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

Section 3.3 Window Coverings. Windows can be covered only by drapes, shades, blinds, or shutters, and cannot be painted or covered by aluminum foil, cardboard, or other similar materials.

Section 3.4 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in the Development, no oil wells, tanks, tunnels or mineral excavations or shafts shall be permitted on the surface of the Development or within five hundred (500) feet below the surface of the Development. No derrick or other structure designed for use in drilling for water, oil or natural gas shall be erected, maintained or permitted on the Development.

Section 3.5 Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, except for minor repairs, shall be conducted within the Development. Nothing shall be done on or within the Development that may be or may become an annoyance or nuisance to the residents of the Development, or that in any way interferes with the quiet enjoyment of occupants of Units. Unless otherwise permitted by

the Association Rules, no Owner shall serve food or beverages, cook, barbecue or engage in similar activities, except within such Owner's Unit and except within those portions of the Common Area subject to exclusive easements appurtenant to such Owner's Condominium.

Section 3.6 Parking Restrictions; Use of Garage.

Unless otherwise permitted by the Board, no automobile shall be parked or left within the Development other than within a garage, or parking stall or space. No boat, trailer, recreational vehicle, camper, motorhome, truck, or commercial vehicle shall be parked or left within the Development other than as designated by the Board. However, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association Rules. Any garages shall be used for parking automobiles only and shall not be converted for living or recreational activities. No automobile or other vehicle shall be parked or stand outside of a garage if there is space for such automobile or vehicle in such garage and no garage shall be used for any purpose which would preclude the parking of at least two (2) automobiles therein. Any garage doors shall remain closed at all times except when being used to enter or exit.

Section 3.7 Signs. Until the Development is sold

out and/or until improvements to the Condominiums are completed, but in no event longer than five (5) years from the date of issuance of the original final public report by the Department of Real Estate, Declarant or its designees may display signs to the public view for the purpose of developing, selling and improving Condominiums within the Development on or from any Unit or within the Common Area without the approval of the Board. Owners or their agent shall also have the right to display a sign on or from their Unit or on their Restricted Common Area which sign is of reasonable dimensions and design advertising the Unit for sale, lease or exchange without the approval of the Board. No other signs shall be installed within the Development, within the Common Area, or on or from any Unit or Restricted Common Area without the prior approval of the Board.

Section 3.8 Antennae, External Fixtures, etc. No

television or radio poles, antennae, flag poles, clotheslines, or other external fixtures other than those originally installed by Declarant or approved by the Board or any replacements shall be constructed, erected or maintained on or within the Common Area, the Units, Restricted Common Area, or any structures on it. No wiring, insulation, air-conditioning, or other machinery or equipment other than that originally installed by Declarant

or approved by the Board, and their replacements shall be constructed, erected or maintained on or within the Common Area, the Units, Restricted Common Area, including any structures on it. Each Owner shall have the right to maintain television or radio antennae within completely enclosed portions of his Unit, or the attic space, if any, directly above his Unit.

Section 3.9 Fences, etc. No fences, awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Development except those that are installed in accordance with the original construction of the Development, and their replacements or as are authorized and approved by the Association Architectural Committee and the Architectural Committee of the Bernardo Heights Community Association.

Section 3.10 Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any Unit or elsewhere within the Development except that domestic dogs, cats, fish and birds may be kept as household pets within any Unit if they are not kept, bred or raised for commercial purposes. The Board can prohibit maintenance of any animal that constitutes a nuisance to any other Owner in the sole and exclusive opinion of the Board. Each person bringing or keeping a pet upon the Development shall be absolutely liable to other Owners, their family members, guests and invitees, for any damage to persons or property caused by any pet brought upon or kept upon the Development by such person or by members of his family, his guests or invitees.

Section 3.11 Restricted Use of Recreation Vehicles, etc. No boat, truck, trailer, camper, motorhome, recreational vehicle or tent shall be used as a living area while located on the Development. However, trailers or temporary structures for use incidental to the initial construction of the Development or the initial sales of Condominiums may be maintained within the Development, but shall be promptly removed on completion of all initial construction and all initial sales.

Section 3.12 Trash Disposal. All garbage and trash shall be placed and kept in sanitary, covered containers. In no event shall such containers be maintained on any Unit, unless they are placed and maintained so as not to be visible except when set out for a reasonable period of time and before and after scheduled trash pick-up time.

Section 3.13 Outside Drying and Laundering. No exterior clothesline shall be erected or maintained and there shall be no exterior drying or laundering of clothes on balconies, in entryways or other areas.

Section 3.14 Exterior Alterations. No Owner shall at his expense or otherwise make any alterations or modifications (including painting) to the exterior of the Condominium Buildings, Units, doors, windows, fences, railings, or walls situated within the Development without the prior written consent of the Association Architectural Committee and the Architectural Committee of the Bernardo Heights Community Association.

Section 3.15 Compliance With Laws, etc. Nothing shall be done in the Common Area or Recreational Facilities area that might increase the rate of, or cause the cancellation of, insurance for the Development, or any portion of the Development, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

Section 3.16 Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Area or Recreational Facilities that may be sustained by reason of the negligence of that Owner, members of his family, guests or invitees, but only to the extent that any such damage is not covered by insurance. Each Owner, by acceptance of his deed, agrees for himself and for the members of his family, guests or invitees, to indemnify each and every other Owner, and to hold him harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner or within any exclusive easements over the Common Area or Recreational Facilities appurtenant to the Owner's Unit.

Section 3.17 Owner's Obligation for Taxes. To the extent allowed by law, all Condominiums, including their pro rata undivided interest in the Common Area and the membership of an Owner in the Association, shall be separately assessed and taxed so that all taxes, assessments and charges which may become liens prior to first Mortgages shall relate only to the individual Condominium Buildings and not to the Development as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the San Diego County Assessor against his Condominium and against his personal property.

Section 3.18 Future Construction. Declarant shall complete construction of improvements to the Common Area, Recreational Facilities and the Condominiums owned by Declarant within five (5) years from the date of issuance of the original final public report by the Department of Real Estate. The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of any Declarant's interest in the Development, as developer, by an express assignment that transfers any such interest to a successor.

Section 3.19 Enforcement. The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws or Association Rules shall give rise to a cause of action in the Association and any aggrieved Owner for the recovery of damages or for injunctive relief, or both.

Section 3.20 Drainage. Each Owner agrees for himself and his successors in interest that he will not in any way interfere with the established drainage pattern over his Restricted Common Area from adjoining or other Lots, or that he will make adequate provisions for proper drainage in the event it is necessary to change the established drainage over his Restricted Common Area. For the purposes hereof, "established" drainage is defined as the drainage which occurred at the time the overall grading of the Development was completed by Declarant. Each Owner shall maintain in good repair and unclogged condition the rain gutters and down spouts located on their Unit. Any and all drains located on Restricted Common Area will be maintained by the Owners on whose property it is located in good repair and in unclogged condition.

ARTICLE IV

THE ASSOCIATION

Section 4.1 Formation. The Association is a nonprofit mutual benefit corporation formed under the laws of California. Upon the close and recording of the first Condominium sale to an Owner, the Association shall be charged with the duties and invested with the powers set forth in the Articles, the Bylaws and this Declaration, including, but not limited to, control and maintenance of the Common Area and the Recreational Facilities on the Common Area.

Section 4.2 Association Action; Board of Directors and Officers; Members' Approval. Except as to matters requiring the approval of Members as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint. Such election or appointment shall be in accordance with this Declaration or the Bylaws, and their amendments. Except as otherwise provided in this Declaration, the Articles or the Bylaws, all matters requiring the approval of Members shall be deemed approved if Members holding a majority of the total voting rights assent to them by written consent as provided in the Bylaws or if approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws.

Section 4.3 Powers of the Association. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the General Nonprofit Mutual Benefit Corporation Law of California, subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the following:

(a) Assessments. The Association shall have the power to establish, fix, and levy assessments against the Owners and to enforce payment of such assessments, in accordance with the provisions of this Declaration. However, the approval of Members shall be required as to the amounts of all regular and special assessments except as otherwise provided in this Declaration.

(b) Right of Enforcement. The Association in its own name and on its own behalf, or on behalf of any Owner who consents, can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of this Declaration or of the Articles or Bylaws, or of the Association Rules or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of the provisions. In addition, the Association shall have the powers to initiate and execute disciplinary proceedings against Members of the Association for violations of provisions of the Governing Instruments in accordance with procedures set forth in the Governing Instruments.

(c) Borrowing Money. The Association shall have the power to borrow money and incur indebtedness for the purpose of maintenance of the Association's property and to execute and deliver therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, Mortgages, pledges or other evidences of debt and security therefor.

(d) Delegation of Powers; Professional Management. The Association acting by and through the Board can delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("Manager"). Any agreement for professional management of the Development shall be terminable by either party with or without cause and without payment of a termination fee on thirty (30) days written notice. The term of any such agreement shall not exceed one (1) year, although such agreement may be renewed from year to year by the Board.

(e) Association Rules. The Board shall have the power to adopt, amend and repeal the Association Rules as it deems reasonable. The Association Rules shall govern the use of the Common Area and Recreational Facilities by all Owners, and their families, guests, invitees or by any contract purchaser, or tenant, and their respective family members, guests or invitees. However, the Association Rules shall not be inconsistent with or alter any provisions of this Declaration, the Articles or the Bylaws. A copy of the Association Rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. In case of any conflict between any of the Association Rules and other provisions of this Declaration, the Articles, or Bylaws, the conflicting Association Rule shall be deemed to be superseded by the provisions of this Declaration, the Articles or Bylaws.

(f) Pledge of Assessment Rights. The Association shall have the power to pledge the right to exercise its assessment powers in connection with obtaining funds to repay a debt of the Association; provided, however, any such pledge shall require the prior affirmative vote or written assent of not less than seventy-five percent (75%) of the Class A Members and seventy-five percent (75%) of the Class B Members and shall require the affirmative vote of not less than seventy-five percent (75%) of the first Mortgagees based on one (1) vote for each first Mortgage held. Said power shall include, but not be limited to, the ability to make an assignment of assessments which are then payable to or which will become payable to the Association, which assignment may be then presently effective but shall allow said assessments to continue to be paid to and used by the Association as set forth in this Declaration, unless and until the Association shall default on the repayment of the debt which is secured by said assignment. The Association may levy special assessments against the Members to obtain such funds. Upon the failure of any Member to pay said special assessment when due, the Association may exercise all of its rights including, without limitation, the right to foreclose its lien, pursuant to Article VII hereof.

Section 4.4 Duties of the Association. In addition to the powers delegated to it by its Articles or the Bylaws, and without limiting their generality, the Association, acting by and through the Board, or persons or entities described in Section 4.3(e), has the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

(a) Operation and Maintenance of Common Area and Recreational Facilities. To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area and all of its facilities, the Recreational Facilities, any improvements, and landscaping including but not limited to access gates, private streets, slopes, pools, walkways, spas, clustered mail boxes, Common Area restrooms, retaining walls and the exterior of the perimeter walls of the Development, and any other

property owned or acquired by the Association, including personal property, in a good condition and in a good state of repair. In this connection, the Association may enter into contracts for services or materials for the benefit of the Association or the Common Area and Recreational Facilities, including contracts with Declarant.

(b) Taxes and Assessments. To pay all real and personal property taxes and assessments and all other taxes levied against the Association. Such taxes and assessments may be contested or compromised by the Association; provided, that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

(c) Water and Other Utilities. To acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, cable television, gas, and other necessary utility services for the Common Area, the Recreational Facilities, and for Condominiums when Condominiums are not separately billed.

(d) Insurance. To obtain, from reputable insurance companies, and maintain the insurance described in Article VIII.

(e) Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Declaration, that may be reasonably necessary to enforce any of the provisions of this Declaration, the Articles and Bylaws, and the Association's Rules and Board resolutions.

(f) Preparation of Budgets and Financial Statements. To prepare budgets and financial statements for the Association as required by the Declaration or Bylaws.

(g) Election of Officers. To elect officers of the Association.

(h) Filling of Vacancies on Board. To fill vacancies on the Board except for a vacancy created by the removal of a director.

(i) Enforcement of Bonded Obligation. If the Association is the obligee under a bond or other arrangement ("Bond") to secure performance of a commitment of the Declarant or its successors or assigns to complete Common Area improvements, not completed at the time the California Commissioner of Real Estate issues a final subdivision public report for the Development, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any 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. However, if the Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the action to enforce the obligations under the Bond only if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. If the Board fails to consider and vote on the action to enforce the obligations under the Bond, or if the Board decides not to initiate action to enforce the obligations under the Bond, then on the petition in writing to the Board signed by Members of the Association representing not less than five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of Members for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the Bond. The meeting shall be called by the Board by fixing a date not less than thirty-five (35) days nor more than forty-five (45) days after the receipt by the Board of said petition and by giving written notice to all Owners entitled to vote in the manner provided in this Declaration or in the Bylaws for notices of special meetings of Members of the Association. At the meeting, the vote in person or by proxy of a majority of the Owners entitled to vote (other than Declarant) in favor of taking action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall then implement this decision by initiating and pursuing appropriate action in the name of the Association.

Section 4.5 Limitations on Authority of Board. The Board of the Association shall be prohibited from taking any of the following actions, except with the vote or written assent of

a majority of each class of Members during the time of the two-class voting structure and after the termination of the two-class voting structure the vote or written assent of a majority of the voting power of the Association and a majority of Members other than the Declarant:

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

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

(ii) A contract with a public utility company if the rates charged for the material 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.

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

(b) Incurring aggregate expenditures for capital improvements to the Common Area or Recreational Facilities 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 Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

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

Section 4.6 Personal Liability. No Member of the Board, or of any committee of the Association, or any officer of the Association, or any manager, or Declarant, or any agent of Declarant, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted on in good faith without willful or intentional misconduct.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership Qualifications. Each Owner of a Condominium, including Declarant, shall be a Member of the Association. No Owner shall hold more than one membership in the Association even though such Owner may own, or own an interest in more than one Condominium. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his ownership or ownership interest in all Condominiums in the Development ceases at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Condominium merely as security for performance of an obligation shall not be regarded as Members.

Section 5.2 Members' Rights and Duties. Each Member shall have the rights, duties, and obligations set forth in this Declaration, the Articles, the Bylaws and the Association Rules, as the same may from time to time be amended.

Section 5.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Condominiums shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title of each such Condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new Owner.

Section 5.4 Classes of Voting Membership. The Association shall have two (2) classes of voting membership:

Class A: Class A Members are all Owners, with the exception of Declarant during such time or times that it shall have Class B membership. Each Class A Member shall be entitled to one (1) vote for each Condominium in which such Member owns an interest. However, when more than one Class A Member owns an interest in a Condominium, the vote for such Condominium shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Condominium.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Condominium owned in the Development.

The Class B membership shall cease and be converted to Class A membership on the happening of one 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;
- (b) The date which is the second anniversary of the original issuance of the most recently issued public report for a phase of the Development; or
- (c) The date which is the fourth anniversary of the original issuance of the subdivision public report for the first phase of the Development.

Section 5.5 Special Class A Voting Rights.

Notwithstanding the provisions of Section 5.4, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Declaration to elect at least one director at any meeting at which directors are to be elected, and at which Class A Members are entitled to vote, then such Class A Members shall, by majority vote, among themselves, elect at least one director and the remaining vacancies on the Board shall be elected by the Class B Member.

Section 5.6 Vote of Two Classes as Prerequisite.

Notwithstanding anything to the contrary as may be contained elsewhere in this Declaration, any action by the Association which must have the approval of the membership of the Association before being undertaken, except provisions with respect to the action referred to at Section 4.4(i) preceding, shall require the vote or written assent of the required percentage of each class of membership during the period of time that there are two (2) outstanding classes of membership, and any requirement that the vote of the Declarant is to be excluded in any such determination shall not be applicable.

Section 5.7 Joint Owner Votes. The voting rights

for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will

be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) person or entity exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

Section 5.8 Cumulative Voting. Election to and removal from the Board shall be by secret written ballot. Cumulative voting in the election of directors shall be prescribed for all elections in which more than two positions on the Board are to be filled, subject only to the procedural prerequisites to cumulative voting prescribed in Section 7615(b) of the Corporations Code. Pursuant to such cumulative voting, no Member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the Member has given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any one Member has given notice, all Members may cumulate their votes for candidates in nomination.

Section 5.9 Suspension and Penalties. The Association shall be authorized 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 this Declaration, the Bylaws, the Association Rules or any other Governing Instruments provided that the procedures for notice and hearing, satisfying the minimum requirements of Section 7341 of the Corporations Code are followed with respect to the accused Member before a decision to impose said discipline is reached. However, a monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with this Declaration, the Bylaws, the Association Rules or any other Governing Instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas and/or Recreational Facilities or other facilities for which the Member was allegedly responsible or in bringing the Member and his interest into compliance with the Governing Instruments shall not be an assessment which may become a lien against the Member's subdivision interest enforceable by a sale of interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the California Civil Code. The aforesaid sentence shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments.

ARTICLE VI

ASSESSMENTS

Section 6.1 Agreement to Pay. The Declarant, for each Condominium owned by it in the Development which is expressly made subject to assessment as set forth in this Declaration, covenants and agrees, and each purchaser of a Condominium by his acceptance of a deed, covenants and agrees, for each Condominium owned, to pay to the Association regular assessments and special assessments, such assessments to be established, made and collected as provided in this Declaration.

Section 6.2 Personal Obligations. Each assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the person or entity who was an Owner at the time such assessment, or installment, became due and payable. If more than one person or entity was the Owner of a Condominium, the personal obligation to pay such assessment, or installment, respecting such Condominium shall be both joint and several. The personal obligation for delinquent assessments, or delinquent installments, and other such sums, shall not pass to an Owner's successors in interest unless expressly assumed by them. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or enjoyment of all or any portion of the Common Area, the Recreational Facilities, or by waiver of the use or enjoyment of, or by abandonment of, his Condominium.

Section 6.3 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members of the Association, the improvement, replacement, repair, operation and maintenance of the Common Area, the Recreational Facilities, and the performance of the duties of the Association as set forth in this Declaration.

Section 6.4 Regular Assessments. The Board shall prepare or cause to be prepared a budget for the forthcoming fiscal year not less than forty-five (45) days and not more than sixty (60) days before the beginning of each fiscal year of the Association. The budget shall be prepared each year regardless of the number of Members or the amount of assets of the Association. A copy of the budget shall be distributed to each Owner and to each Mortgagee which has requested in writing that copies be sent to it. The budget shall at least include the following information:

(A) Estimated revenue and expenses on an accrued basis;

(B) Upon the transfer of the Recreational Facilities, the amount of the total cash reserves of the Association currently available for replacement or major repair of Recreational Facilities and for contingencies;

(C) An itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the Recreational Facilities (upon its transfer) and any other facilities or property for which the Association is responsible; and

(D) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Recreational Facilities (upon its transfer) and any other facilities or property for which the Association is responsible.

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 sale of a Condominium in the Development) - 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 address of the Condominium and the name of the individual or entity assessed.

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

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

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

(C) A statement of changes in financial position for the fiscal year.

For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy shall also be distributed. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.

In addition to financial statements, the Association shall annually distribute a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against Members' Condominium interests. This statement shall be distributed within sixty (60) days prior to the beginning of each fiscal year.

Not more than sixty (60) days nor less than forty-five (45) days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the regular annual assessment for the forthcoming fiscal year. At such meeting the Board shall review the budget, any written comments received and any other information available to it and, after making any adjustments that the Board deems appropriate, without a vote of the Members of the Association, shall establish the regular assessment for the forthcoming fiscal year; provided, however, that the Board may not establish a regular assessment for any fiscal year of the Association which is more than twenty percent (20%) greater than the regular assessment for the immediately preceding fiscal year, without the vote or written consent of a majority of each class of Members during the time of the two-class voting structure and after termination of the two-class voting structure the vote or written assent of a majority of the voting power of the Association and a majority of Members other than the Declarant.

Unless the Association or its assessment income shall be exempt from federal or state income taxes, to the extent possible, all reserves shall be accounted for and handled as contribution to the capital of the Association and as trust funds segregated from the regular income of the Association or in such other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board as will prevent such funds from being taxed as income of the Association.

Section 6.5 Special Assessments. If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason, including but not limited to unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the Common Area, and Recreational Facilities, (applicable only upon its transfer), the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board it shall become a special assessment. The Board may, in its discretion, pro rate such special assessment over the remaining months of the fiscal year or levy the assessment immediately against each Condominium. Unless exempt from federal or state income taxation, all proceeds from any special assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be otherwise handled and used in a manner authorized by law or regulations of the Internal Revenue Service or the California Franchise Tax Board in order to avoid, if possible, its taxation as income of the Association.

Section 6.6 Limitation Respecting Special Assessments. In any fiscal year, the Board may not, without the vote or written assent of a majority of each class of Members during the time of the two-class voting structure and after termination of the two-class voting structure the vote or written assent of a majority of the voting power of the Association and a majority of Members other than the Declarant, levy special assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

Except as provided in (a) and (b) hereof, every special assessment shall be levied upon the same basis as that prescribed for the levy of regular assessments.

(a) A special assessment against Owners to raise funds for the rebuilding or major repair of the structural Common Area (not including Units) of the Development shall be levied upon the basis of the ratio of the square footage of the floor area of the Unit to be assessed to the total square footage of floor area of all Units to be assessed.

(b) The provisions hereof with respect to special assessments do not apply in the case where the special assessment against a Member is a remedy utilized by the Board to

reimburse the Association for costs incurred in bringing the Member and his Condominium into compliance with provisions of the Governing Instruments for the Development.

Section 6.7 Uniform Rate of Regular Assessments. Regular assessments must be fixed at a uniform rate for all Condominiums and shall be determined by dividing the amount by the total number of Condominiums then within the Development and subject to assessment.

Section 6.8 Commencement of Regular Assessments; Assessment Period. The regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and regular assessments shall be payable in equal monthly installments unless the Board adopts some other basis for collection. However, the initial regular assessment period shall commence on the first day of the calendar month following the date on which the sale of the first Condominium to a purchaser is closed and recorded (the "Initiation Date") and shall terminate on December 31 of the year in which the initial sale is closed and recorded. The first regular assessment shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other basis for collection. The Association shall not change the pro rata interest or obligation of any Condominium for purposes of levying assessments except with the vote or written assent of a majority of each class of Members during the time of the two-class voting structure and after the termination of the two-class voting structure the vote or written assent of a majority of the voting power of the Association and a majority of Members other than the Declarant. The regular annual assessments for any annexed Lots shall commence on the first day of the month following the sale of the first Condominium in the annexed property, and the first regular annual assessment for the annexed property shall be adjusted according to the number of months remaining in the calendar year.

Section 6.9 Notice and Assessment; Installment Due Dates. A single ten (10) day prior written notice of each annual regular assessment and each special assessment shall be given to each Owner of every Condominium subject to assessment in which the due dates for the payments of installments shall be specified. The due dates for the payment of installments normally shall be the first day of each month unless some other due date is established by the Board. Each installment of regular assessments and special assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a

late charge determined by the Board but in no event to exceed the maximum permitted by California State law, together with interest at the rate of ten percent (10%) per annum calculated from the due date to and including the date full payment is received by the Association.

Section 6.10 Certificate of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or authorized agent of the Association setting forth whether the assessment on a specified Condominium has been paid; such certificate shall be conclusive evidence of such payment upon any third party relying thereupon in good faith.

Section 6.11 Subordination of the Lien to Mortgages. The lien of the regular or special assessments provided for herein shall be subordinate to the lien of the first Mortgage. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to foreclosure of the first Mortgage or as the result of the exercise of a power of sale shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such new Condominium Owner from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII

COLLECTION OF ASSESSMENTS: LIENS

Section 7.1 Rights to Enforce. The right to collect and enforce assessments is vested in the Board acting for and on behalf of the Association. The Board or its authorized representative, including any Manager, can enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.2 below, to enforce the lien rights created therein. Suit to recover a money judgment for unpaid assessments together with all other amounts described in Section 6.2 above shall be maintainable without foreclosing or waiving the lien rights.

Section 7.2 Creation of Lien. If there is a delinquency in the payment of any assessment, or installment on a Condominium, as described in Section 6.9 above, any amounts that are delinquent, together with the late charge described in that section, interest at the rate of ten percent (10%) per annum, and all costs that are incurred by the Board or its authorized representative in the collection of the amounts, including reasonable attorneys' fees, shall be a lien against such Condominium upon the recordation in the Office of the San Diego County Recorder of a notice of assessment as provided in California Civil Code, Section 1356. However, a monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area, the Recreational Facilities, and to any other property or facilities for which the Member was allegedly responsible or in bringing the Member and his Condominium into compliance with the Governing Instruments may not become a lien against the Member's Unit enforceable by a sale of the Unit in accordance with the provisions of Section 2924, 2924(b) and 2924(c) of the Civil Code. Provided however, the above statement does not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent assessments. The notice of assessment shall not be recorded until fifteen (15) days after the Board or its authorized representative has mailed by first class mail to the delinquent Owner or Owners a written notice of delinquency and a demand for payment. The lien shall expire and be void

unless, within one (1) year after the recordation of the notice of assessment, the Board or its authorized representative records (a) a one year extension of said lien, (b) a notice of default as provided thereafter, or (c) institutes judicial foreclosure proceedings with respect to such lien.

Section 7.3 Notice of Default; Foreclosure. Not more than one (1) year, or two (2) years if the lien has been extended, nor less than fifteen (15) days after the recording of the notice of assessment, the Board or its authorized representative can record a notice of default and can cause the Condominium with respect to which a notice of default has been recorded to be sold in the same manner as a sale is conducted under California Civil Code, Section 2924, 2924(b) and 2924(c), or through judicial foreclosure. However, as a condition precedent to the holding of any such sale under Section 2924(c) appropriate publication shall be made. In connection with any sale under Section 2924(c) the Board is authorized to appoint its attorney, any officer or director, or any title insurance or foreclosure company authorized to do business in California as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the Office of the San Diego County Recorder, a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorneys' fees by any delinquent Owner. On becoming delinquent in the payment of any assessments, or installments, each delinquent Owner shall be deemed to have absolutely assigned all rents, issues and profits of his Condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the Owners, shall have the power to bid upon the Condominium at foreclosure sale and to acquire, hold, lease, mortgage and convey the Condominium.

Section 7.4 Waiver of Exemption. Each Owner, to the extent permitted by law, waives to the extent of any liens created pursuant to this Article VII, the benefit of any homestead or exemption laws of California in effect at the time any assessment, or installment, becomes delinquent or any lien is imposed.

ARTICLE VIII

INSURANCE

Section 8.1 Liability Insurance. The Association shall obtain and maintain at all times comprehensive public liability insurance insuring the Association, any Manager, and the Owners and occupants of Condominiums, and their respective family members, guests, invitees, and the agents and employees of each, against any liability incident to the use of the Common Area, Recreational Facilities; (excluding the Condominium Unit and Restricted Common Area which shall be separately insured by each Owner as set forth below), and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location and use. Said insurance shall not insure the Units and Restricted Common Area. Each Owner shall insure his or her own Unit and Restricted Common Area for liability.

Section 8.2 Fire and Extended Coverage Insurance. The Association also shall obtain and maintain a master or blanket policy of fire insurance for the full insurable value of all of the Common Area and Recreational Facilities improvements within the Development excluding each of the Owner's Units and Restricted Common Area. The policy shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or its equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage, a special form endorsement and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall provide amounts of coverage as shall be determined by the Board. The policy shall name as insured the Association, and may contain a loss payable endorsement in favor of the trustee described hereinafter. Said policy shall not insure the Units and the Restricted Common Area. Each Owner shall insure his or her own Unit and Restricted Common Area for fire and extended coverage insurance.

Section 8.3 Trustee. All insurance proceeds payable under Section 8.2 may be paid to a trustee, to be held and expended for the benefit of the Owners. Said trustee shall be a commercial bank in San Diego County that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Board shall have the duty to contract for such work as provided for in this Declaration.

Section 8.4 Other Insurance. The Board may purchase and maintain demolition insurance in adequate amounts to cover demolition in case of total or partial destruction and a decision not to rebuild, and a blanket policy of flood insurance. The Board also shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Board also shall purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150% of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation) sufficient to meet the requirements of any Institutional Mortgagee. The Board shall purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary.

Section 8.5 Owner's Insurance. Each Owner shall carry fire, property damage and personal liability insurance with respect to his Condominium Unit, including the Garage, Residential Unit and Restricted Common Area. On an annual basis, Owners shall submit a Certificate of Insurance to the Board evidencing such insurance. Failure to insure may result in suspension or forfeiture of said Owner's rights to the Recreational Facilities.

Section 8.6 Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to this Section. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

Section 9.1 Restoration of Development. Except as hereinafter otherwise provided in this Section, in the event of a total or partial destruction of the Recreational Facilities and Common Area (excluding the Units and Restricted Common Area), it shall be the duty of the Association to restore and repair the same to its former condition in accordance with all building codes in effect at the time of such reconstruction, as promptly as practical. The proceeds of any insurance maintained pursuant to Article VIII hereof for reconstruction or repair of said Recreational Facilities and Common Area shall be used for such purpose, and the deficiency, if any, shall be raised by a special assessment imposed pursuant to Article VI hereof. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Recreational Facilities and Common Areas, (excluding the Units and Restricted Common Area), shall be reconstructed and rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Board shall have been approved in writing by a majority of the voting power of the Association.

Section 9.2 Automatic Reconstruction. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be at least eighty-five percent (85%) of the estimated cost of restoration and repair or the cost not covered by insurance is less than the sum of Two Thousand Two Hundred Dollars (\$2,200.00) per year, per Unit, a Reconstruction Assessment, with each Owner contributing a like sum, may be levied by the Association to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purposes, and the Board shall cause the damages or destroyed improvements to be restored as closely as practical to its condition prior to the destruction or damage.

Section 9.3 Vote of Members. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be less than eighty-five percent (85%) of the estimated cost of restoration and repairs or greater than the sum of Two Thousand Two Hundred Dollars (\$2,200.00) per Unit per year, the Recreational Facilities and Common Area (excluding the Units and Restricted Common Area), shall not be replaced or restored unless a majority of the voting power of the Association agree in writing to such replacement or restoration, or gives its affirmative vote at a meeting duly called therefor. If the Members approve such replacement or restoration, the Board shall cause the damages or destroyed improvements to be restored as closely as practical to its former condition prior to the destruction or damage.

Section 9.4 Notice to Unit Owners and Listed Mortgagees. The Board, immediately upon having knowledge of any damage or destruction to the Common Area (excluding the Units and Restricted Common Area) or any portion thereof, with damage exceeding Ten Thousand Dollars (\$10,000.00), shall promptly notify all Owners, and all Mortgagees who have filed a written request for such notice with the Board.

ARTICLE X

CONDEMNATION

A condemnation award affecting all or a part of the structural Common Area of the Development which is not apportioned among the Owners by court judgement or by agreement between the condemning authority and each of the affected Owners of the Development, shall be distributed among the affected Owners and their respective Mortgagees according to the relative values of the Condominium Units affected by the condemnation as determined by independent appraisal to be obtained by the Board.

ARTICLE XI

PARTITION

Except as is provided in California Civil Code Section 1359, as the same may be amended from time to time, the Common Area of the Development shall remain undivided, and there shall be no judicial partition thereof.

ARTICLE XII

NON-SEVERABILITY OF COMPONENT
INTERESTS IN A CONDOMINIUM

Section 12.1 Prohibition Against Severance. An Owner shall not be entitled to sever his Unit from his membership in the Association, and shall not be entitled to sever his Unit and his membership from his undivided interest in the Common Area for any purpose. None of the component interests in a Condominium can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to his Unit over the Common Area from his Condominium, and any attempt to do so shall be void. The suspension of such right of severability shall not extend beyond the period in which the right to partition a Condominium project is suspended under California Civil Code, Section 1359. It is intended hereby to restrict severability pursuant to California Civil Code, Section 1358.

Section 12.2 Conveyances. After the initial sales of the Condominiums, any conveyance of a Condominium by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this section shall preclude the Owner of any Condominium from creating a co-tenancy or joint tenancy in the Ownership of the Condominium with any other person or persons.

ARTICLE XIII

TERM OF DECLARATION

This Declaration shall run with the land, and shall continue in full force and effect for a period of sixty (60) years from the date on which this Declaration is recorded. After that time, this Declaration and all covenants, conditions, restrictions and other provisions shall be automatically extended for successive ten (10) year periods unless six (6) months prior to the expiration of said 60 year term or six (6) months prior to the expiration of the ten (10) year period then in effect this Declaration is revoked by an instrument executed by a majority of the Owners and Mortgagees, and such instrument is recorded in the Office of the San Diego County Recorder.

ARTICLE XIV

PROTECTION OF MORTGAGEES

Section 14.1 Mortgage Permitted. Any Owner may encumber his Condominium with a Mortgage.

Section 14.2 Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of the First Mortgage that encumbers all or a portion of the Development, or any Condominium, made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates his interest, in writing, to such lien.

Section 14.3 Amendment. The prior written consent of seventy-five percent (75%) of the holders of First Mortgages (based upon one vote for each Mortgage held) shall be required by any material amendment to this Declaration, to the Articles or to the Bylaws. As used in this Section 14.3, the term "any material amendment" is defined to mean amendments to provisions of this Declaration, to the Articles or to the Bylaws governing the following subjects:

- (a) The purpose for which the Development may be used;
- (b) Voting;
- (c) Assessments, collection of assessments, creation and subordination of Assessment liens;
- (d) Reserves for repair and replacement of Recreational Facilities and Common Area improvements;
- (e) Maintenance of Recreational Facilities and Common Area, and improvements thereon;
- (f) Casualty and liability insurance;
- (g) Rebuilding or reconstruction of Recreational Facilities and Common Area and improvements thereon, in the event of damage or destruction;
- (h) Rights of use to and in the Common Area and Recreational Facilities;
- (i) Annexation of additional property; and
- (j) Any provisions, which by their terms, are specifically for the benefit of First Mortgagees, or specifically confers rights on First Mortgagees.

Section 14.4 Right to Examine Books and Records.

Institutional First Mortgagees can examine the books and records of the Association of the Development and can require the submission to them of financial data concerning the Association or the Development, including annual audit reports and operating statements as furnished to the Owners.

Section 14.5 Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any rights of Institutional Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Area or Recreational Facilities. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Development is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected Institutional Mortgagees naming the Mortgagees, as their interests may appear.

Section 14.6 Amenities. All amenities (such as parking and the Recreational Facilities) and Common Area shall be available for use by Owners and all such amenities with respect to which regular or special assessments for maintenance or other uses may be levied shall constitute Common Area. All such amenities shall be owned in fee by the Owners in undivided interests or by the Association free of encumbrances except for any easements granted for public utilities or for other public purposes consistent with the intended use of such property by the Owners or by the Association.

Section 14.7 Notices of Mortgagees of Record. Upon any loss to the Common Area, if such loss exceeds Ten Thousand Dollars (\$10,000.00), or on any taking of the Common Area, notice in writing of such loss or taking shall be given to each Mortgagee of record. If any Owner of a Unit is in default under any provision of these covenants, conditions and restrictions, or under any provision of the Bylaws or the Association Rules, which default is not cured within thirty (30) days after written notice to such Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that said thirty (30) day period has expired.

Section 14.8 Payments by Mortgagees. Mortgagees of Condominiums may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area improvements or other insured property of the Association, and upon making any such payments, such Mortgagees shall be owed immediate reimbursement therefor from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon request of any Mortgagees the Association shall execute and deliver to such Mortgagee a separate written agreement embodying the provisions of this Section 14.8.

Section 14.9 Effect of Breach. No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any Mortgage in good faith and for value, but all of these covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

Section 14.10 Foreclosure. If any Condominium is encumbered by a First Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the First Mortgage. On foreclosure of a First Mortgage, the lien for assessments on installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the first Mortgage, with the foreclosure-purchaser taking the title to the Condominium free of the lien for assessments on installments that have accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure-purchaser of a First Mortgage shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Condominium. The subsequently levied assessments or other charges may include previously unpaid assessments provided all Owners, including the foreclosure-purchaser, and his successors and assigns, are required to pay their proportionate share as provided in this Section.

Section 14.11 Non-Curable Breach. Any Mortgagee who acquires title to a Condominium by foreclosure or by deed-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

Section 14.12 Loan to Facilitate. Any Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article XIV.

ARTICLE XV

AMENDMENT

Section 15.1 Amendment Before the Close of First Sale. Prior to the close of the first sale of a Condominium in the Development to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and of an instrument amending or revoking this Declaration, after such instrument has been approved by the Department of Real Estate of the State of California. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Office of the San Diego County Recorder.

Section 15.2 Amendment After Close of First Sale. After the close of the first sale of a Condominium in the Development to a purchaser other than Declarant, and during such time that the two-class voting structure is still in effect, this Declaration may not be amended or revoked in any respect, except by the vote or written consent of the holders of not less than fifty-one percent (51%) of the voting rights of each class of Members. Upon the termination of the two-class voting structure, this Declaration may not be amended or revoked in any respect except by the vote or written consent of a majority of the total voting power of the Association which is at least a bare majority; and at least a bare majority of the votes of Members other than Declarant if Declarant still retains voting rights. However, if any provision of this Declaration requires a greater percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, any Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Office of the San Diego County Recorder.

Section 15.3 Conflict with Article XIV or Other Provision of this Declaration. To the extent any provisions of this Article XV conflict with the provisions of Article XIV or any other provision of this Declaration, the provisions of Article XIV or the other provisions shall control.

Section 15.4 Reliance on Amendments. Any amendment made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

Section 15.5 Amendments to Conform with Mortgagee Requirements. It is the intent of Declarant that this Declaration and the Articles and Bylaws of the Association, and the Development in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure or subsidize any Mortgage of a Condominium in the Development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans' Administration. In furtherance of that intent, Declarant expressly reserves the right and shall be entitled by unilateral amendment of the Declaration so long as Declarant owns more than twenty-five percent (25%) of the Condominiums in the Development to amend this Declaration in order to incorporate any provisions or to enter into any agreement on behalf and in the name of the Association that are, in the opinion of any of the cited entities or governmental agencies, required to conform the Declaration, the Articles, the Bylaws or the Development to the requirements of any of the entities or governmental agencies, including without limitation the execution on behalf of and in the name of the Association of a regulatory agreement between the Association and the Federal Housing Commissioner and any other agreement sufficient to satisfy the requirements for Mortgage purchase, guarantee or insurance by any of said entities or agencies. Declarant is hereby granted an irrevocable power of attorney to execute any such amendment or agreement by and in the name of the Association. Any such provision shall first be approved by the California Department of Real Estate in connection with its issuance of a final subdivision public report or amendment to it with respect to the Development. Each Owner of a Condominium and each Mortgagee of a Condominium by acceptance of a deed or encumbrance of a Condominium consents to the incorporation in this Declaration of any such provision and to the execution of any amendment or regulatory agreement and agrees to be bound by any such provisions as if they were incorporated in this Declaration. The Board and each Owner shall take any action or shall adopt any resolutions required by Declarant or any Mortgagee to conform this Declaration or the Development to the requirements of any of said entities or agencies.

Section 15.6 Consent of Bernardo Heights Community Association. Anything contained in this Declaration to the contrary notwithstanding neither the definitions of the terms, "Bernardo Heights Community Association", "Bernardo Heights Community Articles", "Bernardo Heights Community Bylaws", "Bernardo Heights Community Declaration", and "Bernardo Heights Community Assessment", nor any of the provisions contained in the Article of this Declaration entitled "Bernardo Heights Community Association" may be amended, modified or rescinded (i) without the prior written consent of the Board of Directors of the Bernardo Heights Community Association, and (ii) without the recording of said written consent in the Office of the County Recorder of San Diego County, California. In addition, any written instrument amending this Declaration shall bear, or have attached thereto, the written consent of such other persons as may be required by Paragraph 6.1 of the Bernardo Heights Community Declaration.

ARTICLE XVI

REPAIR AND MAINTENANCE

Section 16.1 Repair and Maintenance by Association.

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

- (a) Maintain, repair, restore and replace the private walkways located within the Development;
- (b) Maintain, repair, restore and replace the private streets located within the Development;
- (c) Maintain, repair, restore and replace private storm drains, drainage facilities and easements in accordance with County requirements;
- (d) Maintain, repair, restore and replace the Front Yard (which is defined above in Section 1.28(b)) including the landscaping, walls, front entry gate, and all other improvements thereon except the front entry walkway area;
- (e) Maintain the structural integrity of all walls within the Development which are not part of a Unit;
- (f) Maintain, repair, replace and restore all of the slopes within the Development;
- (g) Maintain, repair, replace, repaint and restore the exterior side of those certain walls separating the Owner's Unit from the street and private walkways;
- (h) Maintain, repair, replace and restore the access gate located within the Development;
- (i) Maintain, repair, replace and restore that portion of the water, gas and electrical pipe extending from the meter outward toward the street;
- (j) Maintain, repair, replace and restore that portion of the sewer line from the connection where the house lateral switch is clay extending outward into the main sewer trunk line in the street;

(k) Maintain, repair, replace and restore the Recreational Facilities including the pool, spa and restrooms and any other improvements or landscaping located thereon;

(l) Maintain all Common Area and improvements thereon which are not otherwise made the express responsibility of the Owner, as described in Section 16.2 below;

(m) Maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote or written consent of two-thirds (2/3) of the voting power of the Members;

(n) Maintain, repair, restore and replace the clustered mail box units located within the Development;

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

Section 16.2 Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain and repair as may be provided in this Declaration, every Owner shall:

(a) Maintain, repair, restore, replace and make all necessary improvements, including the painting thereof, to all of the Condominium Building which contains the Owner's Residence and Garage, including but not limited to, the following:

(i) Any and all structural projections required for the support of said Condominium Building;

(ii) Any and all sewer pipes shall be maintained by Owner from the connection where the house lateral switch is plastic extending inward toward the Unit;

(iii) All exterior bearing walls, columns, floors, exterior doors, exterior balconies and exterior staircases;

(iv) The land under the Condominium Building and the slab foundation thereof;

(v) The roof of said Condominium Building including both the exteriormost materials and any and all subsurface roofing materials.

(vi) That portion of the water, gas and electrical pipe extending from the meter inward toward the Condominium Building.

(b) Maintain, repair, restore, replace and make all the necessary improvements to the following Restricted Common Areas:

(i) Driveways (including sweeping and routine cleaning to maintain in a clean and attractive condition);

(ii) The front entry walkway area, including but not limited to, sweeping and maintaining in a clean and attractive condition;

(iii) The Yard (not including the Front Yard) in a clean and attractive condition as set forth below.

(iv) Patios, including but not limited to, sweeping and maintaining in a clean and attractive condition.

(c) Maintain, repair, replace and restore all portions of the Owner's Unit as defined in Section 1.27 hereof.

(d) Maintain, repair, replace, restore and make necessary improvements to the Yard appurtenant to the Owner's Unit, including but not limited to the following:

(i) Installation, repair, and replacement of landscaping pursuant to standards and procedures established by the Board and/or Association Architectural Committee. This landscaping shall be installed by the Initial Owner no later than six (6) months after the conveyance of the Residence by the Declarant. Such plants or other growing things shall be permitted to encroach into or onto other Common Areas, subject to the Article hereof entitled "Architectural Control".

(ii) Repaint the interior side of the wall separating the Owner's Unit from neighboring Condominiums, including the painting of the interior surfaces thereof. Nothing contained in this subsection shall obligate any Owner to paint the surface of any such wall or fence except as such surface forms a portion of the boundary of his Yard.

(e) Maintain, repair, and replace all window glass and skylights, if any, for the Owner's Condominium. Each Owner shall also be responsible for the interior and exterior cleaning of such window glass.

(f) Repair, maintain, or replace the hot water heater and forced air unit and air conditioning equipment that services the Owner's Unit.

(g) The Owners of the Atrium Units shall repair, maintain or replace any portion of the atrium, including, but not limited to, window glass, doors, roofs and walls.

(h) Maintain and repair the Garage.

(i) In the event the Board shall determine that the Owner of a Unit has damaged the Common Area, Recreational Facilities or a Condominium Building, notwithstanding that such damage may be to a Common Area, Recreational Facilities to be maintained by the Association pursuant to the terms of this Article, the Owner of the Unit shall be responsible for repairing such damage in a timely manner and in accordance with such rules as the Board or Architectural Committee shall from time to time adopt.

Section 16.3 Right of Association to Maintain and Install. In the event that an Owner fails to accomplish any maintenance, installation or repair required by this Article; the Association or its delegates may, but shall not be obligated to, cause such maintenance, installation or repair to be accomplished as hereinafter set forth.

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

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

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to such Owner. If the Board or any such committee renders a decision against the

Owner, it shall further set a date by which the deficiency is to be corrected by the Owner. A decision of such committee may be appealed to the Board, but a decision of the Board shall be final.

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

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

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

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

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

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

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

Section 16.4 Right of Entry. The Association, after reasonable notice to Owner, shall have the right to enter upon any Unit in connection with any maintenance, installation, repair or construction in the exercise of the powers and duties of the Association.

Section 16.5 Maintenance of Public Utilities.

Nothing contained herein shall require or obligate the Association to maintain, replace or restore the underground facilities of public utilities which are located within easements in the Common Area or Recreational Facilities 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 XVII

GENERAL PROVISIONS

Section 17.1 Headings. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

Section 17.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision shall not invalidate any other provision.

Section 17.3 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver thereof.

Section 17.4 Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any Member of the Board, and the Manager, or the Association.

Section 17.5 No Racial Restriction. No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his Condominium on the basis of race, sex, color or creed.

Section 17.6 Access to Books. Any Owner may, at any reasonable time and upon reasonable notice to the Board or Manager at his own expense, cause an audit or inspection to be made of the books and financial records of the Association.

Section 17.7 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

Section 17.8 Notification of Sale of Condominium. Concurrently with the 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 the name of the transferee and

his Mortgagee and transferor, the street address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the Manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing it by certified mail, return receipt requested and addressed to the address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram, or upon personal delivery to any occupant of a Condominium over the age of twelve (12) years.

Section 17.9 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter, as the context requires.

Section 17.10 Easements Reserved and Granted. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any Condominium.

Section 17.11 Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

Section 17.12 Unsegregated Real Estate Taxes. Until such time as real property taxes have been segregated by the San Diego County Assessor they shall be paid by the respective Owners of Condominiums. The proportionate share of the taxes for a particular Condominium shall be determined by dividing the initial sales price or offered initial sales price of the Condominium by the total initial sales prices and offered initial sales prices of all Condominiums within the Development (the term "offered initial sales price" means the price at which an unsold Condominium is then being offered for sale by the Declarant). If, and to the extent, that taxes are not paid by any Owner of a Condominium and are allowed to become delinquent, they shall be collected from the delinquent Owner by the Association as a special assessment.

ARTICLE XVIII

ANNEXATION

Section 18.1 Annexation Without Approval and Pursuant to General Plan. If within three (3) years of the date of issuance of the most recent preliminary or final public report on any portion or phase of the project by the California Department of Real Estate, Declarant should develop additional lands within the real property described in Exhibit "D" attached hereto, such additional lands may be annexed to said properties and brought within the jurisdiction of the Association without the assent of either class of Members, provided; however, that the development of such additional lands shall be in substantial conformance with a detailed plan of phased development submitted to the California Department of Real Estate with the application for a public report for the first Phase of the properties. If any such annexation is not in accordance with this Section, then annexation can only take place pursuant to Section 18.2 hereof.

Section 18.2 Annexation Pursuant to Approval. Except as is otherwise provided in Section 18.1 preceding, the annexation of additional residential lots and Common Area property, and the subjecting of it to the jurisdiction of the Association, can only be accomplished upon the affirmative vote, at a special meeting duly called for this purpose, of two-thirds (2/3) of the total votes residing in Association Members other than the Declarant.

Section 18.3 Declaration of Annexation. Annexation shall be accomplished by a duly recorded Declaration of Annexation executed by Declarant alone if annexation is pursuant to Section 18.1 hereof, or by the Owners of the annexed property and by two or more Members of the Board of Directors if annexation is pursuant to Section 18.2 hereof. The Declaration of Annexation shall describe the property annexed, any additional Common Areas, and any additional slope easement areas, and state that it is made pursuant to the terms of this Article XVIII for the purpose of annexing the Property so described to the properties and extending the jurisdiction of the Association to cover the same. If the annexation occurs after a meeting of the Members pursuant to Section 18.2 hereof, it shall so state, including a statement of the time and place of the meeting, the date of notice, the number of Members present, the number of Members who voted in favor of the annexation, and the Declaration of Annexation shall be executed, verified and acknowledged by two or more Members of the Board of Directors. Any Declaration of Annexation recorded in accordance with the terms hereof shall be conclusive in favor of all

persons who rely thereupon in good faith. From and after annexation, the property annexed shall be subject to the provisions of this Declaration and the jurisdiction of the Association pursuant to the terms hereof, and its Articles of Incorporation and Bylaws, except that assessments shall commence as provided in Section 6.8 of Article VI hereof entitled "Commencement of Regular Assessments; Assessment Period".

Section 18.4 Declaration of Annexation - Optional Provisions. Such Declaration of Annexation contemplated above may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Declaration of Annexation revoke, modify or add to the covenants established by this Declaration within the existing properties.

Section 18.5 Expansion of Association Membership. Membership in the Association shall be expanded to include Owners within annexed Phases of Development.

Section 18.6 No Obligation to Annex. Notwithstanding any provisions of this Declaration expressly or impliedly to the contrary, Declarant shall have no obligation whatsoever to annex any real property hereto including, without limitation, the real property described in Exhibit "D".

Section 18.7 Improvements on Future Phases of Development. Declarant expressly makes no representations or warranties in connection with improvements constructed on lots within future Phases of the Development. Declarant makes no guarantee that it will build similar or comparable improvements on lots within future Phases of the Development. Declarant expressly reserves the right to change the style, quality, size and cost of said improvements from those constructed in the first Phase of the Development, or any other Phase.

ARTICLE XIX

ARCHITECTURAL CONTROL

Section 19.1 Control in Bernardo Heights Community. No building, fence, wall or other structure shall be commenced, erected or maintained within the Development, nor shall any exterior addition to, change or alteration in or painting of any exterior surface of any Condominium Building or any other structure within the Development be made until there has been compliance with the provisions of the Article of the Bernardo Heights Community Declaration entitled "Community Architectural Control". As used herein the term "Architectural Committee" shall mean the Architectural Committee established in said Article of the Bernardo Heights Community Declaration.

Section 19.2 Appointment of Association Architectural Committee. The Association Architectural Committee shall mean the Architectural Committee of Bernardo Village Homeowners Association. The Association Architectural Committee shall consist of not less than three (3) nor more than five (5) persons as fixed from time to time by resolution of the Board. The Declarant shall initially appoint all of the Association Architectural Committee. The Declarant shall retain the right to appoint, augment or replace all members of the Association Architectural Committee until three (3) years after the date of the issuance of a Final Subdivision Public Report for the property from the California Department of Real Estate, or until ninety percent (90%) of the Residences within the Development have been conveyed by Declarant, whichever shall first occur, provided that Declarant may, at its sole option, transfer this right to the Board by written notice thereof prior to the end of such period. Notwithstanding the foregoing, commencing one (1) year following the first conveyance by Declarant of a Residence, the Board shall have the right but not the obligation to appoint one person to the Association Architectural Committee. Three (3) years after the date of the issuance of said Subdivision Public Report or when ninety percent (90%) of the Residences within the Development have been conveyed by Declarant, whichever shall first occur, the right to appoint, augment or replace all Members of the Association Architectural Committee shall automatically be transferred to the Board. Persons appointed by the Board to the Association Architectural Committee must be Members; however, persons appointed by the Declarant to the Association Architectural Committee need not be Members, in Declarant's sole discretion.

Section 19.3 Approval and Conformity to Plans. The procedures used by the Architectural Committee shall be adopted by the Association Architectural Committee for submitting plans and specifications, approval of and conformity to such plans and specifications, time limitations for completion of improvements in compliance with approved plans and specifications, and determining when such plans and specifications shall be deemed approved. Plans and specifications are not approved for engineering design, and by approving such plans and specifications neither the Board, the members thereof, any such Committee members, the Association, the Members nor Declarant assumes liability or responsibility therefor, or for any defect in the structure constructed from such plans and specifications.

Section 19.4 Yard Improvements. In addition to any approval required of the Architectural Committee as provided by the Bernardo Heights Community Declaration, no improvement shall be commenced unless plans and specifications therefor have been approved by the Association Architectural Committee. Without limiting the generality of the foregoing, the Association Architectural Committee shall not approve plans or specifications for any such Yard unless adequate provisions have been made to relocate the drainage flow to the satisfaction of the Association Architectural Committee.

Section 19.5 Additional Powers of the Association Architectural Committee. The Association Architectural Committee may promulgate procedures for establishing such additional standards, rules and regulations as it deems to be appropriate and as are not in conflict with the said Article of the Bernardo Heights Community Declaration.

Section 19.6 Approval and Conformity of Plans. In addition to the requirement set forth above in Section 19.1, no building, fence, wall or other structure of landscaping shall be commenced, erected, maintained, painted or planted within the Development, nor shall there be any addition to or change in the exterior of a Condominium Building, structure or other improvement, or landscaping, unless plans and specifications therefor have been submitted to and approved by the Association Architectural Committee.

ARTICLE XX

BERNARDO HEIGHTS COMMUNITY ASSOCIATION

Section 20.1 Easement to Bernardo Heights Community Association. The officers, agents, employees and independent contractors of the Bernardo Heights Community Association shall have a nonexclusive easement to enter upon the real property, or any portion thereof, constituting the Development for the purpose of performing or satisfying the duties and obligations of the Bernardo Heights Community Association as set forth in the Bernardo Heights Community Declaration, the Bernardo Heights Community Bylaws, the Bernardo Heights Community Articles and the rules and regulations of the Bernardo Heights Community Board and the Bernardo Heights Community Architectural Committee.

Section 20.2 Subordination of Assessment Lien. The lien of any assessment imposed upon any Condominium pursuant to this Declaration shall be subordinate and inferior to the lien of any assessment imposed upon such Condominium pursuant to the Bernardo Heights Community Declaration.

Section 20.3 Bernardo Heights Community Association Assessments. Declarant, for each Condominium which it owns within the Development, 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, does and is hereby deemed to covenant and agree to pay to the Bernardo Heights Community Association the Bernardo Heights Community Assessments imposed upon such Condominiums pursuant to the Bernardo Heights Community Declaration. The Bernardo Heights Community Assessments shall be levied and collected as provided in the Bernardo Heights Community Declaration.

The Bernardo Heights Community Association, in its sole and absolute discretion, may elect to require the Association to administer, levy, collect and enforce the Bernardo Heights Community Assessments imposed upon Condominiums within the Development. All such funds collected by the Association shall be held in trust by the Association for the benefit of the Bernardo Heights Community Association, and such funds shall be disbursed to the Bernardo Heights Community Association as provided in the Bernardo Heights Community Declaration.

The Bernardo Heights Community Association, in its sole and absolute discretion, may elect to administer, levy, collect and enforce the assessments provided for under this Declaration. All such funds collected by the Bernardo Heights

Community Association shall be utilized in the manner and for the purposes specified in this Declaration and in the Bernardo Heights Community Declaration, the Bernardo Heights Community Bylaws, the Bernardo Heights Community Articles, and the rules and regulations of the Bernardo Heights Community Board and the Bernardo Heights Community Architectural Committee.

Section 20.4 Enforcement. Breach of any of the limitations, restrictions, conditions and covenants set forth in this Declaration, or the continuation thereof, may be enjoined, abated or remedied by appropriate legal proceedings by the Bernardo Heights Community Association. The Bernardo Heights Community Association shall be deemed to be a person who may enforce the provisions of this Declaration pursuant to Section 4.3(b) hereof. The failure of the Bernardo Heights Community Association to enforce any of said limitations, restrictions, conditions or covenants shall not constitute a waiver of the right to enforce the same thereafter. No liability shall be imposed on, nor incurred by, the Bernardo Heights Community Association as a result of such failure. The prevailing party in any action at law or in equity instituted by the Bernardo Heights Community Association to enforce or interpret said limitations, restrictions, conditions or covenants, shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorneys' fees.

Section 20.5 Supremacy of Bernardo Heights Community Declaration. In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws or the Articles, the Association shall be entitled to exercise any of the rights conferred upon it and be subject to all of the obligations imposed upon it pursuant to the Bernardo Heights Community Declaration, the Bernardo Heights Community Bylaws or the Bernardo Heights Community Articles. The Association (including, without limitation, the Association Architectural Committee) shall also be subject to all superior rights and powers which have been conferred upon the Bernardo Heights Community Association pursuant to the Bernardo Heights Community Declaration, the Bernardo Heights Community Bylaws and the Bernardo Heights Community Articles.

a. Each Owner and such Owner's Condominium(s) shall be subject to all of the covenants, conditions, restrictions and provisions contained in the Bernardo Heights Community Declaration.

CONSENT OF ENCUMBRANCER

The undersigned beneficiary under that certain Deed of Trust recorded December 31, 1986 as File No. 86-623184 of Official Records of San Diego County, California, hereby consents to the within Declaration of Covenants, Conditions and Restrictions and hereby subordinates the lien of said Deed of Trust to the provisions of the Declaration defined therein.

SECURITY PACIFIC NATIONAL BANK, a
National Banking Association

By: Richard Hoffman V.P.

By: Manna L. Massari V.P.

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On May 11, 1987, before me, the undersigned a Notary Public in and for said State, personally appeared Richard Hoffman and Manna L. Massari personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who executed the instrument as Vice President and Vice President on behalf of SECURITY PACIFIC NATIONAL BANK, the corporation therein named, acknowledged to me that the corporation executed it.

WITNESS my hand and official seal.



Marjorie A. Barnes
Notary Public in and for said State

EXHIBIT "A"

THE PROPERTY

Parcels 2, 3, 5 and 6, inclusive of Parcel Map 14675 recorded on February 12, 1987 in the Office of the San Diego County Recorder.

Parcel 5 of Parcel Map 14769, recorded on April 23, 1987 in the Office of the San Diego County Recorder.

EXHIBIT "B"

RECREATIONAL FACILITIES

BEING A PORTION OF LOT 423 OF BERNARDO HEIGHTS UNIT NO. 22, MAP NO. 10979 THEREOF RECORDED AS FILE NO. 84-243880 ON JUNE 28, 1984 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF LOT 423, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY OF CAMINITO CORRIENTE AS SHOWN ON SAID MAP NO. 10979; THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 39°20'33" WEST 129.93 FEET; THENCE SOUTH 39°17'03" WEST 12.27 FEET; THENCE NORTH 46°25'00" WEST 78.22 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 70.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 33°41'27" A DISTANCE OF 41.16 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 28.00 FEET, A RADIAL BEARS SOUTH 77°16'27" WEST; THENCE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 60°22'31" A DISTANCE OF 29.50 FEET TO A POINT ON THE AFORESAID RIGHT-OF-WAY OF CAMINITO CORRIENTE, SAID POINT ALSO BEING A POINT ON A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 381.00 FEET, A RADIAL BEARS NORTH 08°47'53" WEST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°55'47" A DISTANCE OF 99.28 FEET; THENCE SOUTH 83°52'06" EAST 11.79 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 581.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°45'22" A DISTANCE OF 48.23 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT "C"

EASEMENTS: ATRIUM UNITS

Declarant reserves a non-exclusive easement, together with the right to grant and transfer the same as follows:

An easement over a portion of the Restricted Common Area of Unit No. 2 in favor of Unit No. 1, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 6 in favor of Unit No. 7, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 17 in favor of Unit No. 16, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 27 in favor of Unit No. 28, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 33 in favor of Unit No. 32, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 37 in favor of Unit No. 38, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 39 in favor of Unit No. 40, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 41 in favor of Unit No. 42, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area of Unit No. 39 in favor of Unit No. 40, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area in favor of Unit No. 5, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area in favor of Unit No. 25, as described in Exhibit "E".

An easement over a portion of the Restricted Common Area in favor of Unit No. 34, as described in Exhibit "E".

EXHIBIT "D"

ANNEXATION PROPERTY

Parcels 1 through 4, inclusive of Parcel Map 14769 as recorded on April 23, 1987 in the Office of the San Diego County Recorder.

Lots 422 and 423 of Bernardo Heights Unit No. 22, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 10979, filed in the Office of the County Recorder of San Diego County, June 28, 1984.

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BYLAWS OF
BERNARDO VILLAGE HOMEOWNERS ASSOCIATION

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ARTICLE III

MEMBERSHIP; VOTING RIGHTS

The qualification for membership, the classes of membership and the voting rights of members shall be as set forth in Article V of the Declaration.

ARTICLE IV

MEETINGS OF MEMBERS

Section 4.1 Annual Meetings. Annual meetings of the members shall be held on such date and at such time as the Board of Directors shall determine from time to time; provided, however, that the first of said annual meetings shall not commence until subsequent to the organizational meeting as set forth in Section 4.3 of this Article IV.

Section 4.2 Special Meetings. A special meeting of the Members shall be promptly called by the Board upon:

(a) The vote for such a meeting by a majority of a quorum of the Board; or

(b) Receipt of a written request for a special meeting signed by Members representing at least five percent (5%) of the total voting power of the Association.

Section 4.3 Organizational Meeting of Members. The organizational meeting of the Members shall be deemed to be a special meeting, and shall be held within forty-five (45) days after the closing of the sale of the Condominium which represents the fifty-first percentile (51%) interest authorized for sale under the first public report for any portion of the Development, but in no event shall the meeting be held later than six (6) months after the close of escrow for the first Condominium in the Development.

Section 4.4 Place of Meetings. Meetings of the Members shall be held within the Development or a meeting place as close thereto as possible. Unless unusual conditions exist, meetings shall not be held outside San Diego County.

Section 4.5 Notice of Meetings. Written notice of regular and special meetings shall be given to Members of the Board by mailing a copy of such notice, postage prepaid, not less than ten (10) nor more than ninety (90) days before the date of any meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of such notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the nature of the business to be undertaken.

Section 4.6 Quorum. The presence at any meeting in person or by proxy of Members entitled to cast at least fifty-one percent (51%) of the total votes of all Members of the Association shall constitute a quorum. In the absence of a quorum, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. an adjournment for lack of a quorum of those in attendance shall be to a date not less than five (5) days and not more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall be twenty-five percent (25%) of the total voting power of the Association. If a time and a place for the adjourned meeting are not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

Section 4.7 Proxies. Every Member entitled to vote shall have the right to do so either in person, or by a written proxy executed by such Member, and filed with the secretary of the Association; provided, that no such proxy shall be valid after the expiration of eleven (11) months from the date of its execution. Every proxy shall be revocable and shall automatically cease when the ownership interest or interests of such Member entitling him to membership in the Association ceases.

Section 4.8 Order of Business. The order of business of all meetings of the Members shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of Board and officers;
- (e) Election of directors, if any are to be elected;
- (f) Unfinished business; and
- (g) New business

Section 4.9 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

Section 4.10 Action Without Meeting. Any action which may be taken by the vote of Members at a regular or special meeting, except the election of directors whose cumulative voting is allowable, may be taken without a meeting if done in compliance with the provisions of Section 7513 of the Corporations Code.

ARTICLE V

SELECTION AND TERM OF OFFICE OF BOARD

Section 5.1 Number. The affairs of this Association shall be managed by a Board of five (5) directors, who are required to be Members of the Association.

Section 5.2 Term of Office. Until the holding of the organizational meeting of the Members, the Board shall consist of the incorporator of this Association. At the organizational meeting of Members, the Members shall elect three (3) directors to serve for a term commencing at the close of the organizational meeting and continuing until the following first annual meeting, and two (2) directors to serve a term commencing at the close of the organizational meeting and continuing until the following second annual meeting. At the expiration of the initial term of office of each respective director, his successor shall be elected to serve for a term of two (2) years, commencing immediately following the annual meeting of Members, and expiring two (2) annual meetings thereafter.

Section 5.3 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5.4 Indemnification of Directors, Officers and Employees. Except to the extent prohibited by then applicable law, this Association shall reimburse, indemnify and hold harmless each present and future director, officer and employee of this Association from and against all loss, cost, liability and expense which may be imposed upon or reasonably incurred by him, including reasonable settlement payments, in connection with any claim, action, suit or proceeding, or threat thereof, made or instituted, in which he may be involved or be made a party by reason of his being or having been a director, officer or employee of this Association or such other Association, or by reason of any action alleged to have been taken or omitted by him in such capacity. If a disinterested

majority of the Board of this Association (or, if a majority of the Board is not disinterested, then independent legal counsel) determines in good faith that such person was acting in good faith (a) within what he reasonably believed to be the scope of his authority or employment, and (b) for a purpose which he reasonably believed to be in the best interests of the Association.

The right of indemnification provided in this Section shall inure to each person referred to in this Section, and in the event of his death shall extend to his legal representatives. The right of indemnification provided in this Section shall not be exclusive of any other rights to which any such person, or any other individual, may be entitled as a matter of law (including, without limitation, his rights under Section 7237 of the California Corporations Code), or under any agreement, vote of directors or stockholders or otherwise.

ARTICLE VI

NOMINATION, ELECTION AND REMOVAL OF DIRECTORS

Section 6.1 Nomination. Nomination for election to the Board shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting of Members. The nominating committee shall consist of a chairman, who shall be a Member of the Board, and two (2) or more Members of the Association. The nominating committee shall be appointed by the Board subsequent to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting. The nominating committee shall make as many nominations for election to the Board as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. All such nominations must be made from among Members.

Section 6.2 Initial Homeowner Representation. Not less than twenty percent (20%) of the representatives on the Board shall be elected solely by the votes of owners other than the Declarant at any election in which the Declarant retains a majority of the voting power of the Association.

Section 6.3 Election. Election to the Board and removal therefrom shall be by secret written ballot. At any such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected, except as is otherwise provided in Section 6.2.

Section 6.4 Cumulative Voting. The election and removal of directors shall be by cumulative voting in accordance with California Corporations Code, Section 7615, and pursuant to subsection (b) of California Corporations Code, Section 7615, no Member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the Member has given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any one Member has given such notice, all Members may cumulate their votes for candidates in nomination.

Section 6.5 Removal. Any director may be removed from the Board with or without cause by a majority vote of the Members of the Association; provided, however, that unless the entire Board is removed, an individual director shall not be removed prior to the expiration of his term of office if the votes cast against removal would be sufficient to elect the Board Member if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election of the Board Members were then being elected.

Notwithstanding the foregoing provisions, any director appointed pursuant to Section 6.2 may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in Members other than Declarant.

Section 6.6 Vacancies. In the event of death, or resignation, of a director, his successor shall be elected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor. The remaining Members of the Board shall not, however, have the power to reappoint the removed director or directors.

ARTICLE VII

MEETINGS OF DIRECTORS

Section 7.1 Regular Meetings. Regular meetings of the Board shall be held monthly, at such time as may be fixed from time to time by resolution of the Board. The meeting place shall ordinarily be within the Development itself unless in the judgment of the Board a larger meeting place exists than is available within the Development in which case the meeting place selected shall be as close to the Development as possible. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Notice of the time and place of a regular meeting shall be posted at a prominent place or places and shall be communicated to Board Members not less than four (4) days prior to the meeting; provided, however, that notice of a meeting need not be given to any Board Member who has signed a waiver of notice or a written consent to holding of the meeting.

Section 7.2 Special Meetings. Special meetings of the Board may be called by written notice signed by the president of the Association or by any two Members of the Board other than the president. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

Notice shall be posted in a manner prescribed for notice of regular meetings and shall be sent to all Board Members not less than seventy-two (72) hours prior to the scheduled time of the meeting; provided, however, that notice of the meeting need not be given to any Board Member who signed a waiver of notice or a written consent to holding of the meeting.

Section 7.3 Organizational Meeting of Board. The first meeting of a newly elected Board shall be an organizational meeting and shall be held within ten (10) days of election of the Board, at such place as shall be fixed and announced by the directors at the meeting at which such directors were elected for the purpose of organization, election of officers and the transaction of other business. No notice shall be necessary to the newly elected directors in order legally to constitute such meeting, provided a majority of the whole Board shall be present when the time and place are announced.

Section 7.4 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board, unless a greater number be required by law or by the Articles of Incorporation or by the Declaration.

Section 7.5 Board Action Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the unanimous written consent of all the directors to the action to be taken. Any action so approved shall have the same effect as though taken at a meeting of the directors. If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area or the Development within three (3) days after the written consent of all directors have been obtained.

Section 7.6 Adjournment - Notice. A quorum of the directors may adjourn any director's meeting to meet again at a stated day and hour. Notice of the time and place of holding an adjourned meeting shall be given to all directors. In the absence of a quorum, a majority of the directors present at any directors' meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board.

Section 7.7 Conduct of Meetings. The president, or in his absence, any director selected by the directors present, shall preside at meetings of the Board. The secretary of the corporation, or in his absence any person appointed by the presiding officer, shall act as secretary of the Board.

Section 7.8 Right of Members to Attend. Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Association Members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board.

Section 7.9 Executive Sessions. The Board may, with the approval of a majority of a quorum of its Members, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

ARTICLE VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 8.1 Powers. The Board shall have all powers conferred upon the Association as set forth herein and in the Declaration, excepting only those powers expressly reserved to Members.

Section 8.2 Duties. It shall be the duty of the Board to:

- (a) Cause to be kept a complete record of all acts and corporate affairs and to present a statement thereof to the Members at each annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) Delegate its powers as provided in this Declaration.

Section 8.3 Budgets and Financial Statements. The Board shall cause to be regularly prepared and distributed to all Members regardless of the number of Members or the amount of assets of the Association as follows:

(a) A budget consisting of at least the following information for each fiscal year shall be distributed not less than forty-five (45) days and not more than sixty (60) days prior to the beginning of the fiscal year:

(i) Estimated revenue and expenses on an accrual basis.

(ii) The amount of the total cash reserves of the Association currently available for replacement or major repair of any facilities and for contingencies.

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

(iv) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and facilities for which the Association is responsible.

(b) A balance sheet--as of an accounting date which is the last day of the month closest in time to six (6) from the date of closing of the first sale of a Condominium in the Development--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 subdivision interest and the name of the entity assessed.

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

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

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

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

For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy shall also be distributed. If the report referred to in (c) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without independent audit or review from the books and records of the Association. In addition to financial statements, the governing body shall annually distribute within sixty (60) days prior to the beginning of the fiscal year a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against Members' Condominium interests.

ARTICLE IX

OFFICERS AND THEIR DUTIES

Section 9.1 Enumeration of Officers. The officers of the Association shall be a president and vice president, who shall at all times be Members of the Board, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 9.2 Election of Officers. The election of officers shall take place at the organizational meeting of the Board following each annual meeting of the Members.

Section 9.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or shall otherwise be or become disqualified to serve.

Section 9.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 9.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time after giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 9.7 Multiple Offices. The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 9.4.

Section 9.8 Duties. The duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and shall co-sign all promissory notes.

(b) Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall perform such other duties as may be required of him by the Board.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board and of the Members, shall keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer. The treasurer shall be responsible for receiving and depositing in appropriate bank accounts all monies of the Association and shall be responsible for disbursing such funds as directed by resolution of the Board, shall co-sign all promissory notes of the Association, shall keep proper books or account, shall prepare budgets and financial statements on behalf of the Association, and shall perform such other duties as required by the Board.

ARTICLE X

COMMITTEES

The Association shall appoint a nominating committee as provided in these By-laws. In addition, the Board shall appoint such other committees as it deems appropriate in order to carry out its purpose.

ARTICLE XI

BOOKS AND RECORDS

Section 11.1 Inspection and Copying. The membership register, books of account and minutes of meetings of the Members, of the Board and of committees of the Board of the Association shall be made available for inspection and copying by any Member of the Association--or by his duly appointed representative--at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Development as the Board shall prescribe.

Section 11.2 Rules and Regulations. The Board shall establish reasonable rules with respect to:

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

Section 11.3 Rights of Directors. Every director of the Association and every director of The Community Association of Bernardo Heights, a California nonprofit mutual benefit corporation, 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 foregoing right of inspection includes the right to make extracts and copies of documents and when such right is exercised by a Director of The Community Association of Bernardo Heights, all extracts and copies of documents requested by such director shall be at his or her expense.

Anything contained in these Bylaws to the contrary notwithstanding, the rights of each director of The Community Association of Bernardo Heights set forth in the immediately preceding paragraph above may not be amended, modified nor rescinded at any time without the prior written consent of the Board of Directors of The Community Association of Bernardo Heights.

ARTICLE XII

ASSESSMENTS

As more fully provided in the Declaration, each Member is obliged to pay to the Association Regular Assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent and subject to a late charge in an amount as determined by the Association from time to time which charge shall not exceed the maximum amount permitted under the laws of California. If the assessment is not paid when due, it shall bear interest from the date of delinquency at ten percent (10%) per annum. The Association shall have 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 Governing Instruments provided that the procedures for notice and hearing, satisfying the minimum requirements of Section 7341 of the Corporations Code, are followed with respect to the accused Member before a decision to impose discipline is reached. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and actual attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive, or otherwise be relieved of liability for the assessments provided for herein.

ARTICLE XIII

AMENDMENTS

These By-laws may be amended, at a regular or special meeting of the Members, by the vote or written assent of a majority of each class of Members during the time of the two-class voting structure; and after termination of the two-class voting structure, any amendment will require the approval of a majority of the voting powers of the Association and a majority of Members other than the Declarant.

Notwithstanding the above, the percentage of a quorum or of the voting power of the Association or of Members other than the Declarant necessary to amend a specific clause or provision in these By-laws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

ARTICLE XIV

MISCELLANEOUS

Section 14.1 Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors, from time to time, except that the first fiscal year shall begin on the date of incorporation of the Association.

Section 14.2 Corporate Seal. The Association shall have a seal in the circular form, containing the name of the Association, and "Incorporated _____, 19__", and "California".

Section 14.3 Conflict. In the case of any conflict between the Articles and these By-laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

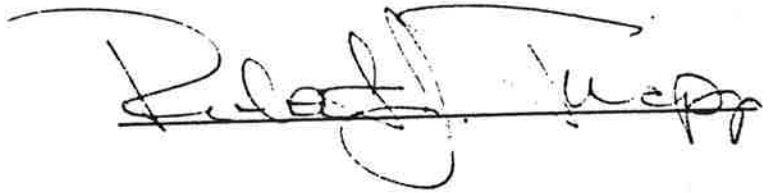
Section 14.4 Proof of Membership. No person shall exercise the rights of membership in the Association until satisfactory proof thereof has been furnished to the secretary. Such proof may consist of either a copy of recorded deed or title insurance policy showing said person to be the Owner of a Condominium in the Development entitling him to membership. Such deed or policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

Section 14.5 Absentee Ballots. The Board may take such provisions as it may consider necessary or desirable for absentee ballots.

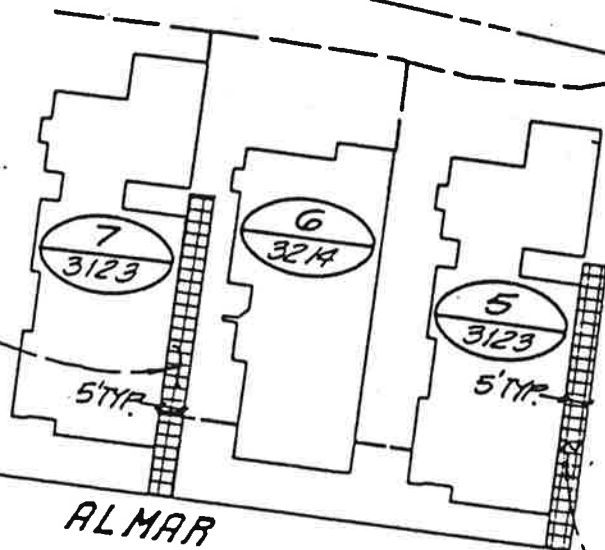
CERTIFICATE OF ADOPTION OF BY-LAWS

The undersigned person appointed in the Articles to act as the incorporator of the above named corporation hereby adopts the same as the By-laws of said corporation.

Executed this 14th day of May, 1987.

A handwritten signature in cursive script, written over a horizontal line. The signature is difficult to decipher but appears to be a name with a large initial.

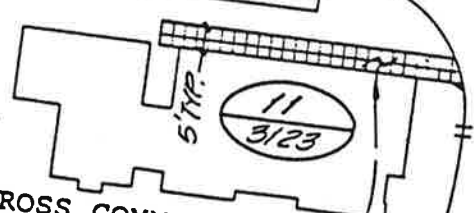
ACCESS ACROSS RESTRICTED
COMMON AREA OF UNIT 6 FOR
THE BENEFIT OF UNIT 7



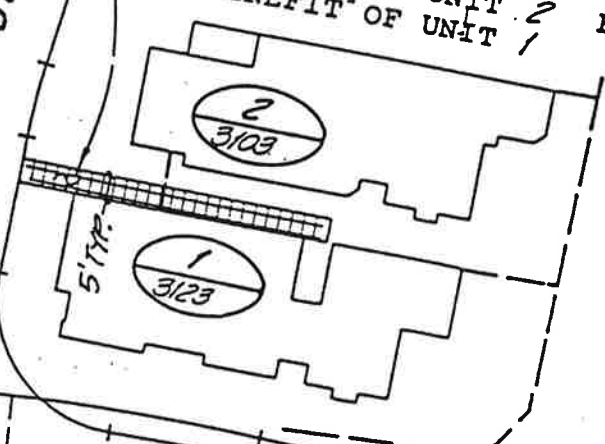
CAMINITO ALMAR

ACCESS ACROSS COMMON AREA
FOR THE BENEFIT OF UNIT 5

ACCESS ACROSS COMMON AREA
FOR THE BENEFIT OF UNIT 11



ACCESS ACROSS RESTRICTED
COMMON AREA OF UNIT 2 FOR
THE BENEFIT OF UNIT 1



CAMINITO SONTERA

CAMINITO CORRIENTE

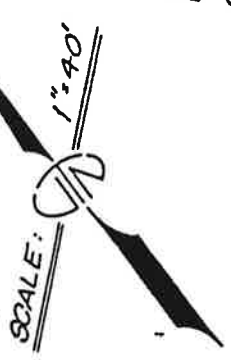


EXHIBIT "E" - 1

EXHIBIT SHOWING ATRIUM ACCESS
OVER RESTRICTED COMMON AREA

CAMINITO CORRIENTE

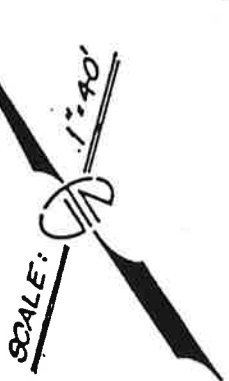
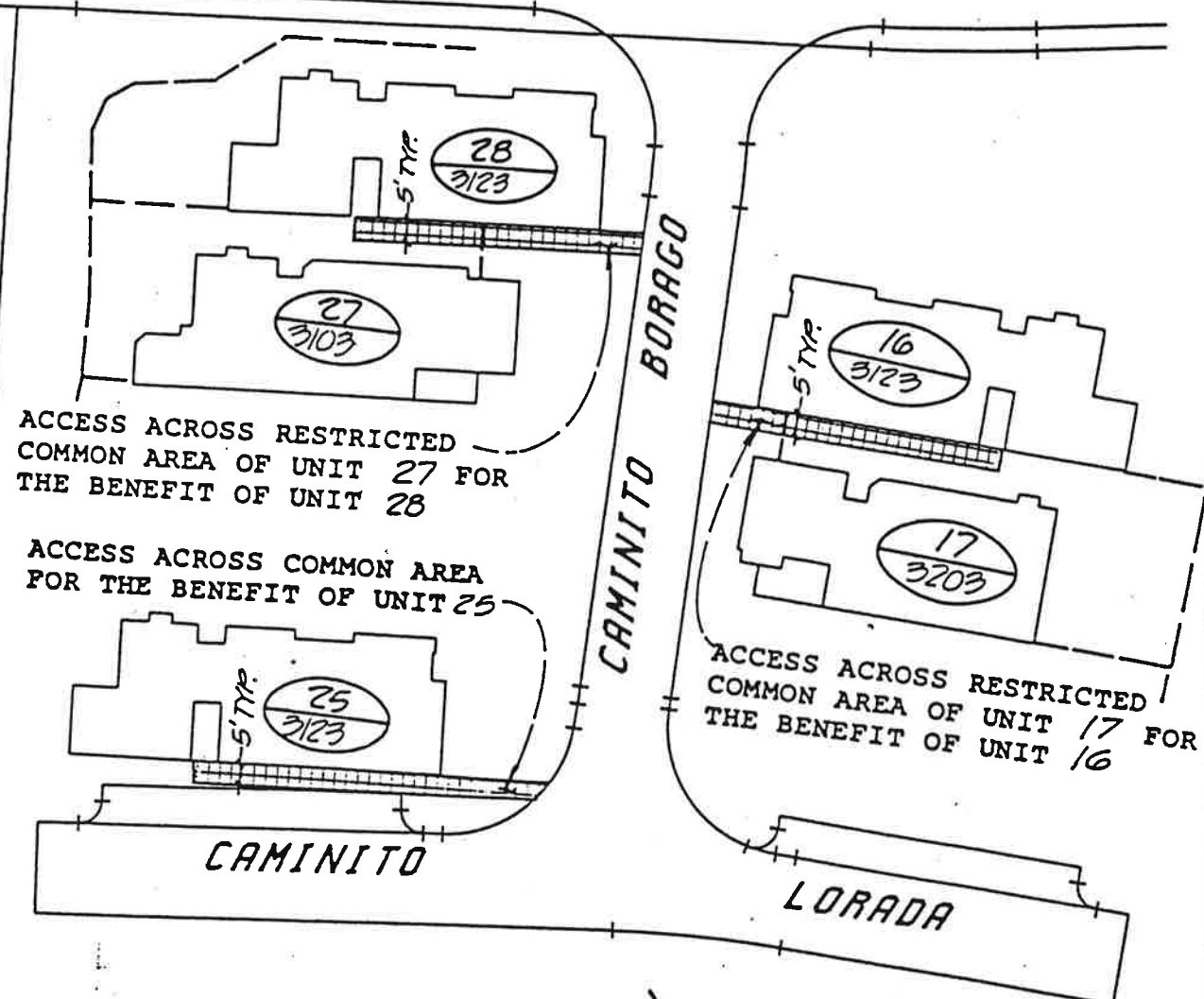


EXHIBIT "E" - 2
EXHIBIT SHOWING ATRIUM ACCESS
OVER RESTRICTED COMMON AREA

ACCESS ACROSS RESTRICTED
COMMON AREA OF UNIT 39 FOR
THE BENEFIT OF UNIT 40

ACCESS ACROSS RESTRICTED
COMMON AREA OF UNIT 37 FOR
THE BENEFIT OF UNIT 38

ACCESS ACROSS COMMON AREA
FOR THE BENEFIT OF UNIT 34

ACCESS ACROSS RESTRICTED
COMMON AREA OF UNIT 41 FOR
THE BENEFIT OF UNIT 42

ACCESS ACROSS RESTRICTED
COMMON AREA OF UNIT 33 FOR
THE BENEFIT OF UNIT 32

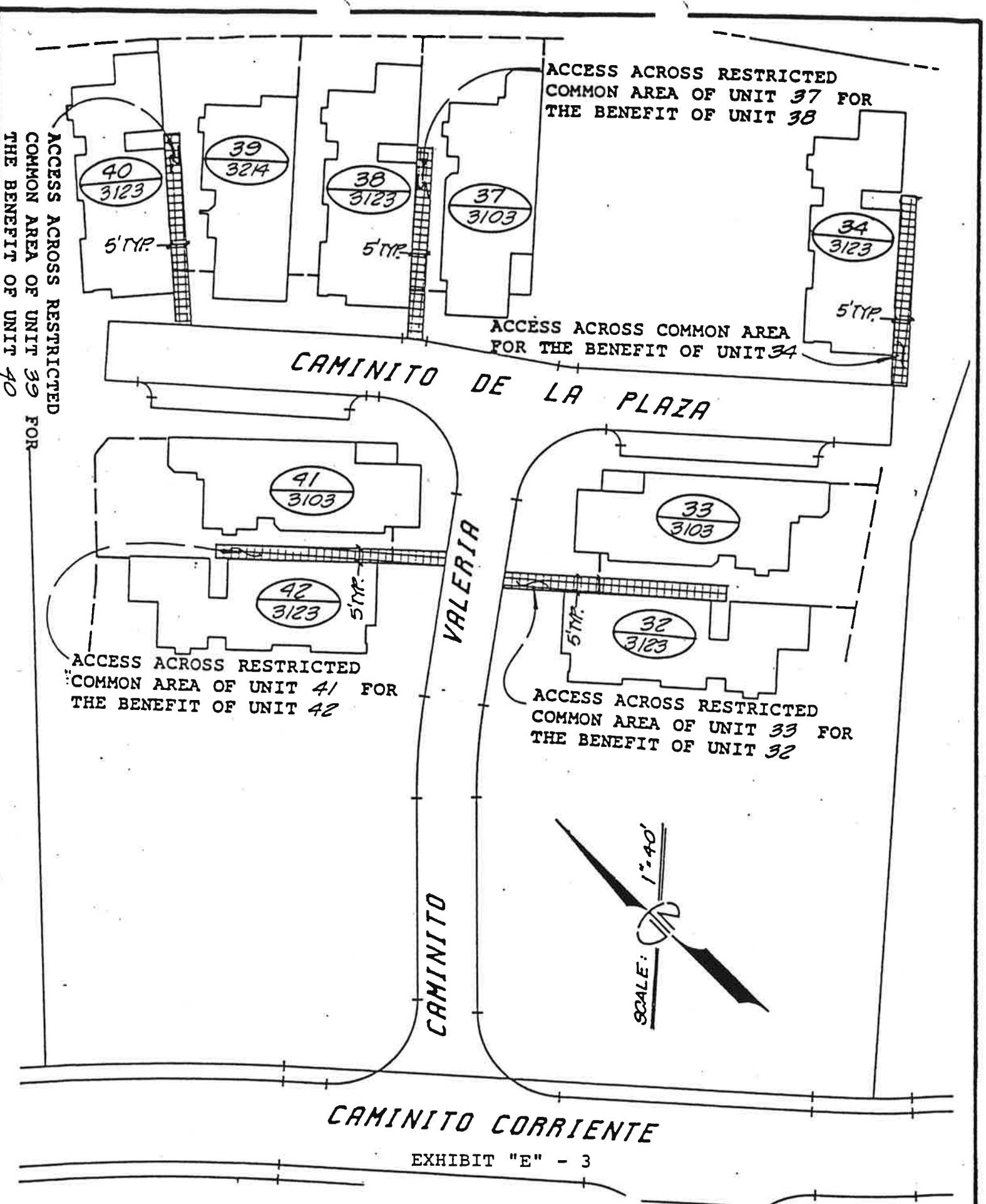


EXHIBIT SHOWING ATRIUM ACCESS
OVER RESTRICTED COMMON AREA

EXHIBIT "E" - 3