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FIRST AMERICAN TITLE INSURANCE & TRUST CO.

[Handwritten Signature]
By Authorized Signature

RECORDING REQUESTED BY)
WHEN RECORDED RETURN TO:)
TUCKER, BOORTZ & HEFFERNAN)
3 Upper Newport Plaza Drive)
Newport Beach, CA 92660)
Attn: Donald L. Boortz)

) Space Above For Recorder's Use

856051-6

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS FOR

LADERA BERNARDO HOMEOWNERS ASSOCIATION

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
LADERA BERNARDO HOMEOWNERS ASSOCIATION

This Declaration is made this 20th day of July, 1984, by Villa Creek, a Joint Venture which shall be referred to hereinbelow as "Declarant".

R E C I T A L S

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

B. Declarant desires to create on the Property an interrelated and interdependent residential community composed of residential dwellings and landscaped areas for the benefit of the community.

C. Declarant has deemed it desirable to impose a general plan for the protection, maintenance, improvement, development, use, occupancy, and enjoyment of the Property and to adopt and establish covenants, conditions and restrictions upon the Property for the purpose of enforcing and protecting the value, desirability and attractiveness thereof.

D. Declarant has deemed it desirable for the efficient preservation of the value, desirability and attractiveness of the Property to create a corporation to which should be delegated and assigned the powers of administering and enforcing these covenants, conditions and restrictions.

E. Ladera Bernardo Homeowners Association, a non-profit mutual benefit corporation, has been or will be incorporated under the laws of the State of California for the purpose of exercising the powers and functions as aforesaid.

F. Declarant intends to convey all of the Property subject to the protective covenants, conditions and restrictions set forth hereinbelow.

NOW, THEREFORE, Declarant hereby certifies, agrees and declares that it has established and does hereby establish, a general plan for the protection, maintenance, improvement, and development of the Property and has fixed, and does hereby fix, the covenants, conditions, restrictions, easements, reservations, liens and charges upon and subject to which all of the Property and each portion thereof shall be held, used, leased, sold and conveyed, and each and all of which is and are declared hereby to be for the benefit of all the Property and each portion thereof and each present and each future Owner (as hereinbelow defined) thereof and Declarant. These covenants, conditions, restrictions, easements, reservations, liens and charges shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any portion thereof and shall inure to the benefit of and bind each owner thereof and their respective successors in interest, and are imposed upon the Property and each and every portion thereof as a servitude in favor of the Property and each and every portion thereof as the dominant tenement or tenements, all of which follows, to wit:

ARTICLE I

Definitions

Section 1. "Annexation Property" shall mean and refer to that certain real property more particularly described at Exhibit "B" attached hereto and by this reference incorporated herein.

Section 2. "Articles" shall mean and refer to the Articles of Incorporation of the Association as the same may from time to time be amended.

Section 3. "Assessment" shall mean and refer to any or all of the Assessments hereinbelow defined:

(a) "Capital Improvement Assessment" shall mean and refer to a charge against each Owner and his Lot representing a portion of the cost to the Association for the installation or construction of any capital improvements on any Common Area as provided for in this Declaration.

(b) "Reconstruction Assessment" shall mean and refer to a charge against each Owner and his Lot representing a portion of the cost to the Association for the reconstruction of any portion or portions of the Common Area as provided for in this Declaration.

(c) "Regular Assessment" shall mean and refer to a charge against each Owner and his Lot representing that portion of the Common Expenses attributable to such Owner and his Lot as provided for in this Declaration.

(d) "Special Assessment" shall mean and refer to a charge against a particular Owner and his Lot, directly attributable to such Owner, for certain costs incurred by the Association as provided for in this Declaration.

Section 4. "Association" shall mean and refer to the non-profit mutual benefit corporation referred to in Recital E above, and its successors and assigns.

Section 5. "Association Rules" shall mean rules adopted by the Association pursuant to the Article of this Declaration entitled "Duties and Powers of the Association".

Section 6. "Board" shall mean and refer to the Board of Directors of the Association.

Section 7. "Bylaws" shall mean and refer to the Bylaws of the Association as the same may from time to time be amended.

Section 8. "Common Area" shall mean and refer to that certain real property more particularly described as such at Exhibit "A" (with respect to the Property) and Exhibit "B" (with respect to the Annexation Property) attached hereto, and all facilities and improvements thereon, if any, owned or leased by the Association, in which the Association has a possessory interest or over which the Association has control under this Declaration, all for the common use and enjoyment of the Owners.

Section 9. "Common Expenses" shall mean and refer to the actual and estimated costs of: maintenance, management, operation, repair and replacement of the Common Area (unless the cost of such repair and replacement is otherwise provided for in the Article hereof entitled "Destruction of Common Area Improvements"); unpaid Assessments; management and administration of the Association, including but not limited to compensation paid by the Association to managers, accountants, attorneys and employees; utilities, trash pick-up and disposal, gardening, landscape maintenance and other services benefitting the Owners and/or the Common Area; fire, casualty, liability, worker's compensation and other insurance obtained and maintained by the Association hereunder; reasonable reserves as appropriate; bonding of the members of the Board; taxes paid by the Association; amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Area or any portion thereof; amounts paid or incurred by the Association in collecting Assessments, including but not limited to, amounts expended to purchase a Lot in connection with the foreclosure of an Assessment lien against such Lot; and expenses incurred by the Association for any reason whatsoever for the benefit of the Owners and/or in connection with the Common Area under this Declaration, the Articles or ByLaws or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association or the Board by this Declaration or undertaken by the Board or the Association for the benefit of the Owners and/or the Association.

Section 10. "County" shall mean and refer to the county in which the Property is situated as is described in Recital A above.

Section 11. "Declarant" shall include any successor and/or assign of Declarant that has been so designated in a certificate recorded by Declarant in the County.

Section 12. "Declaration", as the same may be amended, supplemented, modified, or changed from time to time, shall mean this Declaration of Covenants, Conditions, and Restrictions.

Section 13. "Deed of Trust" when referred to in this Declaration shall be deemed to include a mortgage; "Beneficiary" shall be deemed to include the mortgagee of the mortgage and "Trustor" shall be deemed to include the mortgagor of the mortgage.

Section 14. "Family" shall mean one or more persons related to each other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not so related, together with his or their domestic servants, maintaining a common household in a Residence.

Section 15. "First Beneficiary" shall mean and refer to the first beneficiary under a first Deed of Trust of record or the first mortgagee under a first mortgage of record covering a Lot.

Section 16. "Front Yard Areas" shall mean and refer to those portions of a Lot lying between (i) the front property line of the Lot and (ii) the Residence, which portions are, or are intended to be, landscaped.

Section 17. "Lot" shall mean and refer to any numbered or lettered plot of land shown upon any subdivision map recorded on the Property with the exception of the Common Area as hereinabove defined.

Section 18. "Member" shall mean and refer to every person or entity who holds membership in the Association as provided in Section 1 of Article II hereof.

Section 19. "Owner" shall mean and refer to one (1) or more persons or entities, including Declarant, who are the owners of record of the fee simple title to any Lot and the record vendee of a Lot under an installment sales contract, but shall not mean or refer to those having an interest in a Lot merely as security for the performance of an obligation.

Section 20. "Phase" or "Phases" shall mean and refer to those portions of the Property and/or the Annexation Property described as such on Exhibit "C" attached hereto and by this reference incorporated herein.

Section 21. "Project" shall mean and refer to all of the Property and all improvements constructed thereon.

Section 22. "Property" shall mean the real property described in Exhibit "A" hereto which shall include all the Lots and Common Area. In the event all or any portion of the Annexation Property is annexed pursuant to the provisions of Article XVI of this Declaration, such Annexation Property or portion thereof so annexed shall thereafter be deemed part of the Property.

Section 23. "Residence" shall mean and refer to the residential dwelling located on a Lot and designed for occupation by not more than one (1) Family and any privacy or dividing fence or wall attached to such dwelling.

ARTICLE II

Membership and Voting

Rights in the Association

Section 1. Membership. Every Owner (and the members of his or her Family) of a Lot which is subject by these covenants to assessment by the Association shall be a Member of the Association. Any person or entity having an interest merely as security for the performance of an obligation shall not be a Member. Membership and the right to vote shall be appurtenant to, and may not be separated from, the ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

Section 2. Transfer. The membership appurtenant to a Lot shall not be transferred, pledged or alienated in any way, except upon the sale or assignment of such Lot and then only to the purchaser or assignee thereof. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event any person shall fail or refuse to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record and transfer such membership upon the books of the Association.

Section 3. Voting Rights. The Association shall have two (2) classes of voting membership:

(a) Class A. Class A Members shall be all those persons entitled to membership as defined in Section 1 of this Article II, with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1. When more than one (1) person holds such an interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves shall determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. Any votes cast with regard to any such Lot in violation of this provision shall be null and void.

(b) Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Section 1; provided that the Class B membership shall forever cease and become converted to Class A membership on the happening of any of the following events, whichever event occurs first:

(i) When the total number of votes outstanding in the Class A Membership equal the total number of votes outstanding in the Class B Membership; or

(ii) On the second anniversary of the date of the original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report for a Phase of the Project; or

(iii) On the fourth anniversary of the date of the original issuance by the California Department of Real Estate of the Final Subdivision Public Report for the first Phase of the Project.

From and after the happening of these events, whichever occurs first, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot in which it holds the interest required for membership under Section 1.

(c) The voting rights of both classes of membership shall be subject to the restrictions and limitations provided in this Declaration and in the Articles and ByLaws and shall not vest with respect to any Lot until such Lot becomes subject to the levy of the Regular Assessments described in Article IV below.

Section 4. Special Class A Voting Rights. Notwithstanding the provisions of Section 3, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Article to elect at least one (1) 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 one (1) Director and the remaining vacancies on the Board of Directors shall be elected by the Class B Member. In no event shall the Class A Members be entitled to elect more than one (1) Director to the Board of Directors pursuant to the provisions of this Section 4 unless the Board is comprised of more than five (5) Directors in which event the Class A Membership shall be entitled pursuant to this Section 4 to elect such full number of Directors as represents twenty percent (20%) of the members of the Board. A Director who is elected pursuant to such Class A special voting right hereunder may not be removed without the vote of a majority of the Class A Members.

Section 5. Election Committee. An election committee may be appointed annually by the Board to nominate candidates for the Board, regulate nominations, evaluate voting requirements, regulate voting procedures and campaigns and adopt rules to insure an orderly and fair election of Directors. The Board may from time to time vest the

election committee with certain rule-making powers for the limited purpose of effectuating the fair and orderly election of Directors.

Section 6. Approval by all Classes of Members.
Unless otherwise expressly set forth in this Declaration, during the time that there is a Class B Membership, any action which expressly requires the approval of a specified percentage of the voting power of the Association before being undertaken, shall require the approval of said specified percentage of each Class of Membership. Where this Declaration provides for the exclusion of the vote or written assent of the Declarant for the initiation of action by or in the name of the Association, such exclusion shall be applicable only if there has been a conversion of the Class B Membership to Class A Membership and then only for so long as the Declarant holds or directly controls twenty-five percent (25%) or more of the voting power of the Association; provided, however, this limitation on the exclusion of the vote of the Declarant shall not apply to Section 16 of Article XIV regarding Enforcement of Bonded Obligations.

ARTICLE III

Property Rights in the Common Area

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 below, every Member is hereby granted a non-exclusive right and easement of access, use and enjoyment in and to the Common Area and such right and easement shall be appurtenant to and shall pass with the title to every Lot subject to this Declaration.

Section 2. Title to Common Area. At any time prior to the conveyance of the first Lot, Declarant shall convey to the Association fee simple title to the Common Area free and clear of all liens and encumbrances, except (i) current real property taxes (which taxes shall be prorated to the date of the transfer) and (ii) reservations, easements, covenants, conditions and restrictions then of record, including those set forth in this Declaration.

Section 3. Extent of Members' Easements. Each Member's right and easement of access, use and enjoyment in and to the Common Area created pursuant to Section 1 above shall be subject to the following:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities thereon, if any, and in aid thereof, to deed in trust said Common Area; provided, however, that the rights of any Beneficiary under such Deed of Trust shall be subordinate to the above-described rights of the Members; provided, further, that the Association shall not be authorized to deed in trust the Common Area without the prior written approval of at least two-thirds (2/3) of the First Beneficiaries; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and

(c) The right of the Association, as provided in its Bylaws, to temporarily suspend the voting rights and/or the use or enjoyment rights to recreational or social facilities within the Common Area, if any, of any Member for any period during which any Assessment against his Lot remains unpaid and delinquent, and for a period not to exceed thirty (30) days for any infraction of the Association Rules; and

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility or any other entity for such purposes and subject to such conditions as may be agreed to

by the Members; and

(e) The right of the Association to establish and enforce reasonable rules and regulations pertaining to the use and enjoyment of the Common Area and any facilities thereon; and

(f) The right of the Association to limit the number of guests of Members and to limit the use of the Common Area facilities, if any, by persons not in possession of a Lot, but owning a portion of the interest in a Lot required for membership; and

(g) The right of the Association to charge reasonable admission and other fees for the use of facilities situated upon the Common Area if any; and

(h) The right of the Association to perform its duties and exercise its powers under Article VIII hereof, including the power to grant easements on the Common Area as provided in said Article; and

(i) Other rights of the Association, the Architectural Committee, the Board, the Members and Declarant with respect to the Common Area, as may be provided for in this Declaration; and

(j) Any limitations, restrictions or conditions affecting the use, enjoyment or maintenance of Common Area imposed by Declarant, the County, or any other governmental agency having jurisdiction to impose any such limitations, restrictions or conditions, and whether by agreement with the Association or Declarant or otherwise.

Section 4. Delegation of Use. Subject to the limitations of Section 3 of this Article III, any Member may delegate, in accordance with the Bylaws, his right of use and enjoyment to the Common Area to his tenants and contract purchasers who reside in his Residence.

Section 5. First Beneficiary Approval. Neither the Common Area or any facilities thereon, nor any portion thereof, shall be abandoned, partitioned, subdivided, sold, transferred, alienated, released, hypothecated, or otherwise encumbered without the approval of two-thirds (2/3) of the First Beneficiaries (based on one (1) vote for each Deed of Trust owned), or two-thirds (2/3) of the Owners (other than

the Declarant); provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not require the prior written consent of the Class A Members or First Beneficiaries.

ARTICLE IV

Covenant For Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant for each Lot owned by it hereby covenants and each Owner of any Lot by acceptance of a deed or other conveyance therefore, whether or not it shall be so expressed in any such deed of conveyance, is and shall be deemed to covenant and agree to pay to the Association: (a) Regular Assessments, (b) Special Assessments, (c) Capital Improvement Assessments, and (d) Reconstruction Assessments, if any, such Assessments to be fixed, established and collected from time to time as hereinbelow provided. The Assessments, together with such interest thereon and costs of collection thereof as provided hereinbelow, in Section 1 of Article V, shall be a charge on the real property and shall be a continuing lien upon the Lot against which each Assessment is made. The lien shall become effective upon recordation of a Notice of Claim of Lien in accordance with Section 2 of Article V of this Declaration. Each such Assessment, together with such interest and costs, shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the Assessment, or any portion thereof, fell due, and shall bind his heirs, devisees, personal representatives, successors and assigns. However, the personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Regular Assessments levied by the Association shall be collected, accumulated and used exclusively for the purpose of providing for and promoting the pleasure, recreation, health, safety and social welfare of the Members, including the enhancement of the value, desirability, and attractiveness of the Property, the improvement and maintenance of the Common Area and facilities thereon, the creation of reasonable and adequate reserves therefor, and the discharge of any obligations or duties imposed on the Association or the Board by this Declaration. Special, Capital Improvement, and Reconstruction Assessments shall be used exclusively for the purposes for which such Assessments were levied as provided for in this Declaration.

Section 3. Regular Assessments.

(a) Amount and Time of Payment. Regular Assessments shall be levied on a calendar or fiscal year basis ("Assessment Period") as determined by the Board and the amount and time of payment of Regular Assessments shall be determined by the Board after giving due consideration to the Common Expenses of the Association. In the event the

amount budgeted to meet the Common Expenses for an Assessment Period' proves to be excessive in light of the actual Common Expenses, the Board in its discretion may, by resolution, reduce the amount of the Regular Assessments.

(b) Date of Commencement of Regular Assessments. The Regular Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner by the Declarant.

(c) Assessment Procedures. At least thirty (30) days in advance of each Assessment Period, the Board shall estimate the total Common Expenses to be incurred by the Association for such forthcoming Assessment Period and shall at that time determine and fix the amount of the Regular Assessment against each Lot subject thereto for such Assessment Period. Written notice of such Regular Assessment shall be sent to every Owner subject thereto at least fifteen (15) days in advance of each Assessment Period. Each Owner shall thereafter pay to the Association his Regular Assessment in installments as established by the Board. In the event the Board shall determine at any time that the Regular Assessments levied for a current Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, it shall immediately determine the approximate amount of such inadequacy, issue a supplemental estimate of the total Common Expenses and revise and fix the amount of Regular Assessments against each Owner.

(d) Regular Assessment Limitations. No Regular Assessment for an Assessment Period shall be in an amount which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding Assessment Period without the approval by vote or written consent of a majority of the Class A Members (other than the Declarant).

Section 4. Capital Improvement and Reconstruction Assessments. In addition to Regular Assessments, the Association may levy for any Assessment Period, Capital Improvement and/or Assessments applicable to that Assessment Period only for the purpose of defraying, in whole or part, the cost of any construction or unexpected repair or replacement of a capital improvement and all necessary fixtures and personal property related thereto upon the Common Area (in the case of Capital Improvement Assessments) or the reconstruction of such capital improvement to the Common Area (in the case of Reconstruction Assessments); provided that any such Capital Improvement and/or Reconstruction Assessments which in the aggregate exceed five percent (5%) of the budgeted Common Expense for such Assessment Period shall have the approval by vote or written consent of a majority of the Class A Members (other than the Declarant). Capital Improvement and/or Reconstruction Assessments shall be due and payable at the times and in the amount fixed by the Board.

Section 5. Special Assessments. Special Assessments may be levied (a) by the Board from time to time against Lots with respect to which particular costs or expenses have been incurred by the Association for materials or services furnished at the request, or with the consent, of the Owner of any such Lot or (b) by the Association in accordance with Section 4 of Article XIV hereinbelow. Special Assessments levied by the Association shall be due and payable at the times and in the amounts which the Board or the Association establishes.

Section 6. Certificate of Payment. Upon demand, the Association shall furnish to any Owner liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether said Assessments or any portions thereof have been paid. Such certificate shall be conclusive evidence of payment of any Assessments or portions thereof therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificate.

Section 7. Assessment of Lots Owned by Declarant. Without exception, each Lot owned by Declarant shall be subject to Assessment to the same extent and in the same manner as any other Lot owned by any Owner.

Section 8. Nonuse and Abandonment. No Owner may waive or escape personal liability for the Assessments provided for herein, nor release the Lot owned by him from the liens and charges hereof, by nonuse of the Common Area or abandonment of his Lot.

Section 9. Uniform Rate of Assessment. All Regular, Capital Improvement and Reconstruction (except as otherwise provided in Section 2 of Article XI hereof) Assessments shall be fixed at a uniform rate for all Lots.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments, charges and liens created herein: (a) all properties dedicated to and accepted by a public authority (b) all Common Area; and (c) all properties exempted from taxation by the laws of the State of California, upon the terms and to the extent of such legal exemption. Notwithstanding any provision in this Section, no real property or improvements devoted to residential dwelling use shall be exempt from said Assessments, charges or liens.

Section 11. Offsets. All Assessments shall be payable in the amount specified in the Assessment levied by the Association or Declarant and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance or enforcement.

ARTICLE V

Non-payment of Assessments

Section 1. Delinquency and Remedies of Association. If any Assessment, or any portion thereof, is not paid on the date when due, then such Assessment or portion thereof shall become delinquent and shall, together with interest and costs of collection as provided for hereinbelow, thereupon become a continuing lien on the Lot against which such Assessment was made as more particularly described in Section 1 of Article IV hereinabove. If the Assessment, or any portion thereof, is not paid within thirty (30) days after the delinquency date, a late charge of Ten Dollars (\$10.00) may be levied by the Board and the Assessment shall bear interest from the date of delinquency at the then legal rate, and, in addition to all other legal and equitable rights or remedies, the Association, may, at its option, bring an action at law against the Owner personally obligated to pay the same, and/or, upon compliance with the notice provisions set forth in Section 2 hereinbelow, to foreclose the lien against the Lot, and there shall be added to the amount of such Assessment, or any portion thereof, and interest thereon, the late charge and all costs and expenses, including reasonable attorneys' fees, incurred by the Association in collecting the delinquent Assessment; provided, however, that the lien of a Special Assessment levied against an individual Owner and his Lot as a monetary penalty imposed as (i) a disciplinary measure for failure of such Owner to comply with this Declaration, the Bylaws or the Association Rules, (ii) a means of reimbursing the Association costs actually incurred for the repair of damage caused to the Common Area or common facilities for which the Owner was allegedly responsible or (iii) a means of bringing such Owner or his Lot into compliance with this Declaration, the Bylaws or the Association Rules, shall not be a lien enforceable by sale under the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code of the State of California. Subject only to the above provisions, each Owner vests in the Association, its successors and assigns, the right and power to bring all actions at law or lien foreclosure against such Owner or other Owners for purposes of collecting delinquent Assessments.

In lieu of judicially foreclosing the lien, the Association, at its option, may foreclose such lien by proceeding under a power of sale as provided hereinbelow in Section 3, such power of sale being hereby expressly given to the Association as to each and every Lot for the purpose of collecting delinquent Assessments.

Section 2. Notice of Claim of Lien. No action shall be brought to foreclose the lien, or to proceed under the power of sale, sooner than thirty (30) days after the

date that a Notice of Claim of Lien executed by a duly authorized representative of the Association, is recorded with the County Recorder, said notice stating the amount claimed (which may include the late charge, interest and costs of collection, including reasonable attorneys' fees), a good and sufficient legal description of the Lot being assessed, and the name and address of the Association as claimant. A copy of said Notice of Claim shall be deposited in the United States mail, certified or registered and postage prepaid, to the Owner of said Lot.

Section 3. Foreclosure Sale. Any such sale under the power of sale provided for above shall be conducted in accordance with the provisions of Section 2924, 2924B and 2924C of the Civil Code of the State of California, applicable to the exercise of powers of sale in deeds of trust, or in any other manner permitted or provided for by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot at the foreclosure sale, using Association funds or funds borrowed for such purpose, and to acquire, hold, lease, mortgage, and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a Notice of Claim of Lien was recorded by the Association, any officer of the Association is hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee to be determined by the Association but not to exceed a reasonable fee, to cover the costs of preparing and filing or recording such release together with the payment of such other charges, costs, interest or fees as shall have been incurred.

Section 5. Cumulative Remedies. The Assessment lien and the rights to foreclosure and sale hereunder shall be in addition to and not in substitution for, all other rights and remedies which the Association and its successors and assigns may have hereunder by law or in equity.

Section 6. Subordination of the Lien to First Deeds of Trust. The lien of the Assessments provided for herein shall be subordinate to the lien of any first Deed of Trust now or hereafter placed upon any of the Lots within the Property subject to the Assessment; provided, however, that such subordination shall apply only to Assessments which have become due and payable prior to a sale or transfer of the Lot pursuant to a decree of foreclosure or sale under a power of sale included in any such first Deed of Trust. Such sale or transfer shall not relieve such Lot from liability for any Assessment thereafter becoming due, nor from the lien of any such subsequent Assessment. Nothing in this Section shall be construed to release any Owner from his personal obligation to pay any Assessment levied pursuant to this Declaration.

ARTICLE VI

Architectural and Landscaping Control

Section 1. Architectural Approval. No fence, wall, building, structure (including basketball standards and television or other communications antennae), or exterior addition to or change or alteration thereof (including painting), or landscaping shall be commenced, constructed, erected, placed, altered, maintained or permitted to remain on a Lot or any portion thereof, until plans and specifications shall have been submitted to and approved in writing by an architectural committee, initially to be appointed by Declarant (the "Architectural Committee"). Said plans and specifications shall be prepared and shall include where appropriate, the following: (a) plot plans, showing the location of all the structures and showing the grade elevations and drainage; (b) building plans, including floor, foundation, and roof plans, with all materials, therefor; (c) exterior elevations and surfaces, and sections, structural designs and salient exterior details; (d) general exterior color schemes; and (e) landscaping plans, showing type, location and elevation of trees, bushes, shrubs, plants, hedges and fences. All such plans and specifications shall be submitted in writing over the signature of Owner of the Lot or such Owner's authorized agent. Approval may be based, among other things, on adequacy of site dimensions; conformity and harmony of external design with neighboring property, improvements, landscaping, operations and uses; relation of topography grade and finished ground elevation of the Lot being improved to that of neighboring Lots; proper facing of main elevations with respect to nearby streets; preservation of view and aesthetic beauty with respect to fences, walls, and landscaping, assurance of adequate access to the Association in connection with the performance of its duties and the exercise of its powers hereunder; conformity with such rules and regulations as may be adopted by the Architectural Committee in accordance with this Article; and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration. In any event, the Architectural Committee shall have the right, but not the obligation, to require any Member to remove, trim, top or prune any shrub, tree, bush, plant or hedge which such Committee reasonably believes materially obstructs the view of any Lot; provided, however, the view from any Lot or Residence may be partially obstructed by trees if such obstruction is approved by the Architectural Committee or Declarant, in their sole and absolute discretion.

Section 2. Number of Members and Term of Architectural Committee Appointed by Declarant. The Architectural Committee shall consist of not less than three (3) nor more than five (5) members as may be fixed from time to time by resolution of the Board. The Declarant shall have the right to appoint all of the members of the Architectural Committee and their replacements until the first anniversary of the original issuance by the California Department of Real Estate of the Final Subdivision Public Report for the Property ("Anniversary Date"). After the Anniversary Date, the Declarant shall have the right to appoint a majority of the members of the Architectural Committee until ninety percent (90%) or more of the Lots have been sold, or until the fifth anniversary of the date of the original issuance by the California Department of Real Estate of the Final Subdivision Public Report for the Property (the "Fifth Anniversary Date"), whichever shall first occur. After the Anniversary Date, the Board shall appoint all of the members of the Architectural Committee not appointed by the Declarant. After ninety percent (90%) or more of the Lots have been sold or after the Fifth Anniversary Date, whichever shall first occur, the Board shall appoint all of the members of the Architectural Committee. Those appointed to the Architectural Committee by the Board shall be Members; the Declarant, however, need not appoint Members to the Architectural Committee. Notwithstanding the above, the Declarant may, at its sole option, transfer its rights of appointment as described above to the Board by written notice thereof at any time prior to the Fifth Anniversary Date.

Section 3. Failure to Approve or Disapprove Plans and Specifications. In the event the Architectural Committee, or its representatives designated in accordance with Section 8 hereinbelow, fails to either approve or disapprove such plans and specifications within forty-five (45) days after the same have been submitted to it, it shall be conclusively presumed that the Architectural Committee has approved such plans and specifications. All improvement work approved by the Architectural Committee shall be diligently completed and constructed in accordance with approved plans and specifications.

Section 4. No Liability. Plans and specifications are not approved for engineering design, soils suitability, drainage or set backs and by approving such plans and specifications, neither Declarant, the Association, the Architectural Committee or the Members or designated representatives or agents thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of Property affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or

failure to approve or disapprove any such Plans and specifications, or for any defect in any structure constructed from such plans and specifications. Every person who submits plans or specifications to the Architectural Committee for approval agrees, by submission of such plans and specifications, and every Owner of any of property agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Committee or any of the Members or designated representatives or agents thereof to recover any such damages.

Section 5. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of (a) one (1) year from the date of issuance of a building permit by municipal or other government authority for any improvements or (b) one (1) year from the date of commencement or construction of any improvements, said improvements shall, in favor of purchasers and encumbrancers, in good faith and for value, be deemed to be in compliance with all provisions of this Article VI, unless actual notice of such noncompliance or noncompletion executed by the Architectural Committee or its designated representatives or agents, shall appear of record in the office of the County Recorder of the County, or unless legal proceedings shall have been instituted to enforce such compliance or completion.

Section 6. Rules and Regulations. The Architectural Committee may from time to time, in its sole discretion, adopt, amend and repeal reasonable rules and regulations interpreting and implementing the provisions hereof and establishing reasonable architectural standards.

Section 7. Variances. Where circumstances such as topography, location of property lines, location of trees, configuration of Lots, or other matters require, the Architectural Committee, by the vote or written consent of a majority of the members thereof, may allow reasonable variances as to any of the covenants, conditions, or restrictions contained in this Declaration under the jurisdiction of such Committee, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan of improvement and development.

Section 8. Appointment and Designation. The Architectural Committee may from time to time, by a majority of the members thereof, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified persons who shall have full authority to act on behalf of said Architectural Committee in all matters delegated.

Section 9. Review Fee and Address. All plans and specifications required by Section 1 hereof shall be submitted

in writing for approval, together with a reasonable processing fee not to exceed \$100. The address of the Architectural Committee is at such place or places as may from time to time be designated by the Architectural Committee by a written notice to the Owners. Such address shall be the place for the submittal of plans and specifications and the place where the current rules and regulations, if any, of the Architectural Committee shall be kept.

Section 10. Inspection. Any member or agent of the Architectural Committee may from time to time at any reasonable hour or hours and upon reasonable notice enter and inspect any Lot or Residence subject to the jurisdiction of said Architectural Committee as to its improvement or maintenance in compliance with the provisions hereof.

Section 11. Appeal. In the event the plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal to the Board by submitting a written request for appeal. The written request shall be submitted to the Board not more than thirty (30) days following the final decision of the Architectural Committee for review, whose written recommendations will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within forty-five (45) days shall be deemed a decision in favor of the appellant.

Section 12. Nonapplicability to Declarant. The provisions of this Article shall not apply to Declarant for purposes of development of the Property.

Section 13. Local Ordinances. Notwithstanding anything to the contrary set forth or implied in this Declaration, the Owner of the Lot upon which improvements subject to this Article are to be constructed shall be responsible for complying fully with all local building and zoning ordinances.

ARTICLE VII

General Use Restrictions

Section 1. Improvements. No building, structure, or improvement shall be constructed, erected, altered, placed or permitted to remain on any of the Lots other than a residential dwelling and customary appurtenances designed for occupancy by not more than one (1) Family.

Section 2. Nuisances. Neither the Property nor any portion thereof, shall be used for any purpose tending to injure the reputation thereof, or to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance or in violation of any public law, ordinance, or regulation in anyway applicable thereto. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon any part of the Property. No noxious or offensive activity shall be carried on or upon the Property nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 3. Non-Residential Purposes. None of the Lots shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purposes.

Section 4. Common Area Uses. Subject to the provisions of Section 3 of Article III, the Common Area shall be used as open space and/or for recreational, landscaping and slope maintenance or other purposes authorized under this Declaration.

Section 5. Antennae, etc. No projections of any type which are attached or affixed to any Residence or any other building shall be placed or permitted to remain above the roof of any Residence or any other building with the exception of one or more chimneys and one or more vent stacks. No outside television or radio pole or antenna or other electronic device shall be constructed, erected or maintained on any building or Residence within the Property or connected in such manner as to be visible from the outside of any such building or Residence unless and until the same shall have been approved by the Architectural Committee.

Section 6. Prohibited Structures. No shed, tent, privy or temporary building shall be erected, maintained or used on the Property; provided, however, that temporary

buildings for use and used only for purposes incidental to the initial construction of improvements and dwellings on any portion of the Property, may be erected, maintained, and used, provided that such erection, maintenance and use has been approved by the Architectural Committee and provided further that said temporary buildings shall be promptly removed upon completion of such construction work.

Section 7. Garages. When garages are not in use, garage doors shall be closed. Garages shall be used only for the purpose of parking automobiles and storing an Owner's household goods. No open carport, if any, shall be used for the storage of any item other than an automobile.

Section 8. Vehicles. No mobile home, boat, truck, trailer, recreational vehicle, of any kind or similar equipment shall be kept, stored, parked (other than temporarily), maintained, constructed or repaired on the Property, in such a manner as to be visible from any neighboring property; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs. Temporary parking shall mean parking for a period not to exceed twenty-four (24) hours of vehicles belonging to Owners or guests of Owners, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of services to the Association or the Owners and parking of vehicles belonging to or being used by Owners for loading or unloading purposes.

Section 9. Animals. No animals, fowl, reptiles, insects or poultry shall be kept on the Property, except that domestic dogs, cats, birds, fish may be kept as household pets upon a Lot, provided that they are not kept bred or raised thereon for commercial purposes or in an unreasonable quantity. All dogs permitted to be kept by this Section shall be kept on a leash when not within an enclosed area of a Lot.

Section 10. Signs. Except for a sign of customary and reasonable dimension (the area of which shall not exceed four (4) square feet), when advertising a Lot for sale, such sign to be located on a Lot, no sign or other advertising device of of any character shall be erected, maintained, or displayed upon any portion of the Property; provided, however that Declarant, its agents, designees, may erect and maintain such signs and other advertising devices or structures which it may deem necessary or proper in connection with the conduct of its operations for the development, improvement, subdivision, and sale of the Lots within the Property.

Section 11. Rubbish. No weeds, rubbish, debris, objects or materials of any kind shall be placed or permitted to accumulate upon the Property which shall render the Property unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or to the occupants of any such property in such vicinity. Trash, garbage, rubbish and other waste shall be kept only in sanitary containers. All service yards or service areas, clotheslines areas, sanitary containers and storage piles on any Lot shall be enclosed or fenced in such a manner that such yards, areas, containers and piles will not be visible from any neighboring property or street. Sanitary containers may be set out for a reasonable period of time before and after scheduled trash pick-ups times.

Section 12. Maintenance of Structures. All buildings and other structures upon a Lot and each portion thereof shall at all times be maintained in good condition and repair and well and properly painted. No windows shall be covered with aluminium foil or similar material.

Section 13. Landscaping. All landscaping of every kind and character, including shrubs, trees, grass and other plantings shall be neatly trimmed, properly cultivated, and maintained continuously by the Owner thereof, other than such landscaping within a Lot maintained by the Association, in a neat and orderly condition and in a manner to enhance its appearance.

Section 14. Inspection. During reasonable hours and after reasonable notice, Declarant or any agent thereof, so long as Declarant is Owner of at least twenty-five percent (25%) of the Lots, or the Association, shall have the right to enter upon and inspect a Lot or any portion thereof and the improvements thereon for the purpose of ascertaining whether or not the provisions of this Declaration are being complied with and shall not be liable for or deemed guilty of trespass by reason thereof.

Section 15. Damage to Common Area. Each Member shall be liable to the Association for any damage to the Common Area or to any of the equipment or improvements thereon which may be sustained by reason of the negligence or willful misconduct of said Member or members of his family, relatives, guests, or invitees, both minor and adult.

Section 16. Zero Lot Line Structures. No Owner of any Lot (the "Adjacent Lot") which is adjacent to a wall, fence or other structure located and situated upon an adjoining

Lot (the "Adjoining Lot") shall affix an object or device of any kind to such wall, fence or other structure without the prior written consent of the Owner thereof. The Owner of the Adjoining Lot shall have the right, at reasonable times, in a reasonable manner, and upon reasonable notice, to enter upon the Adjacent Lot for the purpose of maintaining, repairing or restoring said wall, fence or other structure.

Section 17. Mineral Extraction. No portion of the Property shall be used in any manner to explore for or to remove any water oil, or other hydrocarbon minerals of any kind, gravel, earth or any earth substance or any other mineral of any kind. No machinery or equipment of any kind shall be placed, operated or maintained upon any Lot, except such machinery or equipment as is usual and customary in connection with the use or maintenance of a private residence.

Section 18. No Subdivision of Lots. No Lot shall be split or subdivided into lots of a lesser size than the original size of such Lot.

Section 19. No Change in Grade. No Owner shall make a change in the established grade or elevation of a Lot or in the established drainage patterns and improvements on a Lot unless such change is first approved in writing by the Architectural Committee. As used herein, the terms "established grade and elevation" and "established drainage patterns and improvements" of a Lot shall mean and refer to the grade and elevation and the drainage pattern and improvements, respectively, of a Lot as established at the time of conveyance of the Lot from the Declarant to an Owner other than the Declarant.

Section 20. Declarant's Rights. None of the restrictions contained within this Article shall limit or be deemed to limit the rights of Declarant provided for in Section 10 of Article XIV hereof.

ARTICLE VIII

Duties and Powers of the Association

Section 1. General. Subject to the provisions of Section 2 below but in addition to the duties and powers enumerated in the Articles and/or ByLaws, or elsewhere provided for herein, and without limiting the generalities thereof, the Association is hereby empowered through action taken by the Board to:

(a) Enforce the provisions of this Declaration, the Articles and the Bylaws by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules as provided for in the Bylaws and in Section 3 of this Article, which shall include the establishment of a system of reasonable disciplinary proceedings, including, without limitation, fines or penalties, enforceable as Special Assessments, also as provided for in the Bylaws;

(b) Pay taxes and Assessments which are or could become a lien on the Common Area or some portion thereof;

(c) Contract for and maintain such policy or policies of insurance as may be required by the Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members, and review the effectiveness and adequacy of such policies on an annual basis;

(d) Contract for materials and/or services for the Common Area or the Association subject to the provisions of subsection (p) below;

(e) Delegate its powers to committees, officers, or employees as expressly authorized in the Declaration, Articles, and Bylaws;

(f) Prepare budgets and financial statements of the Association on an annual basis;

(g) Formulate rules of operation of the Common Area for adoption by the Association;

(h) Initiate and carry out disciplinary proceedings against Members for violations of provisions of the Declaration, Articles and Bylaws in accordance with procedures set forth in the Declaration, Articles and Bylaws;

(i) Enter in accordance with the provisions of Section 4 below upon any privately owned Lot where necessary in connection with construction, maintenance or repair for the benefit of the Common Area or Owners;

(j) Provide for all water, gas and electric and refuse collections and other services for the benefit of the Common Area;

(k) Grant easements where necessary for utilities and sewer facilities over Common Area to serve the Property;

(l) Establish and maintain a working capital and contingency fund in an amount to be determined by the Board;

(m) Have the duty to maintain architectural control over the Property and appoint an Architectural Committee in connection therewith, pursuant to this Declaration;

(n) Delegate its powers to committees, officers, or employees as provided in the Bylaws, employ a manager other persons and contract with independent contractors or managing agents who have professional experience in the management of planned unit developments to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent be terminable for cause on not more than thirty (30) days written notice by the Association or not more than ninety (90) days written notice without cause or payment of a termination fee and shall have a term of not more than one (1) year with successive one (1) year renewal periods upon mutual agreement of the parties;

(o) Fix and levy from time to time pursuant to this Declaration and the Bylaws, Assessments upon the Members; determine and fix the due date for the payment of such Assessments, and the date upon which the same shall become delinquent; provided, however, such Assessments shall be fixed and levied as authorized in the Declaration and in performing or causing to be performed any of the purposes of the Association for the general welfare of its Members, and the Board is hereby authorized to incur any and all such expenditures for any of the foregoing purposes and to pro-

vided adequate reserves for replacements as it shall be deemed to be necessary or advisable in the interest of the Association or welfare of its Members.

(p) Borrow money and incur indebtedness for the purposes of the Association and cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges or other evidence of debt and security therefore;

(q) Maintain, or cause to be maintained the Common Area (including any drainage or irrigation facilities or systems located thereon), in a neat, orderly, safe and sanitary condition (including the repair and replacement of landscaping and improvements when necessary or appropriate) and in such a manner as to enhance their appearance, maintain and preserve established slope ratios, prevent erosion or sliding problems and to facilitate the orderly discharge of water through established drainage systems and patterns. Any natural slope areas within the Common Area shall be maintained additionally in a natural condition and in such a manner as to prevent noxious or dangerous weeds, sage brush, chaparral or any other brush or weeds from attaining such growth as to become, when dry, a fire menace or public nuisance.

Section 2. General Limitations and Restrictions on the Powers of the Board. In addition to the limitations and restrictions enumerated in the Articles and Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Board shall be prohibited from taking any of the following actions without the approval of a majority of the Class A Members of the Association (other than the Declarant):

(a) Contract for materials or services for the Common Area or the Association for a term in excess of 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 materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

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

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

(b) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for the fiscal year.

(c) Sell any real or personal property of the Association with an aggregate fair market value in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(d) Pay compensation to directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses actually incurred in carrying on the business of the Association.

Section 3. Association Rules. The Association shall also have the power, as provided in the Bylaws, to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules"). The Association Rules shall govern such matters in furtherance of the purposes of the Association, as the Board shall deem appropriate, including, without limitation, the use of the Common Area. The Association Rules shall not (i) discriminate among the Owners, (ii) be inconsistent with this Declaration, the Articles, or Bylaws or (iii) cause a forfeiture or abridgment or an Owner's rights to the full use and enjoyment of his Lot and Residence; provided, however, that the Association Rules may provide for the imposition of monetary penalties, temporary suspension of an Owner's rights as a Member of the Association or such other appropriate discipline for failure to comply with the Association Rules, this Declaration, the Articles or the Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner in the same manner established in this Declaration for the delivery of notices and a copy shall be posted in a conspicuous place within the Common Area. Upon such mailing or delivery and posting, said Association Rules shall have the same force and effect as if they were set forth in and were part of

this Declaration. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Beneficiary upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, or the Articles or Bylaws the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or Bylaws to the extent of any such inconsistency.

Section 4. Entry and Emergency Powers. The Association or any person authorized by the Association may enter any Lot in the event of any emergency involving illness or potential danger to life or property, or in any nonemergency situations, after reasonable notice and at reasonable hours, for the purpose of performing its duties and exercising its powers as set forth in this Declaration, including entry when necessary in connection with construction, maintenance, or repair for the benefit of the Common Area or the Owners. Any damage caused by said entry shall be repaired at the cost of the Association.

Section 5. Books and Records. The books and records of the Association shall be subject to inspection at all reasonable times during normal business hours as more particularly described in the Bylaws.

Section 6. Delegation of Powers. The Association shall have the right to delegate any of its powers according to law under this Declaration, the Articles and Bylaws; provided, however, no such delegation, whether to a professional management company or otherwise, shall relieve the Association or its obligations to perform such delegated duty.

Section 7. Acts of Association. All lawful agreements and determinations made by the Association in accordance with the applicable statutes of the State of California and the provisions of this Declaration, the Articles and the Bylaws shall be binding on all Owners, their successors and assigns.

ARTICLE IX

Easements

Section 1. Access to Common Area. Declarant hereby grants to the Association, an easement or easements over such Lots as are contiguous with or adjacent to the Common Area as are necessary to gain access to the Common Area. Each Owner agrees, for himself and his heirs, successors, executors, administrators and assigns, that he will permit free access by the Association and its authorized agents and representatives for the purpose of exercising its rights and duties with respect to the Common Area. The Association shall have the right to alter, trim and otherwise modify and to remove trees, plants, shrubs and other landscaping which unreasonably interfere with access to the Common Area.

Section 2. Encroachments. Declarant hereby grants to each Owner of a Lot an easement over all the Property for the purpose of:

(a) accommodating trellises, eaves, overhangs, and other similar projections or encroachments created during the original construction of a Residence or the reconstruction or repair of a Residence in accordance with such plans and specifications as are approved by the Architectural Committee;

(b) maintaining, repairing and reconstructing such trellises, eaves, overhangs, projections and encroachments;

(c) accommodating minor encroachments due to original engineering or surveying errors, errors in original construction, errors in reconstruction or repair in accordance with the plans and specifications approved by the Architectural Committee, or settlement or shifting of movement of a building or other structure; and

(d) accepting water from the established drainage system on the Property.

Each Owner agrees, for himself and his heirs, successors, executors, administrators, and assigns, and the Association agrees, for itself and its successors and assigns, that each will permit free access, at reasonable times and upon reasonable notice, by each Owner for whose benefit an easement shall be granted hereunder for the purpose of exercising his rights with respect to such maintenance, repair and/or reconstruction.

Section 3. Side Yard Areas. There is hereby reserved to Declarant, together with the right to grant and transfer the same to the Owners of the Lots described as the "Dominant Tenement" on Exhibit "D" hereto, side yard easements as shown on said Exhibit, which easements shall be appurtenant to the Lots described on said Exhibit as the "Dominant Tenement" and which easements shall burden the Lots described in said Exhibit as the "Servient Tenement". Such easements shall be as follows:

(a) In favor of the Dominant Tenement over the Servient Tenement for the purpose of accommodating the natural settlement of the Residence or any other structure situated upon the Dominant Tenement;

(b) Over the portion of the Servient Tenement indicated on said Exhibit lying between the boundary of the Dominant Tenement and any wall or fence constructed on the Servient Tenement, or the prolongation of the line of such wall or fence to the property line as shown on said Exhibit, for the purposes of landscaping, drainage, the establishment of a general recreational or garden area and purposes related thereto, subject to the following provisions:

(i) The Owner of the Servient Tenement shall have the right at all reasonable times to enter upon the easement area, including the right to cross over the Dominant Tenement for such entry, in order to perform work related to the use and maintenance of the Servient Tenement;

(ii) The Servient Tenement shall have (A) the right of drainage over, across and upon the easement area for water draining from the Servient Tenement and (B) the right to maintain eaves (and appurtenances thereto) and any portions of any Residence or other improvements upon the Servient Tenement as originally constructed or as constructed pursuant to the approval of the Architectural Committee;

(iii) The Owner of the Dominant Tenement shall not attach any object to a fence, wall or other improvement belonging to the Servient Tenement or disturb the grading of the easement area or otherwise act with respect to the easement area in any manner which would damage the Servient Tenement;

(iv) In exercising the right of entry upon the easement area as provided for above, the Owner of the Servient Tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area; provided, however, the Owner of the Servient Tenement shall not be responsible for damage to such landscaping or other items to the extent such damage could not be reasonably avoided in connection with such entry upon the easement area for authorized purposes; and

(v) In the event of any dispute arising concerning the rights and obligations created by this subsection (b), the Association, the Owner of the Servient Tenement and the Owner of the Dominant Tenement shall each choose one (1) arbitrator, and the decision of a majority of all the arbitrators shall be binding upon such Owners.

(c) If all or any portion of the Annexation Property is annexed pursuant to Article XVI of this Declaration, the Declaration of Annexation may incorporate, as appropriate, an additional exhibit or exhibits pertaining to the property being annexed showing such side yard easements as to such property.

ARTICLE X

Reservation of Rights and Easements by Declarant

Section 1. Utilities. Easements over the Property for the installation, maintenance, service, repair, reconstruction and replacement of electric, telephone, cable television, water, gas, sanitary sewer facilities and/or lines and drainage facilities as shown on the recorded tract maps are hereby reserved by Declarant, together with the right to grant and transfer same.

Section 2. Common Area. There is hereby reserved by Declarant for the benefit of Declarant, its sales agents, representatives and prospective purchasers of Lots, together with the right in Declarant to grant and transfer the same, easements over the Common Area for construction, display, sales offices and incidental parking and exhibit purposes in connection with the construction, development, and sale of Lots within the Property; provided, however, that such use by Declarant and others shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members.

Section 3. Discharge of Rights and Obligations. There is hereby reserved by Declarant, together with the right to grant and transfer the same, easements over the Property for the purpose of permitting the Association, the Board, the Architectural Committee, Declarant and others to discharge their rights and obligations as described in this Declaration.

Section 4. Cable Television/Master Antenna. There is hereby reserved to Declarant the right to place transmission lines and other facilities for a community cable and/or master antenna television system on, under or across the Property, together with the right to grant and transfer such right and such lines and facilities and together with the right to enter upon the Property to service, maintain, repair, reconstruct and/or replace such lines or facilities; provided, however, that the exercise of such rights does not unreasonably interfere with any Owner's reasonable use and enjoyment of his Lot.

Section 5. Grades and Slopes. Declarant hereby reserves the right to make any and all cuts and fills on any Lot and on the Common Area and to do such grading as in its judgment may be necessary to properly grade the Lots and the Common Area.

ARTICLE XI

Insurance

Section 1. Hazard Insurance. The Association shall obtain, if available, and continue in effect full coverage policies for blanket casualty insurance and fire insurance with extended coverage endorsement including vandalism and malicious mischief coverage, if applicable, in an amount equal to one hundred percent (100%) of the full insurable replacement value (replacement cost new including debris removal and demolition) of all improvements to the Common Area and any landscaping, facilities and/or improvements, if any, required to be maintained by the Association. Such policies shall contain clauses waiving rights of subrogation against Owners, the Association, the Board and persons upon the Property with the permission of a Member. Such insurance shall be maintained by the Association for the benefit of the Association. The Board shall annually determine whether the amounts and types of insurance it has obtained pursuant hereto provide adequate coverage as described herein.

Section 2. Improvements on Lots.

(a) If authorized by three-fourths (3/4) of all the Owners by vote or written consent, the Board shall obtain and pay for, out of the Regular Assessments and as a Common Expense, a blanket fire insurance policy, insuring all of the improvements of the full replacement value (replacement cost new including debris removal and demolition) of all said improvements. Such policy shall contain clauses waiving rights of subrogation against Owners, the Association, the Board and persons upon the Property with the permission of a Member. Any such insurance coverage shall be for the benefit of the Owners and each of them and any Beneficiary of any Deed of Trust affecting said Lots or the Association, as their interests shall appear. Within fifteen (15) days thereafter, each Owner shall execute any and all documentation necessary to effectuate fully said coverage with respect to his Lot. The Board shall annually determine whether the amounts and types of insurance it has obtained, if any, pursuant hereto provide adequate coverage as described herein. In the event of damage or destruction by fire or other casualty covered by insurance in accordance with this Section 2(a) affecting the improvements on any Lot, the provisions of Sections 2(b) through (f) below shall apply.

(b) The Board on behalf of the Owner or Owners thereof, shall cause the improvements so destroyed to be repaired or reconstructed as soon as reasonably possible thereafter and substantially in accordance with the original plans and specifications therefor. The Board shall obtain bids (including an obligation to obtain labor, materials and performance bonds) from two or more responsible contractors.

If the Board fails to do so within ninety (90) days after the casualty occurs, the affected Owner or Owners may obtain such bids. Within said ninety (90) day period, the Owner or Owners of the damaged or destroyed improvements may submit two additional bids to the Board.

(c) The Board shall levy a Reconstruction Assessment against the Owners of said damaged or destroyed improvements due and payable on a date fixed by the Board to make up any deficiency between the total insurance proceeds available for reconstruction and repair and the cost of such reconstruction and repair. Insurance proceeds available for reconstruction shall include any proceeds payable to Beneficiaries of Deeds of Trust covering the damaged or destroyed improvements which said Beneficiaries have agreed in writing to commit to reconstruction. Should the Owner of the damaged or destroyed improvements fail to pay said Assessment in full within thirty (30) days after the due date, the Board shall not be obligated to repair or reconstruct the improvements owned by such Owner until such time as the Reconstruction Assessment is paid in full. The Board may proceed to collect said Reconstruction Assessment in accordance with Article IV hereof. Upon payment of the Reconstruction Assessment, the Board shall award the reconstruction or repair work to the lowest responsible bidder.

(d) All insurance proceeds not required to perform said reconstruction and repair work shall be distributed to the Owner of the damaged or destroyed improvements and to the Beneficiaries under any Deeds of Trust against the Lot of such Owner as their interests shall appear.

(e) All insurance proceeds payable as a result of damage or destruction to any improvements shall be paid to a bank or trust company to be held in trust for the benefit of the affected Owners and their Beneficiaries under their Deeds of Trust and the Association as their interests shall appear. The Board is authorized on behalf of the Owners to enter into an agreement with such trustee relative to its powers, duties and compensation.

(f) Nothing herein contained shall be deemed to require a First Beneficiary to commit to reconstruction any insurance proceeds payable to such Beneficiary.

Section 3. Public Liabilities Insurance. The Association shall procure and keep in force public liability insurance in the name of the Association and the Owners against any liability for personal injury or property damage resulting from any occurrence in or about the Common Area in an amount not less than \$500,000.00 in indemnity against the claim of one (1) person in one (1) accident or event and not less than

\$1,000,000.00 against the claims of two (2) or more persons in one (1) accident or event, and not less than \$100,000.00 for damage to property.

Section 4. Fidelity Bond. The Association shall maintain a fidelity bond in an amount equal to one hundred fifty percent (150%) of the annual Regular Assessments, plus reserves, naming the Association as obligee and insuring against loss by reason of the acts of the Board, officers and employees of the Association, and any management agent and its employees, whether or not such persons are compensated for their services.

Section 5. General Provisions. The Association may purchase such other insurance as it may deem necessary. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage as required hereunder. Copies of all such insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and open for inspection by Owners at any reasonable time(s). All such insurance policies shall (i) provide that they shall not be cancellable by the insurer without first giving at least ten (10) days' prior notice in writing to the Association, and (ii) contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners.

Section 6. Governmental Requirements. Anything contained herein to the contrary notwithstanding, the Association shall maintain such insurance coverage as may be required by the Federal Housing Authority, Veterans Administration, Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, as the case may be, so long as any such agency holds, insures or guarantees a Deed of Trust on or owns any Lot.

Section 7. Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association pursuant to this Article and any other insurance deemed necessary by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the Property for which the insurance was carried, or otherwise disposed of as provided in the Article entitled "Destruction of Common Area Improvements" in this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. A majority of the Board may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the Members.

ARTICLE XII

Destruction of Common Area Improvements

In the event of partial or total destruction of improvements upon any Common Area, it shall be the duty of the Association to restore and repair the same to their former condition as promptly as is practical and in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose, subject to the prior rights of Beneficiaries of Deeds of Trust whose interests may be protected by said policies.

ARTICLE XIII

Eminent Domain

Common Area

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Area, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Subject to rights of Beneficiaries, awards received on account of the takings shall be paid to the Association. In the event of a taking of less than all of the Common Area, it shall be the duty of the Association to make any repairs or restoration of landscaped areas affected by the taking. In the event of a total taking, the Board shall retain any award in the general funds of the Association.

ARTICLE XIV

General Provisions

Section 1. Duration. The covenants, conditions, restrictions, easements, reservations, liens and charges of this Declaration shall run with the Property and shall inure to the benefit of and be enforceable as provided herein by the Association, or the Owner, including Declarant, of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, and are imposed upon the Property as a servitude in favor of each and every parcel of land therein as a dominant tenement, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions, restrictions, easements, reservations, liens and charges shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners of the Lots, has been recorded with the Recorder for the County, agreeing to change said covenants, conditions and restrictions in whole or in part. In the event a Lot is owned by more than one Owner, any one of the co-Owners may sign such instrument in writing on the behalf of all co-Owners.

Section 2. Amendment. Subject to the provisions of subsection (c) below, this Declaration may be amended as follows:

(a) Prior to the conveyance of title to a Lot by the Declarant to an Owner other than the Declarant, this Declaration may be amended by a written instrument executed by the Declarant only and recorded with the Recorder for the County.

(b) After a conveyance of any Lot by the Declarant to any Owner other than the Declarant, this Declaration may be amended only by a recorded written instrument which evidences the vote or written consent of the requisite voting class approvals and which is executed by such Members as are provided for below:

(i) If the two-class voting structure provided for in Article II hereof is still in effect, such amendment shall be approved and such written instrument shall be executed by:

(aa) Members controlling a majority of the Class A voting power excluding the Declarant; and

(bb) The Declarant.

(ii) If the two-class voting structure provided for in Article II hereof is no longer in effect, such amendment shall be approved and such written instrument shall be executed by:

(aa) Members controlling a majority of the total voting power of the Association; and

(bb) Members controlling a majority of the Class A voting power excluding the Declarant.

(c) Notwithstanding the above, (i) the provisions of the Articles described in Section 5(b) of this Article XIV shall not be amended without having first obtained the vote or written approval of two-thirds (2/3) of the First Beneficiaries or the Owners (other than the Declarant) and (ii) no provisions in this Declaration shall be amended by a percentage of the voting power of the Association which is less than the percentage required to take affirmative action under that provision.

(d) Any amendment must be properly recorded. In the event a Lot is owned by more than one Owner, any one of the co-Owners may sign such instrument in writing on behalf of all co-Owners.

Section 3. Notices. Any notice required to be sent to any Member or Owner or First Beneficiary under the provisions of this Declaration shall be in writing and shall be deemed to have been properly sent when delivered personally or mailed, postage prepaid, if to an Owner or Member, to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing and if to a First Beneficiary to the address furnished to the Association by such Beneficiary for purposes of notice or if no such address is furnished to any office of the First Beneficiary in the County, or if no such office is located in the County, to any office of the First Beneficiary. In the case of co-Owners, any such notice may be delivered or sent to any one (1) of the co-Owners.

Section 4. Enforcement.

(a) The Association or the Owner of any Lot, including Declarant, shall have the right to enforce by proceedings at law or in equity all covenants, conditions, restrictions, easements, reservations, liens and charges now or hereafter imposed by this Declaration, as amended and supplemented, the Articles and ByLaws, including without limitation the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions, restrictions, easements, reservations, liens or charges to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) Should any Owner fail to comply with the provisions of Article VII hereof and should any such failure continue for a period of thirty (30) days following written notice of such failure from the Board to the Owner, the Association shall have the right, but not the duty, to

correct any such noncompliance, and the cost thereof shall be borne by such Owner. In the event such costs are not paid to the Association within thirty (30) days after the Board has furnished a statement therefor, the Board in the name of the Association shall have the right, but not the duty, to levy a Special Assessment against such Owner to cover the costs of correction, if any, of such noncompliance. No one or more failures or refusals by the Association to accomplish such compliance which an Owner shall have failed to perform shall be deemed a waiver of the right in the Association to perform such work at a later time as to the same or different work or compliance.

(c) The result of every action or omission whereby any covenant, condition, restriction, easement, reservation, lien or charge herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner, either public or private, shall be applicable against every such nuisance and may be exercised by the Association or any Owner, including Declarant, subject to these restrictions.

(d) In any legal or equitable proceeding for the enforcement or to restrain the violation of these covenants, conditions, restrictions, easements, reservations, liens, or charges or any provisions hereof, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

(e) Failure by the Association or by any Owner to enforce any covenant, condition or restriction, easement, reservation, lien or charge herein contained shall in no event be deemed to be a waiver of the right to do so thereafter.

(f) Nothing contained herein shall be deemed to require Declarant to enforce any covenant, condition, restriction, easement, reservation, lien, charge or provision hereof.

Section 5. Severability. Invalidation of any one of these covenants, conditions, restrictions, easements, reservations, liens or charges by judgment or court order shall not in any way affect any other provisions, which shall remain in full force and effect. Declarant makes no warranties or representations express or implied, as to the binding effect or enforceability of all or any portion of this Declaration.

Section 6. Breach of Restrictions, Easements, Conditions, Covenants and Reservations. A breach of any of

the restrictions, easements, conditions, covenants, reservations, liens or charges herein contained shall not defeat or render invalid the lien of any Deed of Trust made in good faith and for value as to any Lot in the Property but said restrictions, easements, conditions, covenants, and reservations, liens and charges shall be binding upon and effective against any Owner thereof whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

Section 7. Headings. Section headings are inserted for convenience only and are not intended to be a part of this document or in any way to define, limit or describe the scope or intent of the particular section to which they refer.

Section 8. Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

Section 9. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose or creating a uniform plan for the development of a residential community with private, social and recreational areas and for the maintenance of such areas.

Section 10. Construction by Declarant. Nothing in this Declaration shall limit the right of Declarant prior to the completion and sale of all Lots within the Property owned by it to commence and complete construction of improvements to the Property or to alter the Property, Lots or Common Area or to construct such additional improvements as Declarant deems advisable for model home sites and incidental parking and for any other purposes for which Declarant may use the Common Area as provided in this Section 10. Declarant shall have the right and an easement to enter upon, use and enjoy and designate and permit others (including without limitation, Declarant's agents, employees, representatives, contractors and prospective purchasers) to enter upon, use and enjoy the Common Area for any purpose in connection with or incidental to (a) the construction, development, sale, lease, or other transfer of the Property (including without limitation the erection, construction, and maintenance of displays, sales offices and incidental parking, exhibits, signs and other structures), (b) the management, operation or maintenance of the Property and/or (c) the exercise of any rights or powers granted hereunder to Declarant; provided, however, that the exercise of any right and easement shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Association. Declarant reserves the right to (i) alter its construction and development plans and designs as it deems appropriate, (ii) convey part or all of the Lots and/or Common Area [except such Lots or

Common Area as have been conveyed to Owners or to the Association] to a successor-in-interest and (iii) to assign part or all of its rights as Declarant under this Declaration. This Declaration shall not limit the right of Declarant at any time prior to conveyance of title to a Lot to a purchaser to establish on such Lot additional licenses, reservations, and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property.

Section 11. Nonliability of Officials. To the fullest extent permitted by law, neither the Board, any committees of the Association nor any member thereof shall be liable to any Member or Owner or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties.

Section 12. Obligations of Owners and Members. The terms and provisions set forth in this Declaration are binding upon all Owners of all Lots, the Association and all Members of the Association. In addition, both the Member and the Lot owned shall be subject to the terms and provisions of the Articles and Bylaws as the same may from time to time be amended. Each Member shall cause the Association to perform all of the duties and obligations of the Association as set forth in this Declaration, the Articles and Bylaws of the Association.

Section 13. Leases of Lots. Any Owner who shall lease his Lot to any person or entity shall be responsible for assuring compliance by such person or entity with all of the covenants, conditions, restrictions, easements, reservations, liens and charges of this Declaration, as amended and supplemented. Any lease agreement between an Owner and a lessee must provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such leases shall be in writing.

Section 14. Mergers and Consolidations. Upon the merger or consolidation of the Association with another association, its properties, rights and obligations of the Association may be transferred to the surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions, restrictions, easements, reservations, liens and charges established by this Declaration, as supplemented and

amended, with respect to the Property together with the covenants, conditions, restrictions, easements, reservations, liens and charges established upon any other property, as one general plan and scheme or in such other plan of administration as the surviving or consolidated corporation deems reasonable.

Section 15. Assignment of Rights and/or Duties.
Any or all of the rights and/or duties, if any, of Declarant herein may be assigned to any other person or entity and upon any such assignment any such person or entity shall, to the extent of such assignment, have the same rights and/or duties as are given to and/or assumed by Declarant herein, and thereupon, Declarant shall be relieved of the performance of any further duty, if any, hereunder.

Section 16. Enforcement of Bonded Obligations.
In the event that the improvements to the Common Area have not been completed prior to the issuance of a Final Subdivision Public Report covering the Property by the Department of Real Estate of the State of California, and the Association is obligee under a bond or other arrangement (hereinafter the "Bond") to secure performance of the commitment of Declarant to complete such improvements, the following provisions shall apply:

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

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, the Board shall call a special meeting of the Members for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the Bylaws dealing with meetings of the Members, but in any event such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting of Members shall be the Owners other than Declarant. A vote at such meeting of a majority of the voting power of such Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XV

Rights of Lenders

Section 1. Priority of Lien. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any Deed of Trust made in good faith and for value encumbering any Lot, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or Trustee's sale, or otherwise, with respect to a Lot except as otherwise provided in this Article.

Section 2. Curing Defaults. A First Beneficiary who acquires title by judicial foreclosure or Trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all Beneficiaries.

Section 3. Resale. It is intended that any loan to facilitate the resale of any Lot after judicial foreclosure or Trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Beneficiaries.

Section 4. Relationship with Assessment Liens.

(a) The lien provided for in the Article entitled "Nonpayment of Assessments" for the payment of Assessments shall be subordinate to the lien of any first Deed of Trust which was recorded prior to the date any such Assessment becomes due.

(b) If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a first Deed of Trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such first Deed of Trust; and (2) the foreclosure of the lien of said first Deed of Trust or sale under a power of sale included in such first Deed of Trust (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure and their successors and assigns, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but

subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

(c) Any First Beneficiary who obtains title to a Lot by reason of any of the Events of Foreclosure or any purchaser at a judicial foreclosure sale shall take title to such Lot free of any lien or claim for unpaid Assessments against such Lot which accrue prior to the time such First Beneficiary or purchaser takes title to the Lot, except for liens or claims for a share of such Assessments resulting from a reallocation of such Assessments to all Lots within the Property.

(d) Nothing in this Section shall be construed to release any Owner from his obligation to pay for any Assessments levied pursuant to this Declaration.

Section 5. Two-Thirds (2/3) Vote of First Beneficiaries.
Except upon the prior written approval of at least two-thirds (2/3) of all First Beneficiaries, based on one (1) vote for each First Deed of Trust held, or two-thirds (2/3) of the Owners other than the Declarant, neither the Association nor the Members shall be entitled to do any of the following:

(a) By act or omission seek to abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common Area; provided, however, the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval;

(b) Amend the provisions of this Article or the provisions of Articles IV, VI, VIII, XI, and XII hereof.

Section 6. Other Rights of First Beneficiaries.
Any First Beneficiary shall, upon written request to the Association, be entitled to:

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

(b) Receive the annual audited financial statements of the Association ninety (90) days following the end of the Association's fiscal year; and

(c) Receive written notice of all annual and special meetings of the Members or of the Board. First Beneficiaries shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give a First Beneficiary

the right to call a meeting of the Board or of the Members for any purpose or to vote at any such meeting.

(d) Receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the Owner whose Lot is encumbered by a Deed of Trust in favor of such First Beneficiary, which default has not been cured within thirty (30) days of a request therefor by the Association; provided, however, the Association shall only be obligated to provide such notice to First Beneficiaries who have previously requested such notice in writing.

Section 7. Beneficiaries Furnishing Information. Beneficiaries are hereby authorized to furnish information to the Board concerning the status of any loan encumbering a Lot.

Section 8. Right of First Refusal. In the event this Declaration is amended to provide for any right of first refusal in the Association or others to purchase a Lot, a First Beneficiary who comes into possession of a Lot pursuant to a judicial foreclosure, a deed in lieu of foreclosure or a trustee's sale shall be exempt therefrom. In addition, conveyances to and from third party foreclosure purchasers and mortgage insurers and guarantors shall also be exempt.

Section 9. Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

Section 10. Notice of Destruction or Taking. In the event that any Lot or Common Area and any improvements thereto, or any portion thereof, is damaged or made the subject of any condemnation proceeding in eminent domain or is otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any First Beneficiary affected by such destruction, taking or threatened taking. As used herein, "damaged" or "taking" shall mean damage to or taking of the Common Area exceeding Ten Thousand Dollars (\$10,000) or damage to or taking of a Lot exceeding One Thousand Dollars (\$1,000). If requested in writing by a First Beneficiary, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Beneficiary.

Section 11. Payments of Taxes or Premiums by First Beneficiaries. First Beneficiaries may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless such taxes or charges are separately assessed against

the Owners; in which case the rights of First Beneficiaries shall be governed by the provisions of their Deeds of Trust. First Beneficiaries may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure a new hazard insurance coverage on the lapse of the policy for the Common Area, and First Beneficiaries making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any First Beneficiary which requests the same to be executed by the Association.

ARTICLE XVI

Annexation

Section 1. Right to Annex. Declarant has and shall have the absolute right, but not the obligation, to impose this Declaration upon any one or more Phases of the Annexation Property, and when accomplished in the manner set forth hereinafter, this Declaration shall be of the same force and effect with respect to such Phase from and after the date of such imposition as if such Annexation Property or any part thereof, was originally subject to this Declaration. Thereafter, such Phase shall be considered a part of the "Property" as that term is used in this Declaration. No property other than the Annexation Property shall be so annexed to the Project unless 66-2/3% of the total votes residing in the Association (other than votes of the Declarant) shall have first been cast in favor of such annexation by ballot or written assent.

Section 2. Annexation Period. Such imposition by the Declarant shall be accomplished, if at all, by the filing for record in the Official Records of the County one or more Declarations of Annexation with respect to the Annexation Property or any portion thereof on or before three (3) years after the date of the issuance of the original Final Subdivision Public Report issued by the California Department of Real Estate for the immediately preceding Phase of development hereunder.

Section 3. Commencement of Assessments. Upon annexation by the Declarant of any Phase of the Annexation Property, Regular Assessments, chargeable to Lots in such Phase shall accrue upon the first conveyance by the Declarant of title to a Lot within such Phase to an Owner other than the Declarant. At the time of commencement of the Regular Assessment, the anticipated and authorized Common Expenses of the Association shall be adjusted to reflect the Common Expenses arising from such annexation, and the Regular Assessment upon each Lot within the Property then subject to Regular Assessment shall be accordingly adjusted so as to apportion all of the Common Expenses equally among all such Lots.

Section 4. Voting Rights. Following annexation and prior to the commencement of the Regular Assessments with respect to any Lots within the Annexation Property, no vote shall be attributable thereto. Upon commencement of the Regular Assessment, the record Owner, including the Declarant, of such Lot shall be entitled to vote on the same basis as all other Owners pursuant to this Declaration.

Section 5. No Amendment to this Article. No amendment, revocation, or rescission of this Article may be had prior to passage of the period of time described in Section 2 above without (i) the written consent of the Declarant and (ii) the recordation of such written consent in the Office of the Recorder of the County.

Section 6. Interest in Common Area. Upon annexation there shall be no modification of the interests of the Owners or the Association in the Common Area as such interests existed prior to such annexation. Any Common Area to be included within the Phase to be annexed shall be conveyed free of all liens and encumbrances, except (i) current real property taxes (which taxes shall be prorated to the date of the transfer) and (ii) reservations, easements, covenants, conditions and restrictions then of record, to the Association by Declarant prior to the conveyance of a Lot within such Phase to an Owner other than the Declarant.

Section 7. Maintenance of Common Area. The obligation and duty of the Association to maintain any Common Area included within the Phase to be annexed shall not commence until such date as Regular Assessments commence on Lots within such Phase pursuant to Section 3 above.

Section 8. Reserves and Deferred Maintenance. In the event the Residences located upon the Lots in the Phase to be annexed hereunder have been occupied and used under a rental program conducted by the Declarant for a period of not less than one (1) year prior to the date of closing of the escrow for the first sale of such a Residence, the Declarant shall, as a condition to the exercise of its power of annexation provided for herein, give the Association a written commitment to pay to the Association, concurrently with the closing of the escrow for such first sale, the appropriate amounts for reserves and deferred maintenance for the Common Area, if any, within the Phase to be annexed.

ARTICLE XVII

Relationship to Community Association

The Property is part of a master planned community generally known as "Bernardo Heights". In addition thereto, the Property is subject to the terms and conditions of that certain Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights (the "Community Declaration"), recorded on September 30, 1980, as File No. 80-319018 of the Official Records of the County, which Community Declaration provides for a "Community Association" which is also subject to the terms and conditions of the "Community Articles" and the "Community Bylaws" (as those terms are defined in the Community Declaration). Notwithstanding anything to the contrary contained in this Declaration, the following provisions shall apply as indicated:

Section 1. Amendments. This Declaration will not be amended, modified or rescinded (i) without the prior written consent of the "Community Board" (as that term is defined in the Community Declaration) and (ii) without the recording of said written consent or consents, as appropriate, in the Office of the County Recorder of the County.

Section 2. The lien of any Assessment imposed on any Lot pursuant to this Declaration shall be subordinate and inferior to the lien of any "Community Assessments" (as that term is defined in the Community Declaration) imposed on such Lot pursuant to the Community Declaration.

Section 3. Easement to Community Association. The officers, agents, employees and independent contractors of the Community Association shall have a nonexclusive easement to enter upon the Property, or any portion thereof, for the purpose of performing or satisfying the duties and obligations of the Community Association as set forth in the Community Declaration, the Community Bylaws, the Community Articles and the rules and regulations of the Community Board and the "Community Architectural Committee" (as that term is defined in the Community Declaration).

Section 4. Supremacy of 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 Community Declaration, the Community Bylaws or the Community Articles. The Association (including without limitation, the Architectural Committee) shall also

be subject to all superior rights and powers which have been conferred upon the Community Association pursuant to the Community Declaration, the Community Bylaws and the Community Articles.

A. Each Owner and such Owner's Lot shall be subject to all of the covenants, conditions, restrictions and provisions contained in the Community Declaration.

B. In the event of any conflict between any of the covenants, conditions, restrictions or provisions of this Declaration, the Bylaws or the Articles with any of the covenants, conditions, restrictions or provisions of the Community Declaration, the Community Bylaws or the Community Articles, then, in such event, the covenants, conditions, restrictions and provisions of the Community Declaration, the Community Bylaws and the Community Articles shall govern and prevail.

ARTICLE XVIII

Special Landscape Requirements and Easements

Section 1. Mandatory Obligation to Landscape Front Yard Areas. The Front Yard Area of each Lot shall be landscaped in accordance with the terms and conditions of Article VI hereof within six (6) months from the date of conveyance of the Lot from the Declarant to the initial Owner. In the event the Front Yard Area of any such Lot is not so landscaped within said time period, the Association may, and the Board is hereby authorized to, cause said Front Yard Area to be so landscaped. In such event, the Owner of said Lot shall immediately reimburse the Association for the cost of such landscaping. The cost of such landscaping shall be a Special Assessment against such Lot and Owner.

Section 2. Mandatory Obligation to Landscape Side Yard and Back Yard Areas. The side yard and back yard areas of each Lot shall be landscaped in accordance with the terms and conditions of Article VI hereof within one (1) year from the date of conveyance of the Lot from the Declarant to the initial Owner. In the event the side yard and back yard areas are not so landscaped within said time period, the Association may, and the Board is hereby authorized to, cause said side yard and back yard areas to be so landscaped. In such event, the Owner of said Lot shall immediately reimburse the Association for the cost of such landscaping. The cost of such landscaping shall be a Special Assessment against such Lot and Owner.

EXECUTED on the date first written above at San Diego,
California.

DECLARANT:

VILLA CREEK,
a California joint venture

By: CHRISTOPHER HOMES DEVELOPMENT,
a California partnership as a
joint venturer

By: CHRISTOPHER HOMES, INC.,
a California corporation,
as a general partner .

By: Christopher C. Gibbs
Christopher C. Gibbs,
President

By: Marquis L. Cummings
Marquis L. Cummings,
Secretary

By: GIBBS HOUSING CORPORATION,
a Texas corporation,
as a general partner .

By: Christopher C. Gibbs
Christopher C. Gibbs,
Vice-President

By: Marquis L. Cummings
Marquis L. Cummings,
Assistant Secretary

By: PROVIDENT INVESTMENT FUND 83,
a California limited partnership
as a joint venturer

By: PROVIDENT CAPITAL CORPORATION,
a California corporation as the
general partner

By: Donald R. McArthur
Donald R. McArthur,
President

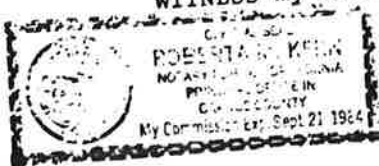
By: Patricia R. Hirai
Patricia Hirai,
Secretary

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

SS:

On July 19, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher C. Gibbs and Marquis L. Cummings, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as President and Secretary, on behalf of Christopher Homes, Inc., a California corporation, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors, said corporation being known to me to be one of the general partners of Christopher Homes Development, a California partnership, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such general partner and that such partnership executed the same.

WITNESS my hand and official seal.



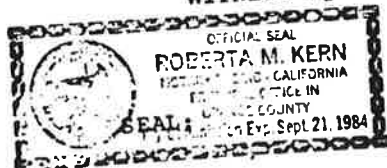
Roberta M. Kern
Notary Public

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

SS:

On July 19, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher C. Gibbs and Marquis L. Cummings, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as Vice-President and Assistant Secretary, on behalf of Gibbs Housing Corporation, a Texas corporation, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors, said corporation being known to me to be one of the general partners of Christopher Homes Development, a California partnership, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such general partner and that such partnership executed the same.

WITNESS my hand and official seal.



Roberta M. Kern
Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

ss:

On this 17th day of July, 1984, before me, a Notary Public in and for said State, personally appeared Donald R. McArthur and Patricia Hirai, known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as President and Secretary, on behalf of said corporation, said corporation being known to me to be the general partner of Provident Investment Fund 83, a California limited partnership, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner, and that such partnership executed the same.

WITNESS my hand and official seal.



Catherine B. Wilder
Notary Public

SEAL:

SUBORDINATION OF FIRST DEED OF TRUST

Whereas, the undersigned, Crocker National Bank, a national banking association, is Beneficiary under those certain deeds of trust recorded on MAY 17, 1984, as File Nos. 84-182915 and 84-182925, respectively, of the Official Records of San Diego County, State of California (collectively, the "Deeds of Trust"), now a lien upon the property more particularly described therein, which property is the subject of this Declaration of Covenants, Conditions and Restrictions executed by Villa Creek, a joint venture, as Declarant (the "Declaration"); and

Whereas, both Trustor and Beneficiary under the Deeds of Trust desire to provide for the Subordination of the Deeds of Trust to the covenants, conditions and restrictions and easements contained in the Declaration;

Now, therefore, in consideration of the premises and the terms hereof and of other good and valuable consideration, receipt of which is hereby acknowledged, the undersigned does hereby covenant and agree that the Deeds of Trust shall be and the same are hereby made SUBJECT AND SUBORDINATE to the Declaration with the same force and effect as if this Declaration had been executed, delivered and recorded prior to the execution, delivery and recordation of the Deeds of Trust.

This Subordination shall inure to the benefit of and shall be binding upon the undersigned, its successors and assigns.

IN WITNESS WHEREOF, this Subordination has been duly executed on this 19th day of July, 1984.

Crocker National Bank
a national banking association

By Diane L. Kaercher
Its Assistant Vice President

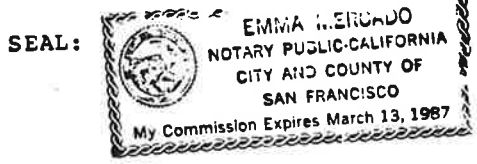
By Cynthia A. Christian
Its Vice President

STATE OF CALIFORNIA)
) SS:
COUNTY OF San Francisco)

On July 19, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared Diane L. Kaercher and Cynthia A. Christian, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as Assistant Vice President and Vice President, on behalf of Crocker National Bank, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

[Signature]
Notary Public



DESCRIPTION OF PROPERTY

The land referred to herein as the Property is described as follows:

Lots 1, 2, 3, 24 through 49, inclusive, and Lot 58 of Bernardo Heights Unit No. 25 in the County of San Diego, State of California, as per Map No. 10796 recorded on December 16, 1983, of the Official Records of said County.

COMMON AREA

The Common Area shall be Lot 58 of said Bernardo Heights Unit No. 25.

Exhibit "A"

LEGAL DESCRIPTION OF ANNEXATION PROPERTY

The land referred to herein as the Annexation Property is described as follows:

Lots 4 through 23, inclusive, and Lots 50 through 57, inclusive, of Bernardo Heights Unit No. 25 in the County of San Diego, State of California, as per Map No. 10796 recorded on December 16, 1983 , in the Official Records of said County.

COMMON AREA

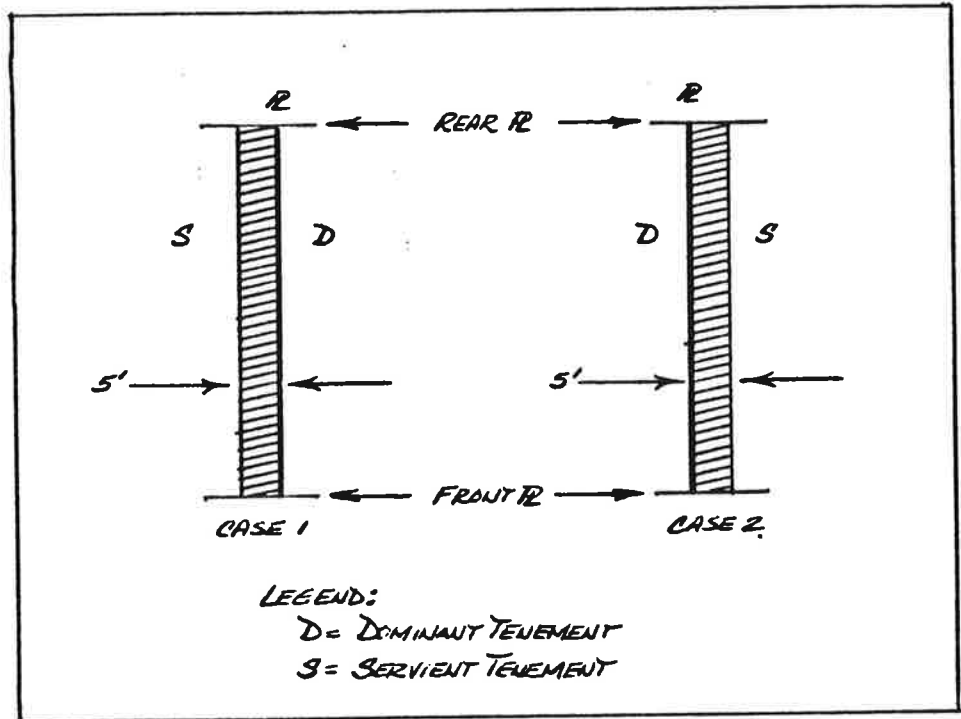
The Common Area shall be Lot 57 of said Bernardo Heights Unit No. 25.

Exhibit "B"

LEGAL DESCRIPTION OF PHASES

1. The first Phase of the Project is the real property described on Exhibit "A" to this Declaration.
2. The second Phase of the Project is the real property described on Exhibit "B" to this Declaration.

EXHIBIT "C"



CASE 1 LOTS 34 THROUGH 41, 44 THROUGH 48, ALL INCLUSIVE

CASE 2 LOTS 2 THROUGH 33, 51 THROUGH 55, ALL INCLUSIVE

EXHIBIT "D"