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FIRST AMERICAN TITLE INSURANCE

D. Livingston
By Authorized Signature

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

MIRA LA PAZ

(Condominium/Planned Unit Development)

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SUBORDINATION AGREEMENT

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made as of September 1, 1989, by MARTIN GOLDBERG, in his capacity as Receiver appointed by the United States District Court, Southern District of California, in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M) (hereinafter referred to as "Declarant"), with reference to the following

RECITALS:

A. Declarant is the duly appointed, qualified and acting Receiver of the real property located in The City of San Diego, County of San Diego, California, which is more particularly described as:

Lots 1 through 7, inclusive, of BERNARDO HEIGHTS UNIT NO. 2 according to Map thereof No. 9562 filed in the Office of the County Recorder of San Diego County, California, on February 20, 1980 ("Real Property")

pursuant to Court Orders entered in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), United States District Court, Southern District of California.

B. The Real Property is planned to be developed as a Common Interest Development which is both a condominium project as defined in §1351(f) of the California CIVIL CODE and a planned development as defined in §1351(k) of the California CIVIL CODE.

C. It is intended to develop the Real Property in three (3) phases as follows:

Phase No.	Residential Property Within Phase	Recreation Area Within Phase	Number of Condominiums	Undivided Fractional Interest in Common Area Within Phase
1	Lots 3 & 5	Lot 4	63	1/63rd
2	Lots 1, 6 & 7		62	1/62nd
3	Lot 2		50	1/50th

D. Each condominium in the Real Property will consist of a separate interest in space shown and described on the Condominium Plan as a Unit, an undivided fractional interest in the Common Area within the phase in which the Unit is located, the exclusive right to use a portion of the Common Area within the phase shown and described on the Condominium Plan as an Exclusive Use Common Area, and an appurtenant membership in MLP HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation ("Association") which will be the management body for the development.

E. The Unit portion of the development will consist of four (4) floor plans varying in size from approximately 1,217 square feet to 1,680 square feet. The buildings in which the Units are located are designed in California/Spanish architectural style with tile roofs. The Common Area in each phase will include private drives, parking and landscaping.

F. The development includes the Recreation Area (hereinafter defined) which will be owned by the Association for the use and enjoyment of the owners of Condominiums within the development. The Recreation Area is part of Phase 1 and will be improved with a swimming pool, cabana, spa, landscaping and a private street.

G. There is no guarantee that all phases will be completed or that the number of Condominiums or the amenities in each phase will be developed as described above. The development will be consistent with the overall development plan submitted to the United States Department of Veterans Affairs and Federal Housing Administration or The City of San Diego, California. Construction of Condominium Units in Phase 1 was completed in August 1989, in Phase 2 in January 1985 (Phase 2 has been occupied as rental units since that time) and it is intended that Phase 3 be completed in September 1991.

H. The Real Property is also a part of the overall planned development of the Community of Bernardo Heights. Each Condominium subject to this Declaration will be subject to assessment by THE COMMUNITY ASSOCIATION OF BERNARDO HEIGHTS, a California nonprofit mutual benefit corporation, and will be subject to the Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights ("Community Declaration"). The Association is the "Neighborhood Association" for the property owned by the members of the Association as that term is defined in the Community Declaration; the property owned by the members of the Association shall constitute a "Neighborhood" as that term is defined in the Community Declaration.

Before selling or conveying any interests in Phase 1, Declarant wishes to subject Phase 1 in accordance with a common plan to certain covenants, conditions and restrictions for the benefit of Declarant and any and all present and future owners of the Real Property.

NOW, THEREFORE, Declarant hereby declares that all of Phase 1 and, upon annexation, each subsequent phase, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are enforceable equitable servitudes as described in the California CIVIL CODE and which are for the purpose of protecting the value and desirability of, and which shall run with, Phase 1 and, upon annexation, each subsequent phase and be binding on all parties having any right, title or interest therein, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1. "Articles" - The Articles of Incorporation of the Association.

Section 1.2. "Association" - MLP HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation.

Section 1.3. "Board" - The Board of Directors of the Association.

Section 1.4. "Bylaws" - The Bylaws of the Association.

Section 1.5. "Common Area" - All portions of the Condominium Property not located within a Unit.

Section 1.6. "Common Expenses" - The expenses of operating the Condominium Property and Recreation Area and any reasonable reserve for such purposes.

Section 1.7. "Community" - The Community of Bernardo Heights, of which the Real Property is a part, which is subject to the Community Declaration.

Section 1.8. "Community Architectural Committee" - The Community Architectural Committee established pursuant to Article VIII of the Community Declaration.

Section 1.9. "Community Articles" - The Articles of Incorporation of the Community Association.

Section 1.10. "Community Assessments" - The assessments levied by the Community Association pursuant to the Community Declaration.

Section 1.11. "Community Association" - The Community Association of Bernardo Heights as defined and established in the Community Declaration.

Section 1.12. "Community Board" - The Board of Directors of the Community Association.

Section 1.13. "Community Bylaws" - The Bylaws of the Community Association.

Section 1.14. "Community Common Area" - All real property in which the Community Association owns an interest for the common use and benefit of the Community Members, their lessees, guests, invitees or patrons. The Community Common Area may include interests held by lease or easement as well as estates in fee.

Section 1.15. "Community Declaration" - The Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, recorded on September 30, 1980 in the Office of the County Recorder of San Diego County, California, as File No. 80-319018, and such amendments thereto as shall from time to time be recorded.

Section 1.16. "Community Member" - Any entity holding membership in the Community Association.

Section 1.17. "Community Rules" - The Rules adopted by the Community Board pursuant to section 3.8 of the Community Declaration.

Section 1.18. "Condominium" - A fee simple estate in the Condominium Property as defined in the California CIVIL CODE consisting of a separate interest in space shown and described in the Condominium Plan as a Unit, the exclusive right to use any appurtenant Exclusive Use Common Area shown and described on the Condominium Plan, and an undivided fractional interest as tenant in common in the Common Area.

Section 1.19. "Condominium Building" - A residential structure containing condominium Units.

Section 1.20. "Condominium Plan" - The Condominium Plan or Plans recorded pursuant to the California CIVIL CODE covering all or a portion of the Condominium Property.

Section 1.21. "Condominium Property" - The real property located in The City of San Diego, County of San Diego, California, more particularly described as:

Lots 3 and 5 of BERNARDO HEIGHTS UNIT NO. 2 according to Map thereof No. 9562 filed in the Office of the County Recorder of San Diego County, California, on February 20, 1980,

and such additions as may be annexed thereto as provided in the Declaration.

Section 1.22. "Declarant" - MARTIN GOLDBERG, in his capacity as Receiver appointed by the United States District Court, Southern District of California, in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), its successors and assigns if such successors or assigns should acquire one or more lots in the Condominium Property (or property which may be annexed to the Condominium Property as provided in the Declaration) from Declarant and the rights of "Declarant" are assigned to them.

Section 1.23. "Declaration" - This Declaration of Covenants, Conditions and Restrictions.

Section 1.24. "Eligible Insurer or Guarantor" - An insurer or governmental guarantor who has requested notice from the Association regarding matters of which an insurer or guarantor is entitled to notice by reason of the Declaration or the Bylaws.

Section 1.25. "Eligible Mortgage Holder" - A holder of a first Mortgage on a Condominium who has requested notice from the Association regarding matters of which a holder is entitled to notice by reason of the Declaration or the Bylaws.

Section 1.26. "Exclusive Use Common Area" - Those portions of the Common Area to which an exclusive right to use is granted to an Owner as shown and described on the Condominium Plan and shall consist of Entries, Patios, Balconies, Garages and Storage.

Section 1.27. "FHA" - The Federal Housing Administration.

Section 1.28. "Member" - An Owner as defined in Section 1.31, Article I of the Declaration.

Section 1.29. "Mortgage" - A deed of trust as well as a mortgage.

Section 1.30. "Mortgagee" - A beneficiary under or holder of a deed of trust as well as a mortgagee.

Section 1.31. "Owner" - The record owner, whether one or more persons or entities, of fee simple title to a Condominium, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.32. "Project" - The entire Real Property above described, including all structures and improvements erected or to be erected thereon, and such additions as may hereafter be brought within the jurisdiction of the Association.

Section 1.33. "Recreation Area" - All real property (including improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

Section 1.34. "Unit" or "Separate Interest" - A separate interest in space as defined in California CIVIL CODE §1351(f) and as shown and described as such on the Condominium Plan; provided, however, that the following are not part of any Unit or Separate Interest: Bearing walls, columns, floors, roofs, foundations, central heating, central refrigeration and central air conditioning equipment, reservoir tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Unit. In interpreting deeds and plans, the then existing physical boundaries of a Unit, whether in its original state or reconstructed in substantial accordance with the original plans therefor, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed and those of the building.

Section 1.35. "VA" - The United States Department of Veterans Affairs.

ARTICLE II

PROPERTY RIGHTS IN RECREATION AREA

Section 2.1. **Title to the Recreation Area.** Declarant will convey fee simple title to the Recreation Area in each phase of the Project to the Association prior to the first conveyance of a Condominium in that phase to an Owner other than Declarant free and clear of all encumbrances and liens, except real property taxes which may be due but are not delinquent, and easements, covenants, conditions and reservations then of record, including those set forth on the Final Subdivision Map within which the Recreation Area is located and in the Declaration and in the Community Declaration. The Recreation Area is intended to be Lot 4 of Map No. 9562 and to be conveyed to the Association in connection with Phase 1 of the Project.

Section 2.2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress, egress and of enjoyment in and to the Recreation Area which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Recreation Area.

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Condominium remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations, after reasonable written notice and an opportunity for a hearing before the Board which satisfies the minimum requirements of §7341 of the California CORPORATIONS CODE as set forth in the Bylaws.

(c) The right of the Association to dedicate or transfer its assets, including all or any part of the Recreation Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Board. Notwithstanding any contrary provisions in the Articles or Bylaws, so long as there is any Recreation Area for which the Association is obligated to provide management, maintenance, preservation or control, no dedication or transfer of all or substantially all of the assets of the Association shall be effective unless approved in accordance with the California CORPORATIONS CODE.

(d) The right of the Association, in accordance with the Articles and Bylaws, to borrow money for the purpose of improving the Recreation Area and to hypothecate any or all real or personal property owned by the Association.

(e) The right of access, ingress and egress over the Recreation Area and the right of installation and use of utilities on the Recreation Area for the benefit of the Lots.

(f) The right of the Board to grant maintenance and utility easements to others over the Recreation Area.

(g) Subject to a concomitant obligation to restore and repair any damage, Declarant and its sales agents, employees and independent contractors shall have:

(i) a non-exclusive easement over the Recreation Area for the purpose of making repairs to the Recreation Area or to the Common Area and Units, provided access thereto is otherwise not reasonably available, and for the purpose of constructing, marketing and maintaining all phases of the Project;

(ii) the right to the non-exclusive use of the Recreation Area for the purpose of maintaining sales offices and signs reasonably necessary to market the Condominiums, for a period of not more than seven (7) years after conveyance of the Recreation Area to the Association, or the sale of all Condominiums within the Project, whichever is first to occur. The use of the Recreation Area by Declarant and its agents shall not unreasonably interfere with the use of the Recreation Area by the Class A Members of the Association.

Section 2.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his rights of enjoyment to the Recreation Area and facilities to the members of his family, his tenants or contract purchasers who reside in his Unit.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 3.1. Membership. Every Owner of a Condominium shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Condominium. Each Owner is obligated to comply with the Declaration, Articles, Bylaws and rules and regulations adopted by the Board. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Condominium to which it is appurtenant, and then only to the purchaser of the Condominium.

Section 3.2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Condominium owned. When more than one person holds an interest in any Condominium, all such persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Condominium.

Class B. Class B Member(s) shall be Declarant and shall be entitled to three (3) votes for each Condominium owned. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following to occur:

(a) Two (2) years following the date of original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report covering Phase 2 or 3 of development of the property described herein, or First Amended Final Subdivision Public Report covering Phase 1 of development of the property described herein; or

(b) Four (4) years following the date of issuance by the California Department of Real Estate of the First Amended Final Subdivision Public Report for the first phase of development of the Project.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 4.1. Creation of Lien and Personal Obligation for Assessments. Declarant, for each Condominium owned, hereby covenants, and each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in the deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments, which shall include an adequate reserve fund for the periodic maintenance, repair and replacement of the Recreation Area and Common Area; and (ii) special assessments. Assessments shall be established and collected as provided in the Declaration. The annual and special assessments, together with interest, late charges, costs and reasonable attorney's fees, shall (except as otherwise provided in Section 4.4 below) be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each assessment is made. The lien shall become effective upon recordation of a notice of delinquency. Each assessment, together with interest, costs, late charges and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Condominium at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, however, the assessment shall remain a lien on the Condominium.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement, maintenance and operation of the Recreation Area and Common Area, for the common good of the Project, and to reimburse the Association for the costs incurred in bringing an Owner into compliance with the Articles, Bylaws, Declaration and rules and regulations adopted by the Board.

Section 4.3. Limitation on Annual and Special Assessments. The Board shall levy annual and special assessments sufficient to perform the obligations of the Association as provided in the Declaration and Bylaws; provided, however:

(a) until January 1st of the year immediately following the conveyance of the first Condominium to an Owner other than Declarant, the annual assessment for a Condominium shall not exceed \$2,200.

(b) except for assessment increases necessary for emergency situations, the Board may not impose an annual assessment that is more than twenty percent (20%) greater than the annual assessment for the Association's preceding fiscal year nor special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expense of the Association for the fiscal year without the approval of Owners casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with §7510) of Part 3 of Division 2 of Title 1 of the California CORPORATIONS CODE and §7613 of the California CORPORATIONS CODE at which a quorum was present or participated. For purposes of this Section 4.3, "quorum" means more than fifty percent (50%) of the Owners. An emergency situation is any one of the following:

(i) an extraordinary expense required by an order of a court;

(ii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety in the Project is discovered;

(iii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget under CIVIL CODE §1365. However, prior to the imposition or collection of an assessment under this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of assessment;

(c) the term "annual assessment for the Association's preceding fiscal year" as used in Subsection 4.3(b) above, is deemed to be the annual

assessment which would have existed in the absence of any subsidy of assessments paid by Declarant;

(d) anything contained in this Section 4.3 to the contrary notwithstanding, the limitation on annual and special assessments shall comply with the laws of the State of California at the time the annual or special assessment is levied by the Association.

Section 4.4. Individual Special Assessments. The Association may also impose a special assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Condominium into compliance with the provisions of the Declaration, the Articles, the Bylaws and the Association rules and regulations, which assessment may be imposed upon the vote of the Board after notice and an opportunity for a hearing which satisfy the requirements of §7341 of the California CORPORATIONS CODE, as set forth in the Bylaws; provided, however, that except to the extent such special assessment is to reimburse the Association for the cost of collecting assessments, the special assessment shall not constitute a lien on the Owner's Condominium.

Section 4.5. Rate of Assessments. Both annual and special assessments (other than (i) special assessments imposed by reason of non-compliance with the Condominium documents; or (ii) special assessments to raise funds for the rebuilding or major repair of a portion of the structural Common Area) shall be levied upon each Condominium at a uniform rate, and may be collected on a monthly basis or otherwise as determined by the Board. A special assessment against Members to raise funds for the rebuilding or major repair of a portion of the structural Common Area shall be levied upon the basis of the ratio of the square footage of the floor area of the Unit of the Condominium to the total square footage of the aggregate floor area of the Units in all Condominiums to be assessed. A special assessment against a Member to reimburse the Association for costs incurred in bringing the Member and his Condominium into compliance with the provisions of the Condominium documents shall be assessed only against that Member and his Condominium. Any assessment not paid within fifteen (15) days after the due date shall be delinquent. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from thirty (30) days after the due date until paid in full. A late charge may be imposed by the Board subject to the limitations imposed by the California CIVIL CODE.

Section 4.6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Condominiums in each phase of the Project on the first day of the month following the conveyance of the first Condominium to an Owner in that phase, or on the first day of the month following the conveyance of record of the Recreation Area in that phase, if any, to the Association, whichever shall first occur. The first annual assessment shall be adjusted according to the number of months remaining

in the calendar year. The Board shall fix the amount of the annual assessment against each Condominium at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject to the assessment. The due dates for payment of assessments shall be established by the Board.

Section 4.7. Effect of Non-Payment of Assessments; Remedies of the Association.

Any assessment made in accordance with this Declaration shall be a debt of the Owner of a Condominium from the time the assessment is due. At any time after any assessments levied by the Association affecting any Condominium have become delinquent, the Board may file for recording in the Office of the San Diego County Recorder a notice of delinquency as to the Condominium, which notice shall state all amounts which have become delinquent with respect to such Condominium and the costs, including attorney's fees, late charges and interest which have accrued thereon, the amount of any assessments relating to the Condominium which is due and payable although not delinquent, a description of the Condominium with respect to which the delinquent assessments are owed, and the name of the record or reputed record Owner of the Condominium. The notice shall be signed by an officer of the Association.

Immediately upon recording of any notice of delinquency pursuant to this Section, the amounts delinquent, as set forth in such notice, together with the costs, attorney's fees, late charges and interest, shall (except as otherwise provided in Section 4.4 above) be and become a lien upon the Condominium described in the notice, which lien shall also secure all other payments and/or assessments which shall become due and payable with respect to the Condominium following the recording, and all costs, attorney's fees, late charges and interest. When a notice of delinquency has been recorded, the assessment shall constitute a lien on the Condominium prior and superior to all other liens, except (i) taxes, bonds, assessments and other levies which, by law, would be superior; and (ii) the lien or charge of any first Mortgage of record.

In the event the delinquent assessments and all other assessments which have become due and payable with respect to the same Condominium, together with all costs, attorney's fees, late charges and interest, are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of the lien.

Each assessment lien may be foreclosed in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to the California CIVIL CODE, and to that end a power of sale is hereby conferred upon the Association. The Association, acting on behalf of the Owners, shall have the power to bid for the Condominium at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the Condominium. Suit to recover a money

judgment for unpaid assessments, costs, interest, attorney's fees and late charges shall be maintainable without foreclosing or waiving the lien.

Section 4.8. Subordination of the Lien to First Deeds of Trust and First Mortgages.

The lien of the assessments, interest, costs, attorney's fees and late charges shall be subordinate to the lien of any first Mortgage upon any Condominium. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien as to payments which became due prior to such the sale or transfer. No sale or transfer shall relieve the Condominium from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Condominium obtains title as a result of foreclosure, the acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to the Condominium which became due prior to the acquisition of title to the Condominium by the acquirer. The unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Condominiums, including the acquirer, his successors and assigns.

Section 4.9. Treatment of Monetary Penalty. A monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Declaration, Bylaws or rules of the Association or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Recreation Area or Common Area for which the Member was allegedly responsible or in bringing the Member and his Condominium into compliance with the Declaration, Bylaws or rules of the Association, shall not be treated as an assessment which may become a lien against the Member's Condominium enforceable as provided in the California CIVIL CODE. This Section shall not apply to charges imposed against an Owner which are reasonable late payment penalties for delinquent assessments nor charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent assessments.

Section 4.10. Estoppel Certificate. The Association shall furnish, upon demand by any person, a certificate signed by an officer of the Association setting forth whether the assessments on a Condominium have been paid. A properly executed certificate of the Association as to the status of assessments on a Condominium is binding upon the Association as of the date of its issuance.

Section 4.11. Personal Liability of Owner. No Owner may exempt himself from personal liability for assessments levied by the Association, nor release the Condominium owned by him from liens and charges by waiver of the use or enjoyment of any of the Recreation Area or Common Area or by abandonment of his Condominium.

Section 4.12. Taxation of Association. In the event that any taxes are assessed against the Recreation Area or Common Area or the personal property of the Association, rather than against the individual Condominiums, the taxes shall be added to the annual assessments and, if necessary, a special assessment may be levied against the Condominium in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

Section 4.13. Capitalization of Association. Upon acquisition of record title to a Condominium from Declarant, each Owner shall contribute to the capital of the Association an amount equal to one-sixth (1/6) the amount of the then annual assessment for that Condominium. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed from the escrow to the Association. Amounts paid pursuant to this Section 4.13 shall not be considered as advance payments of assessments and are in addition to and not in lieu of annual and special assessments of the Association.

ARTICLE V

COMMUNITY ASSOCIATION

Section 5.1. Easement to Community Association. The officers, agents, employees and independent contractors of the Community Association shall have a non-exclusive easement to enter upon the Real 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, the Community Rules and the rules and regulations of the Community Architectural Committee.

Section 5.2. Subordination of Assessment Lien. Anything contained in this Declaration to the contrary notwithstanding, the lien of any assessment imposed upon any Condominium pursuant to this Declaration shall be subordinate and inferior to the lien of any assessment imposed upon such Condominium pursuant to the Community Declaration.

Section 5.3. Community Association Assessments. Declarant, for each Condominium it owns, hereby covenants, and each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, does and is hereby deemed to covenant and agree to pay to the Community Association the Community Assessments imposed upon such Condominium pursuant to the Community Declaration. The Community Assessments shall be levied and collected as provided in the Community Declaration.

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

The Community Association, in its sole and absolute discretion, may elect to administer, levy, collect and enforce the assessments by the Association provided for under this Declaration. All such funds collected by the Community Association shall be utilized in the manner and for the purposes specified in this Declaration and in the Community Declaration, the Community Bylaws, the Community Articles, the Community Rules and the rules and regulations of the Community Architectural Committee.

Section 5.4. Enforcement. Breach of any of the limitations, restrictions, conditions and covenants set forth in this Declaration or the continuation thereof may be enjoined, abated or remedied by appropriate legal proceedings by the Community Association. The Community Association shall be deemed to be an entity which may enforce the provisions of this Declaration. The failure of the Community Association to enforce any of said limitations, restrictions, conditions or covenants shall not constitute a waiver of the right to enforce the same thereafter. No liability shall be imposed on, or incurred by, the Community Association as a result of such failure. The prevailing party in any action at law or in equity instituted by the Community Association to enforce or interpret said limitations, restrictions, conditions or covenants, shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorney's fees.

Section 5.5. 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, Community Bylaws or Community Articles. The Association (including, without limitation, the Architectural Committee of the Association) 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.

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

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 VI

RESPONSIBILITIES OF MAINTENANCE

Section 6.1. Owner Maintenance of Unit. Each Owner shall be responsible for the maintenance and repair of the doors and windows, including metal frames and tracks, enclosing his Unit, the interior of his Unit and all appliances whether "built-in" or freestanding within the Unit, the interior surfaces of the Unit, and the plumbing, electrical and heating systems servicing his Unit and located within the outside perimeter of the exterior bearing walls, floors and ceilings thereof, including television cable equipment and connections, and all appliances and equipment located within or without said Unit, so long as those systems are used exclusively by such Owner and not in common. Each Owner shall also be responsible for the maintenance and repair of the Entry, Balcony, Patio and Garage area which he has the exclusive right to use, including the interior surfaces of any fence or railing (but not the exterior surfaces), and shall make such repairs as the Board deems necessary to preserve the attractive appearance and protect the value thereof.

Section 6.2. Owner's Grant of Easements. Each Owner grants easements to other Owners to enter into each Unit and to have utility companies enter into Units to repair the plumbing, heating and electrical systems located thereon, subject to the following limitations. Entry into a Unit for emergency purposes may be immediate; provided, however, such entry shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party. Entry into a Unit for other than emergency repairs shall be made only after three (3) days notice has been given to the Owner and shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party.

Section 6.3. Association Maintenance of Common Area. Except as otherwise provided herein, the Association acting through the Board and its officers shall have the sole and exclusive right and duty to manage, operate, control, repair, replace or restore all of the Common Area or any portion thereof, together with the improvements, trees, shrubbery, driveways, plants and grass thereon, including all vehicular parking spaces, and the private water and sewer systems, all as more fully set forth in the Declaration, the Articles and Bylaws. In the event any maintenance or repair results from the act or neglect of an Owner or his guests or licensees, the Owner shall reimburse the Association for such maintenance or repair.

Section 6.4. Association Maintenance of Recreation Area. The Association shall maintain and provide for the maintenance of all the Recreation Area and all improvements, including streets, private sewers and private storm drains, thereon in good repair and appearance. The Association shall provide landscaping and gardening properly to maintain and periodically replace when necessary the trees, plants, grass and other vegetation originally placed in the Recreation Area, pursuant to landscape plans submitted to The City of San Diego and approved by the City in connection with approval of the Project.

Section 6.5. Association Maintenance of Landscaping. Landscaping and irrigation systems within the Common Area and Recreation Area shall be maintained to standards that are at least in accordance with specifications set forth in the Bylaws. Notwithstanding the foregoing, the Association shall perform all landscaping required by the City of San Diego. In addition, at least once during every consecutive three-month period beginning six (6) months after the first conveyance of a Condominium to an Owner other than Declarant, the Board shall conduct a physical inspection of the landscaping and irrigation systems in the Project. The Board shall make a written report of observations made during the inspection and present the report to the Members at the then next regularly scheduled meeting of Members. The report shall be made a part of the written minutes of such meeting. The Association may employ the services of a professional landscape architect, maintenance contractor or other professional person to assist the Association in performing its duties under the Declaration. There is hereby created a non-exclusive easement in favor of the Association, its officers, agents, employees and independent contractors, to conduct inspections and to provide maintenance, repair and replacement of the landscaping and irrigation systems on the Common Area and Recreation Area.

Section 6.6. Association Right of Entry. For the purpose of performing the maintenance of the Recreation Area or Common Area or for any other purpose reasonably related to the performance by the Board of its responsibilities under the Declaration, the Association agents and employees shall have the right to enter any Unit or upon any portion of the Common Area and Recreation Area. Entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by the Association. Entry into a Unit for other than emergency repairs shall be made only after not less than three (3) days' notice has been given to the Owner.

Section 6.7. Association Right to Adopt Rules. The Board shall have the right to adopt reasonable rules not inconsistent with the provisions contained in this Declaration, and to amend the rules from time to time relating to the use of the Recreation Area and Common Area and the recreational and other facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to automobile parking, outside storage of boats, trailers, bicycles and other objects, disposal of waste materials, drying of laundry, control of pets and other activities which, if not so regulated,

might detract from the appearance of the community or offend or cause inconvenience or danger to persons residing or visiting therein. The rules may provide that the Owner of a Condominium whose occupant leaves property on the Recreation Area or Common Area in violation of the rules may be assessed (on a non-lien basis) to cover the expense incurred by the Association in removing the property and storing or disposing of it, after appropriate notice and an opportunity for a hearing before the Board and a two-thirds (2/3) vote of approval by the Board. The Board may suspend the voting rights and right to use the recreational facilities located on the Recreation Area and Common Area of a Member who is in default in the payment of any assessment for any period during which such assessment remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations, after reasonable written notice and an opportunity for a hearing before the Board as set forth in the Bylaws which satisfies the minimum requirements of §7341 of the California CORPORATIONS CODE.

Section 6.8. Association Right to Grant Permits. The Board shall have the right to grant permits, licenses and easements over, under, upon and across the Recreation Area and Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, fence, wall, patio cover or other structure or improvement shall be commenced, erected, placed or altered upon the Recreation Area or Common Area (including the Exclusive Use Common Area) until the location and complete plans and specifications showing the nature, kind, shape, height and materials, including the color scheme, have been submitted to and approved in writing as to harmony of external design and location of surrounding structures and topography by the Board, or by an architectural committee appointed by the Board and composed of three (3) or more, but not to exceed five (5), representatives. In the event the Board or its designated committee fails to approve or disapprove such locations, plans and specifications or other requests within thirty (30) days after the submission thereof to it, then such approval will not be required, provided that any structure or improvement so erected or altered conforms to all of the conditions and restrictions herein contained, and is in harmony with similar structures erected within the Project. The grade, level or drainage characteristics of the Condominium Property or any portion thereof, shall not be altered without the prior written consent of the Board or its designated committee. The provisions of this Article shall not apply to the initial construction of Condominiums or other improvements to the Condominium Property or Recreation Area, and neither the Board nor any committee appointed by the Board shall have any authority or right to approve or disapprove the initial construction

by Declarant of Condominiums or other improvements to the Condominium Property or Recreation Area.

ARTICLE VIII

SEPARATION OF INTEREST AND PROHIBITION OF PARTITION

Section 8.1. Separation of Interest. No Owner may sell, assign, lease or convey (i) his interest in the Common Area separate and apart from his Unit; nor (ii) his interest in any Exclusive Use Common Area separate and apart from his interest in the Common Area and Unit.

Section 8.2. Prohibition of Partition. Each of the Owners of a Condominium, whether such ownership is in fee simple or as a tenant in common, is hereby prohibited from partitioning or in any way severing or separating such ownership from any of the other ownerships in the Condominium Property, except upon the showing that: (i) more than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part thereof was unfit for its use and the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or (ii) that three-fourths (3/4) or more of the Project has been destroyed or substantially damaged, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; or (iii) that the Project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; provided, however, that if any Condominium shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing herein shall be deemed to prevent a judicial partition as between such co-tenants and no Condominium may be partitioned or subdivided without the prior written approval of the Mortgagee holding the first Mortgage on that Condominium.

Section 8.3. Power of Attorney. The Association is hereby granted an irrevocable power of attorney to sell the Condominium Property for the benefit of all the Owners when the partition of the Owners' interests in the Condominium Property may be had pursuant to Section 8.2 above. The power of attorney herein granted may be exercised upon the vote or written consent of Owners holding in the aggregate at least two-thirds (2/3) of the interest in the Common Area by any two (2) Members of the Board who are hereby authorized to record a certificate of exercise in the Office of the County Recorder of San Diego County, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith; provided, however, that the power of attorney shall not apply to the Secretary of Veterans Affairs, an officer of the United States of America.

ARTICLE IX

RIGHT OF MORTGAGEES

Section 9.1. Actions Requiring Mortgagee Approval. Provided that the Mortgagee informs the Association in writing of its appropriate address and requests in writing to be notified, neither the Association nor any Owner shall do any of the following, unless the Mortgagees of first Mortgages encumbering at least sixty-seven percent (67%) of the Condominiums which are encumbered by a mortgage have given their prior written approval:

(a) Seek, by act or omission, to abandon the Condominium Project or to terminate the Condominium Plan or the Declaration (whether or not because of any destruction of the Project), or change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or the exterior appearance or maintenance of Units, the Recreation Area or the Common Area;

(b) Change the *pro rata* interest or obligations of any Condominium for purposes of levying assessments or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the *pro rata* share of the Common Area appurtenant to each Unit;

(c) Partition or subdivide any Condominium;

(d) Seek, by act or omission, to abandon, partition, subdivide, encumber, sell or transfer the Recreation Area or Common Area; provided, however, that the granting of easements for public utility or other public purposes consistent with the uses of the Recreation Area or Common Area shall not be deemed a transfer within the meaning of this provision;

(e) Use hazard insurance proceeds for losses to any portion of the Condominium Property or Recreation Area for other than the repair, replacement or reconstruction of the Condominium Property or Recreation Area, except as may be provided by statute upon substantial loss to the Unit, Recreation Area or Common Area;

(f) Fail to maintain fire and extended coverage insurance on the Common Area and improvements thereto and the Recreation Area and improvements thereto on a current replacement cost basis in an amount less than one hundred percent (100%) of the insurable value, based on current replacement cost.

Section 9.2. Notification to Mortgagee. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Condominium number or address, any Eligible Mortgage Holder or Eligible Insurer or Guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium on which there is a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, as applicable.

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium subject to a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent specified percentage of Eligible Mortgage Holders as required in the Bylaws or in the Declaration.

ARTICLE X

DESTRUCTION OF COMMON AREA, RECREATION AREA OR UNITS

Section 10.1. Casualty Destruction of Common Area. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) If the cost of repairing or rebuilding does not exceed the amount of the available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, the Board shall contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications.

(b) If the cost of repairing or rebuilding exceeds the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, and if the Owners holding in aggregate more

617,903
x .05
189,515

5% of gross
expenses of
assn 1991
budget

than fifty percent (50%) interest in the Common Area agree to the repair or restoration of the Project, then the Board shall contract as provided in Subsection (a) above.

(c) If the Owners do not agree to the repair or rebuilding of the Common Area as provided in Subsection (b) above, then each Owner (and his Mortgagee(s) as their respective interests then appear) shall be entitled to receive that portion of the insurance proceeds equal to the proportion of the decrease in fair market value of his Condominium as compared to the aggregate decrease in the fair market values of all the Condominiums caused by such damage or destruction. For purposes hereof, fair market value shall be determined by a member of the American Institute of Real Estate Appraisers selected by the Board and hired by and at the expense of the Association. Should dispute arise as to the distribution of insurance proceeds, the dispute shall be decided by arbitration by the American Arbitration Association pursuant to its Commercial Rules of Arbitration.

(d) Anything in Subsection (c) above to the contrary notwithstanding, the Board shall contract for such repair or rebuilding of Common Area which consists of Condominium Building(s) containing Units (or portions thereof and/or improvements thereto) if fifty percent (50%) or more of the Owners owning Units in the Condominium Building(s) agree to the repair or restoration of the Condominium Building(s).

(e) If a bid to repair or rebuild is accepted, the Board shall levy a special assessment against each Condominium in the proportion the Condominiums are assessed, pursuant to Section 4.5 of Article IV of this Declaration, for purposes of raising funds for the rebuilding or major repair of a portion of the structural Common Area, to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to the account of the Association to be used for such rebuilding.

Section 10.2. Taking of Common Area. If any portion of the Common Area is taken by condemnation, eminent domain or any proceeding in lieu thereof, and the award therefor is not apportioned among the Owners (and their Mortgagees as their respective interests then appear) by court judgment or by agreement between the condemning authority and each of the affecting Owners, then the Owners of the Common Area (and their Mortgagees as their respective interests then appear) shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds will be distributed pursuant to Subsection (c) of Section 10.1 above; provided, however,

that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in Section 10.1 for repairing damaged or destroyed portions of the Common Area. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in Section 10.1 for determining whether to rebuild or repair following damage or destruction.

Section 10.3. Casualty Destruction of Unit. In the event of damage or destruction to any Unit, the Owner shall reconstruct the same as soon as reasonably practicable and substantially in accord with the original plans and specifications; provided, however, that the Owner may, with the written consent of the Board, reconstruct or repair the Unit pursuant to new or changed plans and specifications. In the event the Board fails to approve or disapprove the changed plans and specifications within sixty (60) days of the receipt thereof, they shall be deemed to have been approved.

Section 10.4. Taking of Unit. In the event of any taking of a Unit, the Owner (and his Mortgagees as their interests may then appear) of the Unit shall be entitled to receive the award for such taking and after acceptance thereof he (and his Mortgagee) shall be divested of any further interests in the Condominium Property if such Owner shall vacate his Unit as the result of such taking. In such event, the Owner shall grant his remaining interests in the Common Area appurtenant to the Unit so taken, if any, to the other Owners owning a fractional interest in the same Common Area, the grant to be in proportion to the fractional interest in the Common Area then owned by each other Owner.

Section 10.5. Taking of Recreation Area. In the event the Recreation Area or any portion thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, then the award or consideration for such taking or transfer shall be paid to and belong to the Association.

Section 10.6. Association Insurance. The Association shall obtain and continue in effect the following insurance:

- (a) A master fire insurance policy with glass coverage and extended coverage endorsement for the full insurable value of all of the improvements within the Project. "Improvements" means and refers to the Common Area together with those appliances and improvements located within the Units provided by Declarant to the initial Owners of Condominiums and only includes items provided by Declarant. The form and content of the policy must be satisfactory to all institutional first Mortgagees and shall meet the

maximum standards of the various institutional first Mortgagees whose loan(s) encumber any of the Condominiums.

(b) A public liability and property damage insurance policy with cross liability endorsement, if available, insuring the Association, any manager, the Declarant and the Owners against liability incident to ownership or use of the Recreation Area and Common Area. The limits of such insurance shall not be less than \$1,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence.

(c) If requested by Members of the Association who have at least ten percent (10%) of the Association's voting power or any first Mortgagee or any insurer or governmental guarantor of any first Mortgage, a fidelity bond covering Members of the Board, officers and employees of the Association, and employees of any manager or managing agent, whether or not such persons are compensated for their services, naming the Association as obligee and written in an amount equal to the amount of funds held by the Association during the term of the bond but not less than one-fourth of the estimated annual operating expenses of the Association, including reserves. A fidelity bond shall be obtained if any first Mortgage is acquired by the Federal National Mortgage Association ("FNMA") or is guaranteed by the VA.

(d) Workers' compensation insurance covering any employees of the Association.

(e) A standard all risk of loss perils insurance policy under an extended coverage casualty policy in the amount of the maximum insurable replacement value of all improvements to the Recreation Area, a policy covering all loss to personalty owned by the Association insured with coverage in the maximum insurable fair market value of such personalty as determined annually by an insurance carrier selected by the Association. Insurance proceeds for improvements in the Recreation Area and personalty owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction, the Association shall cause the same to be replaced, repaired or rebuilt if it occurred in the Recreation Area. In the event the cost of such replacement, repair or rebuilding of Recreation Area (i) exceeds the insurance proceeds available therefor; or (ii) no insurance proceeds are available therefor, the deficiency or full cost thereof shall be assessed to the Owners as a special assessment pursuant to Section 4.1 above.

Insurance premiums for the insurance policies set forth above shall be a Common Expense to be included in the annual assessments levied by the Association. Each Owner shall be responsible to pay any deductible amount for any loss to his Condominium. Each Owner may separately insure the improvements not covered by the master fire insurance policy and personal property within his Unit. No Owner shall insure his Condominium in any manner which would cause any diminution in insurance proceeds from the master policy. Should any Owner violate this provision he shall be responsible to the Association for any such diminution. 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 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. Anything contained herein to the contrary notwithstanding, the Association shall maintain such insurance coverage as may be required by the FNMA so long as FNMA holds a mortgage on or owns any Condominium.

Section 10.7. Mortgagee Approval. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with original plans and specifications, unless other action is approved by Eligible Mortgage Holders of first Mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Mortgage Holders' Mortgages.

ARTICLE XI

USE OF UNITS AND COMMON AREA AS DESCRIBED IN CONDOMINIUM PLAN

Section 11.1. Residential Purposes. Each Unit shall be improved, used and occupied for private, single-family dwelling purposes only, and no portion thereof nor the Common Area shall be used for any commercial purpose whatsoever; provided, however, Declarant may use any of the Units and Exclusive Use Common Areas owned or leased by Declarant as model homes and sales offices during that period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums in the Project are sold and conveyed by Declarant to separate owners thereof or seven (7) years after the first escrow closes, whichever first occurs.

Section 11.2. Lease of Condominium. Each Owner shall have the right to lease his Condominium, provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of this Declaration, the Bylaws and the rules and regulations of the Board, and that the failure to comply with the provisions of these

documents shall be a default under the lease. With the exception of a lender in possession of a Condominium following a default under a first Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Owner shall lease his Condominium for transient or hotel purposes. Any lease which is either for a period of less than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes.

Section 11.3. No Use Causing Loss of Insurance. No Unit, Exclusive Use Common Area or improvements situated therein shall be occupied or used for any purpose or in any manner which shall cause such improvements to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any such policy or policies representing such insurance to be cancelled or suspended, or the company issuing the same to refuse renewal thereof.

Section 11.4. Pets. Not exceeding two (2) usual and ordinary household pets (exclusive of caged birds or aquarium fish) neither of which weighs more than 40 pounds may be kept in any Unit or Exclusive Use Common Area without the prior written consent of the Board. Pets shall not be allowed on other portions of the Recreation Area or Common Area except as may be permitted by rules made by the Board. Except as provided hereinabove, no animals, livestock, birds or poultry shall be brought within the Condominium Property or kept in any Unit or on any portion of the Common Area. No pet shall be permitted to be kept within any portion of the Condominium Property if it makes excessive noise or otherwise constitutes an unreasonable annoyance to other Owners.

Section 11.5. Nuisance. No Unit or Exclusive Use Common Area shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other such areas or annoy them by unreasonable noise or otherwise, nor shall any nuisance be committed or permitted to occur in any Unit nor on the Common Area.

Section 11.6. Sign Control. No signs other than one sign of customary and reasonable dimensions advertising a Condominium for sale or lease shall be erected or displayed in any Unit so that it is visible from without such Unit without the prior written permission of the Board. All signs must conform with applicable governmental ordinances. No signs shall be erected or displayed on the Common Area or Recreation Area except signs placed by authority of the Board. Anything contained in this Declaration to the contrary notwithstanding, Declarant shall have the right to install and maintain during the sales period set forth in Section 11.1 above, such signs, poles and advertisements as it deems appropriate in connection with its sales program for the sale to the public of Condominiums.

Section 11.7. Outside Antennae. There shall be no outside television or radio antennae, masts, poles or flag poles constructed, installed or maintained on the Condomini-

um Property for any purpose whatsoever other than one master television antenna system which may be installed by Declarant or at the Board's direction.

Section 11.8. Owner Not to Alter Common Area. Except as otherwise specifically provided herein, nothing herein contained shall give the Owner the right to paint, decorate, remodel, landscape or adorn any part or parcel of the Common Area without the written consent of the Board.

Section 11.9. No Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or on the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners other than construction or repair of improvements made at the Board's instruction or at Declarant's instruction. Nothing shall be done in any Unit or in, on or to the Common Area which will impair the structural integrity of any building, or which would structurally change any building located therein. Except as otherwise provided herein, nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Board or an architectural committee appointed by the Board. All equipment, garbage cans, wood piles or storage piles shall be kept screened and concealed from view of neighboring Units, streets and Common Area. All rubbish, trash or garbage shall be regularly removed from each Unit, and shall not be allowed to accumulate thereon or on the adjacent Common Area. No fences, hedges or walls shall be erected or maintained upon the Condominium Property except such as are installed in accordance with the initial construction of the buildings located on the Condominium Property or as allowed by the Board. No exterior clotheslines shall be erected or maintained, and there shall be no outside drying or laundering of clothes on the Common Area, except in areas which may be approved by the Board.

Section 11.10. Power Equipment. No power equipment, hobby shops or car maintenance (other than emergency work) shall be permitted on the Condominium Property, except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

Section 11.11. Use of Common Area. Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

- (a) affording vehicular passage and pedestrian movement within the Condominium Property, including access to the Units;

(b) recreational use by the Owners and occupants of Units in the Condominium Property and their guests, subject to rules established by the Board;

(c) beautification of the Common Area and providing privacy to the residents of the Condominium Property through landscaping and such other means as the Board shall deem appropriate;

(d) parking of automotive passenger vehicles in areas provided therefor as may be designated and approved by the Board by such persons, upon such terms and conditions as may from time to time be determined by the Board. Each parking space shall be permanently maintained as a parking space and shall not be converted to any other use. No charge shall be made for the use of parking spaces;

(e) as Exclusive Use Common Areas to be used in the manner hereinafter described. Nothing herein shall be deemed to allow persons other than the Owner of a Unit to which an Exclusive Use Common Area is appurtenant (or his tenants and lessees) to enjoy the use thereof;

(f) as sales offices and for display to prospective purchasers of Condominiums for the period described in Section 11.1 above;

(g) for such other purposes as the Board may authorize consistent with the Declaration or as provided in the Declaration.

No part of the Common Area shall be obstructed so as to interfere with its use for the purposes hereinabove permitted, nor shall any part of the Common Area be used for storage purposes (except as incidental to one of such permitted uses, or for storage of maintenance equipment used exclusively to maintain the Common Area or in storage areas designated by the Board), nor in any manner which shall increase the rate of which insurance against loss by fire, or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or bodily injury, or property damage liability insurance covering the Common Area and improvements situated thereon may be obtained, or cause such premises to be uninsurable against such risks or any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse renewal thereof.

Section 11.12. Additional Use. The Board shall have the right to allow one or more Owners exclusively to use portions of the otherwise nonexclusive Common Area, provided that such portions of the Common Area are nominal in area and adjacent to the Owner's Exclusive Use Common Area(s) or Unit, and, provided further, that such use does not

unreasonably interfere with any other Owner's use or enjoyment of the Project. Each Owner shall also have the right to use those portions of the Common Area in which Declarant has installed heating, air conditioning or solar panel equipment for purposes of serving that Owner's Unit as part of the initial construction of the Project, or which is thereafter installed by the Owner; provided, however, that no installation shall be made by an Owner without the prior written approval of the Board. All heating, air conditioning and solar panel equipment shall be maintained and repaired by the Owner of the Unit being served.

Section 11.13. Owners Liable for Damage. Each Owner shall be legally liable to the Association for all damages to the Recreation Area and Common Area, including, but not limited to, the buildings, recreation facilities and landscaping caused by such Owner, his licensee(s) or any occupant of such Owner's Unit as such liability may be determined under California law. Each Owner shall be responsible for compliance with the provisions of the Declaration, Articles, Bylaws and rules of the Board by his guests, lessees and all occupants of his Unit, and shall, after written notice and an opportunity for a hearing, pay the fines and penalties assessed pursuant to the Declaration, the Bylaws or Board rules for any violation by his guests, lessees and occupants of his Unit.

Section 11.14. Interior Surfaces. Each Owner shall have the right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim and perimeter walls of the Unit, and the surfaces of the bearing walls and partitions located within the Unit. Owners shall have the right to substitute new finished surfaces in place of those existing on the ceiling, floors, walls and doors of said Unit. Each Owner shall keep his Unit in good repair.

Section 11.15. Exclusive Use Common Areas Appurtenant. Each Exclusive Use Common Area shall be (i) appurtenant to the Unit with which the Exclusive Use Common Area is conveyed; and (ii) used only for the purposes set forth in the Declaration. The right to so use an Exclusive Use Common Area shall be exercisable only by the Owner(s) of the Condominium appurtenant thereto and/or said Owner's tenants and licensee(s). Conveyance of a Condominium shall effect conveyance of Exclusive Use Common Areas appurtenant thereto and transfer of all rights thereto to the vested Owner of the Condominium. Any license(s) thereto shall be terminated upon such conveyance. No Exclusive Use Common Area or any rights thereto (other than said revokable licenses) shall be transferred or conveyed apart from conveyance of the Condominium to which they are appurtenant. Each Exclusive Use Common Area shall be deemed to be Common Area for all those purposes set forth in this Declaration which are not inconsistent with this Article XI or Article VI.

Section 11.16. Use of Exclusive Use Common Areas. Each Owner shall have the right to place furniture and potted plants upon the Entry, Patio and Balcony which he has the exclusive right to use.

Each Owner shall have the right to park motor vehicles in the Garage which he has the exclusive right to use.

Each Owner shall have the right to store non-flammable items of personal property in the Storage which he has the exclusive right to use.

Except as provided in the Declaration, nothing contained herein shall give any Owner the right to paint, decorate, remodel or alter an Exclusive Use Common Area or any other part of the Common Area without the prior written consent of the Board.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1. Enforcement. The Association, the Community Association, Declarant and any Owner shall have the right to enforce by any proceedings at law or in equity, all covenants, conditions, restrictions and reservations now or hereafter imposed by the provisions of the Declaration. Each Owner shall have a right of action against the Association for any failure of the Association to comply with the provisions of the Declaration or of the Bylaws or Articles. Failure by the Association, Community Association, Declarant or any Owner to enforce any covenant, condition, restriction or reservation in the Declaration shall, in no event, be deemed a waiver of the right to do so thereafter.

Section 12.2. Severability. Should any provision in the Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions shall be and remain in full force and effect.

Section 12.3. Amendments. Except as otherwise provided in this Section 12.3, during the period of time prior to conversion of the Class B membership to Class A membership in the Association, the Declaration may be amended by the vote or written consent of seventy-five percent (75%) of the voting power of each class of Members of the Association, which amendment shall become effective upon the recording of the amendment in the Office of the County Recorder of San Diego County, California. After conversion of the Class B membership in the Association to Class A membership, the Declaration may be amended by the vote or written consent of (i) seventy-five percent (75%) of the total voting power of the Association; and (ii) at least seventy-five percent (75%) of the voting power of Members of the Association other than Declarant. Anything contained herein to the contrary notwithstanding, no amendment material to a Mortgagee may be made to this

Declaration without the prior written consent of Eligible Mortgage Holders whose Mortgages encumber sixty-seven percent (67%) or more of the Condominiums within the Condominium Property which are subject to Eligible Mortgage Holder Mortgages. For purposes hereof, any amendments to provisions of this Declaration governing any of the following subjects, shall be deemed "material to a Mortgagee":

- (a) The fundamental purpose for which the Project was created (such as a change from residential use to a different use).
- (b) Assessments, assessment liens and subordination thereof.
- (c) The reserve for maintenance, repair and replacement of the Recreation Area and Common Area.
- (d) Property maintenance and repair obligations.
- (e) Casualty, liability insurance and fidelity bonds.
- (f) Reconstruction in the event of damage or destruction.
- (g) Rights to use the Recreation Area and Common Area.
- (h) Annexation.
- (i) Voting.
- (j) The percentage interest of the Owners in the Common Area.
- (k) Boundaries of any Unit.
- (l) The interests in Exclusive Use Common Areas and other portions of the Common Area.
- (m) Leasing of Condominiums.
- (n) Imposition of any right of first refusal or similar restriction on the right of a Condominium Owner to sell, transfer or otherwise convey his Condominium.
- (o) Any provision which, by its terms, is specifically for the benefit of the first Mortgagees, or specifically confers rights on first Mortgagees.

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

Sections 1.7 through 1.17 and Sections 5.1 through 5.5 of this Declaration may not be amended, modified or rescinded without the prior written consent of the Community Board, and no such amendment, modification or rescission shall be effective without recording the written consent in the Office of the County Recorder of San Diego County, California.

Anything contained herein to the contrary notwithstanding, the percentage of voting power of Members necessary to amend a specific clause or provision of the Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision. The percentage of membership votes or written consents required to amend the Declaration may be reduced under certain circumstances by Court Order obtained pursuant to California CIVIL CODE §1356.

Section 12.4. Extension of Declaration. Each and all of these covenants, conditions and restrictions shall terminate on December 31, 2035, after which date they shall automatically be extended for successive periods of ten (10) years unless the Owners have executed and recorded at any time within six (6) months prior to December 31, 2035, or within six (6) months prior to the end of any such ten (10) year period, in the manner required for a conveyance of real property, a writing in which it is agreed that said restrictions shall terminate on December 31, 2035 or at the end of any such ten (10) year period.

Section 12.5. FHA and VA Approval. So long as there is a Class B membership in the Association, the following actions shall require prior approval of the FHA and VA: annexation of additional properties to the Project, mergers and consolidations, special assessments and any amendment to this Declaration. If VA approval is required, a draft of the amendment to this Declaration shall be submitted to and approved by the VA prior to recordation of the amendment.

Section 12.6. Encroachment Easement. In the event any portion of the Recreation Area or Common Area encroaches upon any Unit or any Unit encroaches upon the Recreation Area or Common Area or another Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. There shall be easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall

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

Section 12.7. Litigation. In the event the Association, Community Association, Declarant or any Owner shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, or contained in the Bylaws, the prevailing party in the litigation shall be entitled to costs of suit and such attorney's fees as the court may adjudge reasonable and proper. The "prevailing party" shall be the party who is entitled to recover costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover his costs shall not recover attorney's fees. No sum for attorney's fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover costs or attorney's fees.

Section 12.8. Annexation of Additional Property.

(a) Upon approval in writing of the Association, pursuant to two-thirds (2/3) of the voting power of each class of Members of the Association, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Declaration of Annexation which shall extend the scheme of this Declaration to such property. After conversion of the Class B membership in the Association to Class A membership, the action herein requiring membership approval shall require the vote or written consent of (i) two-thirds (2/3) of the voting power of Members of the Association; and (ii) two-thirds (2/3) or more of the voting power of Members of the Association other than Declarant.

(b) If, within three (3) years following the date of issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report for a Phase 2 or 3 or First Amended Final Subdivision Public Report for Phase 1 of the Project, Declarant should develop additional lands within the Real Property, the additional lands or any portion thereof may be added to the Condominium Property or Recreation Area and included within this Declaration and the jurisdiction of the Association by action of Declarant without the assent of Members of the Association; provided, however, that the development of the additional lands shall be in accord with the plan of development submitted to (i) the Depart-

ment of Real Estate prior to the time a Final Subdivision Public Report is issued in connection with the Condominium Property; and (ii) the VA. Annexation may be accomplished by the recording of a Declaration of Annexation or by the recording of a separate Declaration of Covenants, Conditions and Restrictions which requires Owners of Condominiums in the annexed property to be Members of the Association. The obligation of Owners to pay dues to the Association and the right of Owners to exercise voting rights in the Association in the annexed property shall not commence until the first day of the month following close of the first sale of a Condominium by Declarant in that particular phase of development so annexed. Prior to any annexation under this Subsection 12.8(b), detailed plans for the development of the additional property must be submitted to the VA, and the VA must determine that such detailed plans are in accordance with the general plan and so advise Declarant. Subject to annexation of additional property as set forth in this Subsection 12.8(b):

(i) Declarant hereby reserves, for the benefit of and appurtenant to the Condominiums hereinafter located in Phases 2 and 3, respectively, and their respective Owners, non-exclusive easements to use the Common Area and Recreation Area (other than any residential building or Exclusive Use Common Area) in the Project, pursuant to and in the manner set forth in this Declaration, to the same extent and with the same effect as if each of the Owners of a Condominium in Phases 2 and 3, respectively, owned an undivided interest in the Common Area in the Condominium Property.

(ii) Declarant hereby grants, for the benefit of and appurtenant to each Condominium in the Condominium Property and their Owners, the non-exclusive easement to use the Common Area and Recreation Area (other than any residential building or Exclusive Use Common Area) in Phases 2 and 3, respectively, pursuant to the provisions of and in the manner prescribed by this Declaration, to the same extent and with the same effect as if each of the Owners of a Condominium in the Condominium Property owned an undivided interest in the Common Area of the property annexed.

The reciprocal cross-easements set forth herein shall be effective as to each phase, respectively, and as to the Condominium Property, only at such time as each phase, respectively, has been annexed by the recording of a Declaration of Annexation or separate Declaration of Covenants, Conditions and Restrictions by Declarant, and prior to that time, neither the Condominium Property nor Phases 2 and 3, respectively, shall be affected hereby nor shall the Owners in phases 2 and 3, respectively, have such rights in the Common Area within the Condominium Property.

In the event any Condominium in a phase to be annexed to the Declaration has been rented for a period of one (1) year prior to the close of the first escrow for the sale of a Condominium in that phase, Declarant shall, as a condition to annexing that phase pursuant to Subsection (b), provide to the Association a written commitment to pay to the Association, concurrently with the closing of the escrow for the first sale in that phase, appropriate amounts for reserves for replacement or deferred maintenance of Common Area improvements in that phase necessitated or arising out of the use and occupancy of Condominiums in that phase.

A Declaration of Annexation may be revoked or amended by Declarant without the approval of the Association or any Owner at any time before the conveyance of record by Declarant of a Condominium within the property annexed by the Declaration of Annexation. A draft of the notice of revocation or amendment must be submitted to and approved by the VA prior to its recordation.

Section 12.9. Owner Compliance. Each Owner, tenant or occupant of a Condominium shall comply with the provisions of the Declaration, the Bylaws, decisions and resolutions of the Association as lawfully amended from time to time. Failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover damages for sums due or for injunctive relief.

Section 12.10. Special Responsibilities of Association. In the event that the improvements to be installed by Declarant to the Recreation Area or Common Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the Condominium Property, and in the further event that the Association is the obligee under a bond to secure performance by the Declarant to complete such improvements, then if such improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any such improvement then the Board shall consider and vote on the question if the improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event that the Board determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then, in either such event, upon petition signed by Members representing not less than five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of the Members of the Association to consider the question of overriding the decision of the Board or of requiring the Board to take action on the question of enforcing the obligations secured by the bond. The meeting of Members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following receipt of the petition. At the meeting a vote of a majority of the

voting power of the Members of the Association, excluding the vote of 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 the decision by initiating and pursuing appropriate action in the name of the Association.

Section 12.11. Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of residential Condominium dwellings and incidental improvements upon the Condominium Property and on the Recreation Area. The completion of that work, and the sale, rental and other disposal of said Condominium dwellings is essential to the establishment and welfare of said Condominium Property as a residential community. In order that said work may be completed and said Condominium Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors or subcontractors from doing on the Recreation Area, Condominium Property or in any Unit whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Condominium Property or Recreation Area, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Condominium Property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on any part of the Condominium Property or Recreation Area its business of completing said work, and of establishing a plan of Condominium ownership and of disposing of said Condominium Property in Condominium dwellings by sale, lease or otherwise; or

(d) Prevent Declarant from maintaining such sign or signs on any of the Condominium Property and Recreation Area as may be necessary for the sale, lease or disposition thereof; provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of his Unit, the Recreation Area or the Common Area.

The rights of Declarant provided in Subparagraphs (a) through (d) above, may be exercised during the period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums in the Project are sold and conveyed by Declarant to separate owners, or seven (7) years following the

date of conveyance of the first Condominium in the Project from Declarant to a retail purchaser, whichever shall first occur. So long as Declarant, its successors and assigns owns one or more of the Condominiums established and described herein, Declarant, its successors and assigns shall be subject to the provisions of this Declaration. Declarant, in executing its rights under this Section 12.11, shall not unreasonably interfere with the use of the Recreation Area or Common Area by any Owner.

Section 12.12. Liens Not Invalid. No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise.

Section 12.13. Provisions of Civil Code Section 1360. Section 1360 of the California CIVIL CODE provides as follows:

"(a) Subject to the provisions of the governing documents and other applicable provisions of law, if the boundaries of the separate interest are contained within a building, the owner of the separate interest may do the following:

(1) Make any improvements or alterations within...the separate interest that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify a unit in a condominium project, at the owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the unit for the purposes of this paragraph if the unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the owner when the unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf or physically disabled.

(D) *Any owner who intends to modify a unit pursuant to this paragraph shall submit his or her plans and specifications to the association of the condominium project for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.*

(b) *Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law."*

Section 12.14. Documents to be Provided to Prospective Purchaser. Each Owner, other than Declarant, shall, as soon as practicable before transfer of title to a Condominium, provide to the prospective purchaser the following:

- (a) A copy of the Articles, Bylaws and Declaration.
- (b) A copy of the most recent financial statements of the Association.
- (c) A true statement in writing from an authorized representative of the Association as to the amount of any assessments levied upon the Condominium which are unpaid as of the date of the statement. The statement shall also include true information on late charges, interest and costs of collection which, as of the date of the statement, are or may be made a lien upon the Condominium.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has executed this instrument the day and year first hereinabove written.

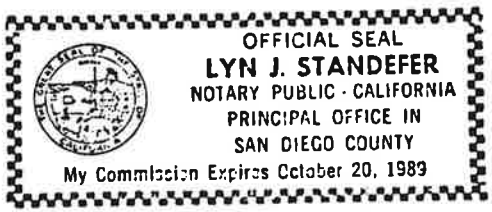
MARTIN GOLDBERG, in his capacity as Receiver
appointed by the United States District Court, Southern
District of California, in Case Nos. 880633 B(M),
880628 B(M) and 880632 B(M)

A handwritten signature in cursive script, appearing to read "Martin Goldberg", is written over a horizontal line.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this 1st day of September, 19 89, before me, Lyn J. Standefer, a Notary Public in and for said state, personally appeared MARTIN GOLDBERG, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Receiver appointed by the United States District Court, Southern District of California, Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), known to me to be the person who executed the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.



Lyn J. Standefer
NOTARY PUBLIC

SUBORDINATION AGREEMENT

FEDERAL DEPOSIT INSURANCE CORPORATION, as Manager of the FSLIC Resolution Fund as Receiver for Vernon Savings & Loan Association, FSA, being the beneficiary under that certain deed of trust recorded October 11, 1985 as File/Page No. 85-379721 with the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of said deed of trust are and shall be subordinate to the Declaration of Covenants, Conditions and Restrictions to which this Subordination Agreement is attached.

FEDERAL DEPOSIT INSURANCE CORPORATION, as
Manager of the FSLIC Resolution Fund as Receiver for
Vernon Savings & Loan Association, FSA

By Joseph J. Ferlo

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

On this 28 day of September, 1989, before me,
Cheryl Ann Struck, a Notary Public in and for said state,
personally appeared Joseph J. Ferlo,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person
who executed this instrument as _____ of the FEDERAL DEPOSIT
INSURANCE CORPORATION ("FDIC") as Manager of the FSLIC Resolution Fund as Receiver
for Vernon Savings & Loan Association, FSA, and acknowledged to me that such persons subscribed
their names to the within instrument on behalf of FDIC, and acknowledged to me that FDIC
executed the same.

WITNESS my hand and official seal.



Cheryl Ann Struck
NOTARY PUBLIC

PETERS & FREEDMAN

ATTORNEYS AT LAW

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ENCINITAS, CALIFORNIA 92024

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PALM DESERT OFFICE
74-041 HIGHWAY 111, SUITE B
PALM DESERT, CA 92260
(619) 773-4463

*MCP Intg phd
cc to
Document file*

May 19, 1993

Board of Directors
Mira La Paz Homeowners Association
c/o Barbara Brehm
N.N. Jaeschke, Inc.
8847 Complex Drive
San Diego, California 92123

RE: Mira La Paz Homeowners Association/Responsibility for
Maintenance, Repair and Replacement of Pipes
Our File No. 1151.2

Dear Members of the Board:

As you requested, we are writing to provide you with our opinion as to whether the Mira La Paz Homeowners Association ("Association") or individual homeowners are responsible to maintain, repair and replace the pipes which serve each unit. It is our opinion, based upon the following analysis, that the Association is responsible to maintain, repair and replace pipes, wherever the pipes are located, except the outlets which are located within the outside perimeter walls of the unit.

THE ASSOCIATION IS RESPONSIBLE TO MAINTAIN, REPAIR AND REPLACE PIPES; INDIVIDUAL HOMEOWNERS ARE RESPONSIBLE TO MAINTAIN THE OUTLETS OF SUCH PIPES LOCATED WITHIN THE OUTSIDE PERIMETER WALLS OF THEIR UNIT

The Association's Declaration of Covenants, Conditions and Restrictions for Mira La Paz Homeowners Association ("CC&R's"), Article VI, Section 6.3 provides, in pertinent part:

Except as otherwise provided herein, the Association acting through the Board and its officers shall have the sole and exclusive right and duty to manage, operate, control, repair, replace or restore all of the Common Area or any portion thereof . . .

Board of Directors

RE: Mira La Paz Homeowners Association/Responsibility for
Maintenance, Repair and Replacement of Pipes

May 19, 1993

Page 2

CC&R's Article I, Section 1.5 defines the "Common Area" as follows:

All portions of the Condominium Property not located
within a Unit.

Article I, Section 1.34 of the CC&R's defines "Unit" as follows:

A separate interest . . . as shown and described as such
on the Condominium's Plan;

The Condominium Plan, General Notes, Section 2 provides, in
pertinent part:

The boundaries of each unit element are as follows:

The lower limit is the finish floor thereof . . . the
upper limit is the finish ceiling thereof. . . the
lateral limits are the interior surfaces of the perimeter
walls . . . The following are not part of any Unit
element: . . . pipes, . . . wherever located within the
element, except the outlets thereof [when located in the
Unit].

Article VI, Section 6.1 of the CC&R's provides, in pertinent part:

Each Owner shall be responsible for maintenance and
repair . . . the plumbing . . . servicing his [her] Unit
and located within the outside perimeter of the exterior
bearing walls, floors and ceilings thereof, . . . so long
as those systems are used exclusively by such Owner and
not in common.

Pursuant to these sections, the Association is responsible to
maintain, repair and replace the Common Area. Under the
Condominium Plan, pipes are not considered to be part of the Unit,
and therefore are part of the Common Area. Therefore, the
Association is responsible to maintain, repair and replace all
pipes, wherever located. The individual owner is obligated to
maintain and repair pipe outlets where located within the interior
surfaces of the perimeter walls and finish floors of the Unit.

Article VI, Section 6.1 is ambiguous in that it provides that
owners shall be responsible for plumbing which is not used in
common, whereas the Condominium Plan specifically provides that
owners shall only be responsible for pipe outlets which are located
within the interior surfaces of their Unit. Since all outlets
located within an owner's unit only serve that owner's particular
unit, there would not be a case where such outlets would be used in
common. The Condominium Plan would have control over any
ambiguities in the CC&Rs.

Board of Directors

RE: Mira La Paz Homeowners Association/Responsibility for
Maintenance, Repair and Replacement of Pipes

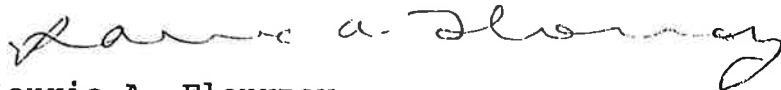
May 19, 1993

Page 3

We trust that this letter has satisfactorily responded to your inquiries regarding this matter. If you have any questions, please do not hesitate to contact our office.

Sincerely,

PETERS & FREEDMAN

A handwritten signature in cursive script that reads "Laurie A. Flourney".

Laurie A. Flourney
Attorney at Law

LAF/fmg

Department of Real Estate
of the
State of California

CONDOMINIUM
FINAL SUBDIVISION PUBLIC REPORT

In the matter of the application of

HSMS/MIRA LA PAZ PARTNERSHIP, A
CALIFORNIA GENERAL PARTNERSHIP

FILE NO. 049338-A03

ISSUED: OCTOBER 26, 1989

AMENDED: JAN 09 1990 *AW*

EXPIRES: OCTOBER 25, 1994

for a Final Subdivision Public Report on

BERNARDO HEIGHTS UNIT NO. 2

MAP NO. 9562

"MIRA LA PAZ" - PHASE I

SAN DIEGO COUNTY, CALIFORNIA

JAMES A. EDMONDS, JR.
Commissioner

by *Thy M. Matt*
Deputy Commissioner

CONSUMER INFORMATION

- ❖ THIS REPORT IS NOT A RECOMMENDATION OR ENDORSEMENT OF THE SUBDIVISION; IT IS INFORMATIVE ONLY.
- ❖ BUYER OR LESSEE MUST SIGN THAT (S)HE HAS RECEIVED AND READ THIS REPORT.
- ❖ A copy of this subdivision public report along with a statement advising that a copy of the public report may be obtained from the owner, subdivider, or agent at any time, upon oral or written request, *must* be posted in a conspicuous place at any office where sales or leases or offers to sell or lease interests in this subdivision are regularly made. [Reference Business and Professions (B&P) Code Section 11018.1(b)]

This report expires on the date shown above. All material changes must be reported to the Department of Real Estate. (Refer to Section 11012 of the B&P Code; and Chapter 6, Title 10 of the California Administrative Code, Regulation 2800.) Some material changes may require amendment of the Public Report; which Amendment must be obtained and used in lieu of this report.

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Under Section 125.6 of the B&P Code, California real estate licensees are subject to disciplinary action by the Real Estate Commissioner if they discriminate or make any distinction or restriction in negotiating the sale or lease of real property because of the race, color, sex, religion, ancestry, national origin, or physical handicap of the client. If any prospective buyer or lessee believes that a licensee is guilty of such conduct, (s)he should contact the Department of Real Estate.

READ THE ENTIRE REPORT ON THE FOLLOWING PAGES BEFORE CONTRACTING TO BUY OR LEASE AN INTEREST IN THIS SUBDIVISION.

COMMON INTEREST DEVELOPMENT GENERAL INFORMATION

The project described in the attached Subdivision Public Report is known as a common-interest development. Read the Public Report carefully for more information about the type of development. The development includes common areas and facilities which will be owned and/or operated by an owners' association. Purchase of a lot or unit automatically entitles and obligates you as a member of the association and, in most cases, includes a beneficial interest in the areas and facilities. Since membership in the association is mandatory, you should be aware of the following information before you purchase:

Your ownership in this development and your rights and remedies as a member of its association will be controlled by governing instruments which generally include a Declaration of Restrictions (also known as CC&R's), Articles of Incorporation (or association) and bylaws. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law. Study these documents carefully before entering into a contract to purchase a subdivision interest.

In order to provide funds for operation and maintenance of the common facilities, the association will levy assessments against your lot or unit. If you are delinquent in the payment of assessments, the association may enforce payment through court proceedings or your lot or unit may be liened and sold through the exercise of a power of sale. The anticipated income and expenses of the association, including the amount that you may expect to pay through assessments, are outlined in the proposed budget. Ask to see a copy of the budget if the subdivider has not already made it available for your examination.



RE 646 (Rev. 2/86)

A homeowner association provides a vehicle for the ownership and use of recreational and other common facilities which were designed to attract you to buy in this development. The association also provides a means to accomplish architectural control and to provide a base for homeowner interaction on a variety of issues. The purchaser of an interest in a common-interest development should contemplate active participation in the affairs of the association. He or she should be willing to serve on the board of directors or on committees created by the board. In short, "they" in a common interest development is "you". Unless you serve as a member of the governing board or on a committee appointed by the board, your control of the operation of the common areas and facilities is limited to your vote as a member of the association. There are actions that can be taken by the governing body without a vote of the members of the association which can have a significant impact upon the quality of life for association members.

Until there is a sufficient number of purchasers of lots or units in a common interest development to elect a majority of the governing body, it is likely that the subdivider will effectively control the affairs of the association. It is frequently necessary and equitable that the subdivider do so during the early stages of development. It is vitally important to the owners of individual subdivision interests that the transition from subdivider to resident-owner control be accomplished in an orderly manner and in a spirit of cooperation.

When contemplating the purchase of a dwelling in a common interest development, you should consider factors beyond the attractiveness of the dwelling units themselves. Study the governing instruments and give careful thought to whether you will be able to exist happily in an atmosphere of cooperative living where the interests of the group must be taken into account as well as the interests of the individual. Remember that managing a common interest development is very much like governing a small community . . . the management can serve you well, but you will have to work for its success. [B & P Code Section 11018.1(c)]

SPECIAL NOTES

1. IF YOU HAVE RECEIVED A PRELIMINARY PUBLIC REPORT FOR THIS SUBDIVISION, YOU ARE ADVISED TO CAREFULLY READ THIS FINAL PUBLIC REPORT SINCE IT CONTAINS INFORMATION THAT IS MORE CURRENT AND PROBABLY DIFFERENT THAN THAT INCLUDED IN THE PRELIMINARY REPORT.
2. THIS REPORT COVERS ONLY UNITS 61 THROUGH 123 ON LOTS 3 AND 5 AND COMMON AREA LOT 4.
3. THIS PROJECT IS A COMMON INTEREST SUBDIVISION OF THE TYPE REFERRED TO AS A CONDOMINIUM. IT WILL BE OPERATED BY AN INCORPORATED OWNERS ASSOCIATION.
4. THE ASSOCIATION HAS THE RIGHT TO LEVY ASSESSMENTS AGAINST YOU FOR MAINTENANCE OF THE COMMON AREAS AND OTHER PURPOSES. YOUR CONTROL OF OPERATIONS AND EXPENSES IS LIMITED TO THE RIGHT OF YOUR ELECTED REPRESENTATIVES TO VOTE ON CERTAIN PROVISIONS AT MEETINGS.
5. SINCE THE COMMON PROPERTY AND FACILITIES WILL BE MAINTAINED BY AN ASSOCIATION OF HOMEOWNERS, IT IS ESSENTIAL THAT THIS ASSOCIATION BE FORMED EARLY AND PROPERLY. THE HOMEOWNER ASSOCIATION MUST HOLD THE FIRST ELECTION OF THE ASSOCIATION'S GOVERNING BODY WITHIN 45 DAYS AFTER 51% SELL OUT OF THE INTERESTS AUTHORIZED FOR SALE UNDER THE FIRST PUBLIC REPORT FOR THE SUBDIVISION; OR, IN ANY EVENT, NO LATER THAN SIX MONTHS AFTER CLOSING THE FIRST SALE (REGULATIONS 2792.17 AND 2792.19); AND PREPARE AND DISTRIBUTE TO ALL HOMEOWNERS A BALANCE SHEET AND INCOME STATEMENT (REGULATION 2792.22).
6. THE DEVELOPER ESTIMATES ALL COMMON FACILITIES INCLUDING RESIDENTIAL STRUCTURES IN THIS PHASE WILL BE COMPLETED BY OCTOBER, 1989.
7. THE SUBDIVIDER ADVISES THAT NO ESCROWS WILL CLOSE UNTIL ALL COMMON FACILITIES, IMPROVEMENTS, LANDSCAPING, AND ALL STRUCTURES HAVE BEEN COMPLETED; A NOTICE OF COMPLETION HAS BEEN FILED AND ALL CLAIMS OF LIENS HAVE EXPIRED OR A TITLE POLICY ISSUED TO EACH PURCHASER AND TO THE ASSOCIATION CONTAINING AN ENDORSEMENT AGAINST ALL CLAIMS OF LIENS. (SECTION 11018.5 OF THE BUSINESS AND PROFESSIONS CODE.)
8. THE SUBDIVIDER MUST PAY ASSESSMENTS TO THE HOMEOWNERS ASSOCIATION FOR ALL UNSOLD UNITS. THE PAYMENTS MUST

COMMENCE ON THE FIRST DAY OF THE MONTH AFTER SUBDIVIDER CLOSES THE FIRST SALE OF A UNIT IN THIS PHASE. (REGULATION 2792.9 AND 2792.16.)

9. THE SUBDIVIDER MUST PROVIDE YOU WITH A COPY OF THE ARTICLES OF INCORPORATION, RESTRICTIONS AND BYLAWS, BY POSTING THEM IN A PROMINENT LOCATION IN THE SALES OFFICE AND FURNISHING YOU COPIES PRIOR TO CLOSE OF ESCROW. THESE DOCUMENTS CONTAIN NUMEROUS MATERIAL PROVISIONS THAT SUBSTANTIALLY AFFECT AND CONTROL YOUR RIGHTS, PRIVILEGES, USE, OBLIGATIONS, AND COSTS OF MAINTENANCE AND OPERATION. YOU SHOULD READ AND UNDERSTAND THESE DOCUMENTS BEFORE YOU OBLIGATE YOURSELF TO PURCHASE A UNIT. (SECTION 11018.6 BUSINESS AND PROFESSIONS CODE.)
10. THE SUBDIVIDER STATED HE WILL FURNISH THE CURRENT BOARD OF OFFICERS OF THE HOMEOWNERS ASSOCIATION AND EACH INDIVIDUAL PURCHASER WITH THE DEPARTMENT OF REAL ESTATE APPROVED BUDGET AND THE CONDOMINIUM PLAN.
11. THE SUBDIVIDER HAS INDICATED THAT HE INTENDS TO SELL ALL OF THE UNITS IN THIS PROJECT; HOWEVER, ANY OWNER, INCLUDING THE SUBDIVIDER, HAS A LEGAL RIGHT TO LEASE THE UNITS.
12. IF YOU PURCHASE FIVE OR MORE SUBDIVISION INTERESTS (LOTS/UNITS, OR MEMBERSHIPS) FROM THE SUBDIVIDER, THE SUBDIVIDER IS REQUIRED TO NOTIFY THE REAL ESTATE COMMISSIONER OF THE SALE. IF YOU INTEND TO SELL YOUR INTERESTS OR LEASE THEM FOR TERMS LONGER THAN ONE YEAR, YOU ARE REQUIRED TO OBTAIN AN AMENDED SUBDIVISION PUBLIC REPORT BEFORE YOU CAN OFFER THEM FOR SALE OR LEASE.
13. **WARNING:** WHEN YOU SELL YOUR CONDOMINIUM UNIT TO SOMEONE ELSE, YOU MUST GIVE THAT PERSON A COPY OF THE DECLARATION OF RESTRICTIONS, ARTICLES OF INCORPORATION, THE BYLAWS AND A TRUE STATEMENT CONCERNING ANY DELINQUENT ASSESSMENTS, PENALTIES, ATTORNEY'S FEES OR OTHER CHARGES, PROVIDED BY THE RESTRICTIONS OR OTHER MANAGEMENT DOCUMENTS ON THE LOT OR UNIT AS OF THE DATE THE STATEMENT WAS ISSUED.

NOTE: IF YOU FORGET TO DO THIS, IT MAY COST YOU A PENALTY OF \$500.00 -- PLUS ATTORNEY'S FEES AND DAMAGES (CIVIL CODE SECTION 1368).

THE SUBDIVIDER MUST MAKE AVAILABLE TO YOU COPIES OF THE ASSOCIATION GOVERNING INSTRUMENTS, A STATEMENT CONCERNING ANY DELINQUENT ASSESSMENTS AND RELATED CHARGES AS PROVIDED BY THE GOVERNING INSTRUMENTS AND, IF

AVAILABLE, A CURRENT FINANCIAL STATEMENT AND RELATED STATEMENTS (SEE BUSINESS AND PROFESSIONS CODE SECTION 11018.6).

INTERESTS TO BE CONVEYED: You will receive fee title to a specified unit, together with an undivided fractional fee interest as a tenant in common in the common area together with a membership in the "Mira La Paz Homeowners Association" and rights to use the common area.

LOCATION AND SIZE: This subdivision is located at Bernardo Center Drive and Lomica Drive within the city limits of San Diego. Prospective purchasers should acquaint themselves with the kinds of city services available.

This is the first phase which consists of approximately 8.93 acres on which 18 buildings containing 63 units, 63 2-car garages and 15 open parking spaces will be constructed. Common facilities consisting of a pool, spa, recreation building, landscaping and paved areas will be constructed.

This phase is part of a total project which, if developed as proposed, will consist of a total of 3 phases and 175 units.

THE COMMUNITY OF BERNARDO HEIGHTS: This project, "Mira La Paz," is a portion of the overall project called Bernardo Heights. The concept of Bernardo Heights is to establish a master planned residential oriented community which will have a number of distinct neighborhoods ranging in size from approximately 50 dwelling units to 300 dwelling units. There may be as many as 27 such neighborhood developments, with product types ranging from low density single family detached homes to zero lot line patio homes and medium density townhomes and condominiums. Approximately 3,600 units are planned with a projected population of 9,000. Project sell-out is anticipated over a 7-year period. Approximately 70% of the residential units will be attached forms of housing. Additionally, there are 2 commercial areas designated on the master plan as well as 2 church sites, 3 school sites, 2 major community recreational areas and private recreational facilities. There is no assurance that the total project will be completed as proposed.

COMMUNITY ASSOCIATION RECREATIONAL FACILITIES: Each purchase of a subdivision interest in Bernardo Heights will, together with his or her purchase, acquire the right to use (pursuant to the Declaration of Covenants, Conditions and Restrictions of the Community of Bernardo Heights (the "Community Declaration") the recreation facilities of the Community of Bernardo Heights.

Such recreational facilities will consist of (1) a recreation center which will include 4 tennis courts, a swimming pool, spa and clubhouse and (2) a neighborhood park with various recreational features including a jogging trail, picnic area and multi-use play fields. Pursuant to the provisions of the Community Declaration, the cost of maintaining such recreational facilities will be met through assessments which will be levied against all owners of the subdivision interests within Bernardo Heights. Information on the amount of assessments attributable to subdivision interests within specific neighborhoods are available at the sales office for each neighborhood. Genstar Development, Inc., (Penasquitos Properties Division) has posted bonds in the amount of \$1,159,229.00 and \$310,000.00 in favor of the Community Association as security for its obligation to complete Association the development and construction of the above mentioned recreational facilities.

MANAGEMENT AND OPERATION: The Mira La Paz Homeowners Association, of which you become a member at the time of purchase, manages and operates the common area(s) in accordance with the Restrictions, Articles of Incorporation and the Bylaws.

The overall management of the community will be undertaken by the community association established by the Community Declaration, Articles and Bylaws. Each of the neighborhood developments will have a neighborhood association whether it is a planned development (townhouse), condominium or single family detached project. The day to day maintenance responsibility for the individual neighborhood will be undertaken by the neighborhood associations. Some of the neighborhood associations will be responsible for the neighborhood common areas, maintenance and upkeep of the residences in the neighborhood (unless for the single family residential projects the developer determines that this should be left to the individual homeowners) the maintenance and operation of the neighborhood, recreational facilities and the enforcement of neighborhood rules and restrictions. The community association will have responsibilities for the community common areas, which areas will be specifically designated and conveyed to the community association, the community recreational facilities which each owner in the community will be entitled to use as an appurtenance to their membership in the neighborhood association, maintenance and control of community open space and community slope control areas which have been established for protection of the open areas in the community and the community pedestrian and bicycle circulation areas which have been designated as an integral portion of the community.

The government of the community association will be established by the election of a community board. The community board will be elected from the owners of property within the community association by the presidents of the neighborhood associations, which association shall constitute the membership of the community association. Because of the size of this overall community, it is not envisioned, except as set forth for specific specially held meetings, to have meetings of all of the potential 9,000 residents on any regular basis. There will be regular meetings at least annually of the presidents of the various neighborhood associations which presidents will act as electors and representatives of each member of their individual neighborhood project. By this representational government, each community owner will have a voice in the community association affairs and in the election of the community board. It is envisioned that at the outset the community board will consist of three members. As the project expands in size, the board will increase in size to 5 and then ultimately 7 members.

The Community Declaration provides for annexation procedures whereby additional property will be added subject to the regulations of the Department of Real Estate through the annexation process. The process envisions the filing of the usual Declarations of Annexation within time periods specified. Additionally, besides setting up the community association and specifying the membership rights, voting Declaration provides for establishing community funds and assessments. These assessments are established to pay the costs of the operation of the community association and are levied against all lots, units or parcels which have been annexed into the community at any given time. A reasonable subsidy arrangement will be established such that there will be no burden to those homeowners who buy into the project at its early stages. The community assessments will become a lien on all lots and parcels which are annexed into the property as they are assessed.

The Community Declaration then established certain rights regarding the community common area which will be owned by the community association and certain neighborhood restriction rights and duties which pertain to each of the residential neighborhood developments.

There are established as well, specific property rights and responsibilities for commercial areas and the merchant builder who acquires property for development. Additionally, there are provisions regarding an architectural committee to be established for the community association regarding all

properties in the community and the usual provisions regarding damage, destruction and condemnation of the community and neighborhood common areas. Rights regarding mortgages and the developer are also included.

MAINTENANCE AND OPERATIONAL EXPENSES: The subdivider has submitted budgets for the maintenance and operation of the common areas and for long-term reserves when the subdivision is substantially completed (built-out budget) and an interim budget applicable to this phase. These budgets were reviewed by the Department of Real Estate in August, 1989. You should obtain copies of these budgets from the subdivider.

Under the built-out budget, the monthly assessment against each subdivision interest will be \$143.50. The association may or may not elect to use this budget when additional phases are annexed. Under the interim phase 1 budget, the monthly assessments per unit will be \$167.00. Of these amounts, the monthly contributions toward long-term reserves, which are not to be used to pay for current operation expenses, are \$29.88 and \$31.57 respectively.

According to the subdivider, assessments under the interim budget should be sufficient for proper maintenance and operation of the common areas until the development is substantially completed at which time it may be anticipated that assessments will be adjusted.

IF THE BUDGET FURNISHED TO YOU BY THE DEVELOPER SHOWS A MONTHLY ASSESSMENT FIGURE WHICH IS AT LEAST 20% MORE OR AT LEAST 10% LESS THAN THE ASSESSMENT AMOUNT SHOWN IN THIS PUBLIC REPORT, YOU SHOULD CONTACT THE DEPARTMENT OF REAL ESTATE BEFORE ENTERING INTO AN AGREEMENT TO PURCHASE.

The association may increase or decrease assessments at any time in accordance with the procedure prescribed in the Restrictions or Bylaws. In considering the advisability of a decrease, or a smaller increase in assessments, care should be taken not to eliminate amounts attributable to reserves for replacement or major maintenance.

THE BUDGET INFORMATION INCLUDED IN THIS PUBLIC REPORT IS APPLICABLE AS OF THE DATE OF BUDGET REVIEW AS SHOWN ABOVE. EXPENSES OF OPERATION ARE DIFFICULT TO PREDICT ACCURATELY AND EVEN IF ACCURATELY ESTIMATED INITIALLY, MOST EXPENSES INCREASE WITH THE AGE OF FACILITIES AND WITH INCREASES IN THE COST OF LIVING.

Monthly assessments will commence on all units in this phase on the first day of the month immediately following the closing of the first sale of a unit.

The remedies available to the Association against owners who are delinquent in the payment of assessments are set forth in the Restrictions. These remedies are available against the subdivider as well as against other owners.

The Subdivider has posted a bond as partial security for the obligation to pay these assessments. The governing body of the association should assure itself that the Subdivider has satisfied these obligations to the association with respect to the payment of assessments before agreeing to a release or exoneration of the security.

COMMUNITY ASSESSMENTS: Each lot/unit in the subdivision constituting a part of the Community of Bernardo Heights development will be subject to assessments which will be levied against such lot/unit by the community association, in addition to the separate assessments which may be levied by the "Mira La Paz Homeowners Association". The assessments which will be levied by the community association shall be used for the maintenance and management of the above mentioned community common area and community recreational facilities.

The Association has adopted a budget in the amount of \$24.62 for the maintenance and operation of the common areas and for long-term reserves. You should obtain a copy of this budget from the subdivider. Under this budget, a portion is a contribution toward long-term reserves and is not to pay for current operating expenses.

The community association assessments will commence as to lots/units in the subdivision on the first day of the month following the closing of the first sale of a lot/unit in the subdivision. From that time on the subdivider is required to pay assessments to the community association for each lot/unit in the subdivision which it owns.

CAPITAL CONTRIBUTIONS: In addition to assessments, purchasers must make an Initial Capital Contribution to the Association in order for the Association to have sufficient "start up" funds for operating the common areas. Prior to the close of escrow, each purchaser must deposit two month's assessments for each unit purchased. To ensure the availability of such funds, the subdivider will provide a bond, representing the same Capital Contribution for each subdivision unit purchased. The subdivider must at the end

of six months from the close of the first escrow contribute a Capital Contribution for each of his units which have not been sold. Thereafter, the Capital Contribution made by each purchaser will be reimbursed to the subdivider upon the close of each escrow. The above amounts represent the purchaser's Initial Capital Contribution and are not a prepayment of assessments nor part of the purchase price of the units. This arrangement is set forth in the escrow instructions.

EASEMENTS: Easements for utilities, drainage and other purposes are shown on the Title Report and Subdivision Map recorded in the Office of the San Diego County Recorder on February 20, 1980 as Map No. 9562 and Condominium Plan recorded October 11, 1989 as File No. 89-551199.

RESTRICTIONS: This subdivision is subject to Restrictions recorded in the Office of the San Diego County Recorder on October 3, 1977 as File No. 77-405893 and a modification recorded March 2, 1982 as File No. 82-056426, and a modification recorded September 29, 1982 as File No. 82-300943, on December 29, 1983 as File No. 83-474243 and a Declaration recorded October 11, 1989.

COMMUNITY RESTRICTIONS: This subdivision is part of the community of Bernardo Heights which is subject to the Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, (the "Community Declaration"), recorded in the office of the San Diego County Recorder September 30, 1980 as File No. 80-319018 and Declaration of Annexation recorded January 28, 1981 as File No. 81-028249. Each lot/unit in this subdivision will be subject to the Covenants, Conditions, and Restrictions contained in the Community Declaration. The subdivider will provide you with a copy of the Community Declaration; you should therefore read and understand the Community Declaration before you obligate yourself to purchase a lot/unit in this subdivision.

THE COMMUNITY ARCHITECTURAL COMMITTEE. The Community Declaration also provides for the review by an architectural committee (acting on behalf of the community association) of certain kinds of improvements which may be contemplated by an owner of a lot or unit in the Community of Bernardo Heights. Such review by the Community Architectural Committee is in addition to any review by an architectural committee acting on behalf of "Mira La Paz Homeowners Association" which may have been provided for in the management documents for this subdivision.

FOR INFORMATION AS TO YOUR OBLIGATIONS AND RIGHTS, YOU SHOULD READ THE RESTRICTIONS. THE SUBDIVIDER MUST MAKE THEM AVAILABLE TO YOU.

HAZARDS: The following hazards exist within or near this development: Subdivider advises Escondido Freeway (I-15) is approximately 1/2 mile to the West of this project.

Taxes: The maximum amount of any tax on real property that can be collected annually by counties is 1% of the full cash value of the property. With the addition of interest and redemption charges on any indebtedness, approved by voters prior to July 1, 1978, the total property tax rate in most counties is approximately 1.25% of the full cash value. In some counties the total tax rate could be well above 1.25% of the full cash value. For example, an issue of general obligation bonds previously approved by the voters and sold by a county water district, a sanitation district or other such district could increase the total tax.

For the purchaser of a lot or unit in this subdivision, the "full cash value" of the lot or unit will be the valuation, as reflected on the tax roll, determined by the county assessor as of the date of purchase of the lot or unit or as of the date of completion of an improvement on the lot if that occurs after the date of purchase.

PURCHASE MONEY HANDLING: The subdivider must impound all funds received from you in an escrow depository until legal title is delivered to you. (Refer to Sections 11013 and 11013.2(a) of the Business and Professions Code.)

If the escrow has not closed on your Unit within one (1) year of the date of escrow opening, you may request return of your deposit.

NOTE: Section 2995 of the Civil Code provides that: No real estate developer shall require as a condition precedent to the transfer of real property containing a single family residential dwelling that escrow services effectuating such transfer shall be provided by an escrow entity in which the developer owns or controls 5% or more of the escrow entity.

The subdivider has no such interest in the escrow company which is to be used in connection with the sale or lease of units in this subdivision.

SOILS CONDITIONS: Soils and geologic information is available at Office of the City Engineer, 1222 First Avenue, San Diego, California 92101.

FILLED GROUND: Some lots will contain filled ground. Information concerning filled ground is available at: Office of the City Engineer, 1222 First Avenue, San Diego, California 92101.

GEOLOGIC CONDITIONS: THE UNIFORM BUILDING CODE, CHAPTER 70, PROVIDES FOR LOCAL BUILDING OFFICIALS TO EXERCISE PREVENTIVE MEASURES DURING GRADING TO ELIMINATE OR MINIMIZE DAMAGE FROM GEOLOGIC HAZARDS SUCH AS LANDSLIDES, FAULT MOVEMENTS, EARTHQUAKE SHAKING, RAPID EROSION OR SUBSIDENCE. THIS SUBDIVISION IS LOCATED IN AN AREA WHERE SOME OF THESE HAZARDS MAY EXIST. SOME CALIFORNIA COUNTIES AND CITIES HAVE ADOPTED ORDINANCES THAT MAY OR MAY NOT BE AS EFFECTIVE IN THE CONTROL OF GRADING AND SITE PREPARATION.

PURCHASERS MAY CONTACT THE DEVELOPER, THE DEVELOPER'S ENGINEER, THE ENGINEERING GEOLOGIST AND THE LOCAL BUILDING OFFICIALS TO DETERMINE IF THE ABOVE-MENTIONED HAZARDS HAVE BEEN CONSIDERED AND IF THERE HAS BEEN ADEQUATE COMPLIANCE WITH CHAPTER 70 OR AN EQUIVALENT OR MORE STRINGENT GRADING ORDINANCE DURING THE CONSTRUCTION OF THIS SUBDIVISION.

STREETS AND ROADS: The private streets in this project will be maintained by the homeowners association. The costs of repair and maintenance of these private streets are included in the budget and are a part of your regular assessment.

If you need clarification as to the statements in this Public Report or if you desire to make arrangements to review the documents submitted by the subdivider which the Department of Real Estate used in preparing this Public Report, you may call:

Department of Real Estate
Subdivisions South
107 South Broadway
Suite 7111
Los Angeles, California 90012
(213) 620-2700

Department of Real Estate
of the
State of California

CONDOMINIUM
FINAL SUBDIVISION PUBLIC REPORT

In the matter of the application of

LA PAZ SUNSET, INC.,
a California corporation

FILE NO. 070257LA-FOO

ISSUED: JUNE 4, 1993 *cwn/aw*

EXPIRES: JUNE 3, 1998

for a Final Subdivision Public Report on

LOT 2, BERNARDO HEIGHTS UNIT NO. 2
MAP NO. 9562
"MIRA LA PAZ", PHASE 3
SAN DIEGO COUNTY, CALIFORNIA

CLARK WALLACE
Real Estate Commissioner

by *Marta Dario*
Deputy Commissioner

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Governing Instruments

Your ownership in this development and your rights and remedies as a member of its association will be controlled by governing instruments which generally include a Declaration of Restrictions (also known as CC&R's), Articles of Incorporation (or association) and bylaws. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law. Study these documents carefully before entering into a contract to purchase a subdivision interest.

Assessments

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homeowner interaction on a variety of issues. The purchaser of an interest in a common-interest development should contemplate active participation in the affairs of the association. He or she should be willing to serve on the board of directors or on committees created by the board. In short, "they" in a common interest development is "you". Unless you serve as a member of the governing board or on a committee appointed by the board, your control of the operation of the common areas and facilities is limited to your vote as a member of the association. There are actions that can be taken by the governing body without a vote of the members of the association which can have a significant impact upon the quality of life for association members.

Subdivider Control

Until there is a sufficient number of purchasers of lots or units in a common interest development to elect a majority of the governing body, it is likely that the subdivider will effectively control the affairs of the association. It is frequently necessary and equitable that the subdivider do so during the early stages of development. It is vitally important to the owners of individual subdivision interests that the transition from subdivider to resident-owner control be accomplished in an orderly manner and in a spirit of cooperation.

Cooperative Living

When contemplating the purchase of a dwelling in a common interest development, you should consider factors beyond the attractiveness of the dwelling units themselves. Study the governing instruments and give careful thought to whether you will be able to exist happily in an atmosphere of cooperative living where the interests of the group must be taken into account as well as the interests of the individual. Remember that managing a common interest development is very much like governing a small community ... the management can serve you well, but you will have to work for its success. [B & P Code Section 11018.1(c)]

DEPARTMENT OF
DRE
REAL ESTATE

SPECIAL NOTES

IF YOU HAVE RECEIVED A PRELIMINARY PUBLIC REPORT FOR THIS SUBDIVISION, YOU ARE ADVISED TO CAREFULLY READ THIS FINAL PUBLIC REPORT SINCE IT CONTAINS INFORMATION THAT IS MORE CURRENT AND PROBABLY DIFFERENT THAN THAT INCLUDED IN THE PRELIMINARY PUBLIC REPORT.

THIS REPORT COVERS ONLY LIVING UNITS 11 THRU 60 INCLUSIVE LOCATED ON LOT 2 OF SUBDIVISION MAP BERNARDO HEIGHTS UNIT NO. 2 MAP NO. 9562

THIS PROJECT IS A COMMON INTEREST SUBDIVISION OF THE TYPE REFERRED TO AS A CONDOMINIUM. IT WILL BE OPERATED BY AN INCORPORATED OWNERS ASSOCIATION.

THE ASSOCIATION HAS THE RIGHT TO LEVY ASSESSMENTS AGAINST YOU FOR MAINTENANCE OF THE COMMON AREAS AND OTHER PURPOSES. YOUR CONTROL OF OPERATIONS AND EXPENSES IS LIMITED TO THE RIGHT OF YOUR ELECTED REPRESENTATIVES TO VOTE ON CERTAIN PROVISIONS AT MEETINGS.

THE COMMON PROPERTY AND FACILITIES ARE MAINTAINED BY A HOMEOWNERS ASSOCIATION. THE HOMEOWNER ASSOCIATION MUST HOLD ELECTIONS OF THE ASSOCIATION'S GOVERNING BODY IN ACCORDANCE WITH ITS GOVERNING DOCUMENTS AND MUST PREPARE AND DISTRIBUTE TO ALL HOMEOWNERS A BALANCE SHEET AND INCOME STATEMENT (REGULATION 2792.22)

THE DEVELOPER ESTIMATES ALL COMMON FACILITIES INCLUDING RESIDENTIAL STRUCTURES IN THIS PHASE WILL BE COMPLETED BY JUNE, 1993.

THE SUBDIVIDER ADVISES THAT NO ESCROWS IN THIS PHASE WILL CLOSE UNTIL ALL COMMON FACILITIES, IMPROVEMENTS, LANDSCAPING, AND ALL STRUCTURES IN THIS PHASE HAVE BEEN COMPLETED; A NOTICE OF COMPLETION HAS BEEN FILED AND ALL CLAIM OF LIENS HAS EXPIRED OR A TITLE POLICY ISSUED TO EACH PURCHASER CONTAINING AN ENDORSEMENT AGAINST ALL CLAIM OF LIENS. (SECTION 11018.5 OF THE BUSINESS AND PROFESSIONS CODE).

THE SUBDIVIDER MUST PAY ASSESSMENTS TO THE HOMEOWNERS ASSOCIATION FOR ALL UNSOLD UNITS IN THIS PHASE. THE PAYMENTS MUST COMMENCE ON THE FIRST DAY OF THE MONTH AFTER SUBDIVIDER CLOSES FIRST SALE OF A UNIT IN THIS PHASE. (REGULATIONS 2792.9 AND 2792.16)

THE SUBDIVIDER MUST PROVIDE YOU WITH A COPY OF THE ARTICLES OF INCORPORATION, RESTRICTIONS AND BYLAWS, BY FURNISHING YOU COPIES PRIOR TO CLOSE OF ESCROW. THESE DOCUMENTS CONTAIN NUMEROUS MATERIAL PROVISIONS THAT SUBSTANTIALLY AFFECT AND CONTROL YOUR RIGHTS, PRIVILEGES, USE, OBLIGATIONS, AND COSTS OF MAINTENANCE AND OPERATION. YOU SHOULD READ AND UNDERSTAND THESE DOCUMENTS

BEFORE YOU OBLIGATE YOURSELF TO PURCHASE A UNIT. (SECTION 11018.6 OF THE BUSINESS AND PROFESSIONS CODE).

THE SUBDIVIDER STATED HE WILL FURNISH THE CURRENT BOARD OF OFFICERS OF THE HOMEOWNERS ASSOCIATION AND EACH INDIVIDUAL PURCHASER WITH THE DEPARTMENT OF REAL ESTATE APPROVED ASSOCIATION BUDGET AND THE CONDOMINIUM PLAN.

THE SUBDIVIDER HAS INDICATED THAT HE INTENDS TO SELL ALL OF THE UNITS IN THIS PROJECT; HOWEVER, ANY OWNER, INCLUDING THE SUBDIVIDER, HAS A LEGAL RIGHT TO RENT OR LEASE THE UNITS.

IF YOU PURCHASE FIVE OR MORE SUBDIVISION INTERESTS UNITS FROM THE SUBDIVIDER, THE SUBDIVIDER IS REQUIRED TO NOTIFY THE REAL ESTATE COMMISSIONER OF THE SALE. IF YOU INTEND TO SELL YOUR INTERESTS OR LEASE THEM FOR TERMS LONGER THAN ONE YEAR, YOU ARE REQUIRED TO OBTAIN AN AMENDED SUBDIVISION PUBLIC REPORT BEFORE YOU CAN OFFER THEM FOR SALE OR LEASE.

WARNING: WHEN YOU SELL YOUR CONDOMINIUM UNIT TO SOMEONE ELSE, YOU MUST GIVE THAT PERSON A COPY OF THE DECLARATION OF RESTRICTIONS, ARTICLES OF INCORPORATION, THE BYLAWS AND A TRUE STATEMENT CONCERNING ANY DELINQUENT ASSESSMENTS, PENALTIES, ATTORNEYS' FEES OR OTHER CHARGES, PROVIDED BY THE RESTRICTIONS OR OTHER MANAGEMENT DOCUMENTS ON THE UNIT AS OF THE DATE THE STATEMENT WAS ISSUED.

NOTE: IF YOU FORGET TO DO THIS, IT MAY COST YOU A PENALTY OF \$500.00 -- PLUS ATTORNEY'S FEES AND DAMAGES (SEE CIVIL CODE SECTION 1368).

THE SUBDIVIDER MUST MAKE AVAILABLE TO YOU COPIES OF ASSOCIATION GOVERNING INSTRUMENTS, A STATEMENT CONCERNING ANY DELINQUENT ASSESSMENTS AND RELATED CHARGES AS PROVIDED BY THE GOVERNING INSTRUMENTS AND, IF AVAILABLE, CURRENT FINANCIAL AND RELATED STATEMENTS (SEE BUSINESS AND PROFESSIONS CODE SECTION 11018.6)

INTERESTS TO BE CONVEYED: You will receive fee title to a specified unit, together with an undivided fractional fee interest as a tenant in common in the common area together with a membership in the MLP Homeowners Association and rights to use the common area.

LOCATION AND SIZE: This subdivision is located in the vicinity of Bernardo Center Drive and Lomica Drive within the city limits of San Diego. Prospective purchasers should acquaint themselves with the kinds of city services available.

This is the third phase and last phase which consists of approximately 4.955 acres on which 9 buildings containing 50 units with 50 detached garages and 16 open parking spaces will be constructed.

Common facilities consisting of landscaping, street/drives,

fences/walls, walkways, lighting, garages and open parking will be constructed on common area Lot 2.

This is the third and last phase of a total project which, if developed as proposed, will consist of a total of 3 phases and 175 units. There is no assurance that the total project will be completed as proposed.

THE COMMUNITY OF BERNARDO HEIGHTS: This project, "Mira La Paz" is a portion of the overall project called Bernardo Heights. The concept of Bernardo Heights is to establish a master planned residential oriented community which will have a number of distinct neighborhoods ranging in size from approximately 50 dwelling units to 300 dwelling units. There may be as many as 27 such neighborhood developments, with product types ranging from low density single family detached homes to zero lot line patio homes and medium density townhomes and condominiums. Approximately 3,600 units are planned with a project population of 9,600. Project sell-out is anticipated over a 7-year period. Approximately 70% of the residential units will be attached forms of housing. Additionally, there are 2 commercial areas designated on the master plan as well as 2 church sites, 3 school sites, 2 major community recreational areas and private recreational facilities. There is no assurance that the total project will be completed as proposed.

COMMUNITY ASSOCIATION RECREATIONAL FACILITIES: Each purchaser of a subdivision interest in Bernardo Heights will, together with his or her purchase, acquire the right to use (pursuant to the Declaration of Covenants, Conditions and Restrictions of the Community of Bernardo Heights [the "Community Declaration"], the recreation facilities of the Community of Bernardo Heights.

Pursuant to the provisions of the Community Declaration, the cost of maintaining such recreational facilities will be met through assessments which will be levied against all owners of the subdivision interests within Bernardo Heights.

MANAGEMENT AND OPERATION: The MLP Homeowners Association (the "Association"), of which you become a member at time of purchase, manages and operates the common area(s) in accordance with the Restrictions, Articles of Incorporation and the Bylaws.

The overall management of the Community of Bernardo Heights will be undertaken by the Community Association established by the Community Declaration, Articles and Bylaws. Each of the neighborhood developments has a neighborhood association whether it is a planned development (townhouse), condominium or single family detached project. The day to day maintenance responsibility for each individual neighborhood including maintenance and upkeep of neighborhood common areas and the enforcement of neighborhood rules and restrictions will be undertaken by the neighborhood associations. The Community Association will have responsibilities for the community common

areas, which areas will be specifically designated and conveyed to the Community Association, the community recreational facilities which each owner in the community will be entitled to use as an appurtenance to their membership in the neighborhood association, maintenance and control of the community open space and community slope control areas which have been established for protection of the open areas in the community, and the community pedestrian and bicycle circulation areas, which have been designated as an integral portion of the community.

The government of the Community Association will be established by the election of a community board. The community board will be elected from the owners of property within the community association by the presidents of the neighborhood associations, which association shall constitute the membership of the Community Association. Because of the size of this overall community, it is not envisioned, except as set forth for specific specially held meetings, to have meetings of all of the potential 9,000 residents on any regular basis. There will be regular meetings at least annually of the presidents of the various neighborhood associations, which presidents will act as electors and representatives of each member of their individual neighborhood project. By this representational government, each community owner will have a voice in the Community Association affairs and in the election of the community board.

The Community Declaration provides for annexation procedures whereby additional property may be added, subject to the regulations of the Department of Real Estate through the annexation process. The process envisions the filing of the usual Declarations of Annexations within time periods specified. Additionally, besides setting up the Community Association, and specifying the membership rights, the Community Declaration provides for establishing community funds and assessments. These assessments are established to pay the costs of the operation of the Community Association. The community assessments will become a lien on all lots and parcels which are annexed into the property as they are assessed.

The Community Declaration established certain rights regarding the community common area which will be owned by the Community Association and certain neighborhood restriction rights and duties which pertain to each of the residential neighborhood developments.

There are established as well, specific property rights and responsibilities for commercial areas and the merchant builder who acquires property for development. Additionally, there are provisions regarding an architectural committee to be established for community association regarding all properties in the community and the usual provisions regarding the damage, destruction and condemnation of the community and neighborhood common areas. Rights regarding mortgages and the developer are also included.

MAINTENANCE AND OPERATIONAL EXPENSES: The subdivider has submitted a budget for the maintenance and operation of the common areas and for long-term reserves. This budget was reviewed by the Department of Real Estate in March, 1993. You should obtain a copy of this budget from the subdivider. Under this budget the monthly assessments against each subdivision units is \$149.03 of which \$26.05 is a monthly contribution to long-term reserves and is not to pay for current operating expenses.

IF THE BUDGET FURNISHED TO YOU BY THE DEVELOPER SHOWS A MONTHLY ASSESSMENT FIGURE WHICH IS AT LEAST 20% MORE OR AT LEAST 10% LESS THAN THE ASSESSMENT AMOUNT SHOWN IN THIS PUBLIC REPORT, YOU SHOULD CONTACT THE DEPARTMENT OF REAL ESTATE BEFORE ENTERING INTO AN AGREEMENT TO PURCHASE.

The Association may increase or decrease assessments at any time in accordance with the procedure prescribed in the Declaration of Restrictions or the Bylaws. In considering the advisability of a decrease, or a smaller increase, in assessments, care should be taken not to eliminate amounts attributable to reserves for replacement or major maintenance.

THE BUDGET INFORMATION INCLUDED IN THIS PUBLIC REPORT IS APPLICABLE AS OF THE DATE OF BUDGET REVIEW AS SHOWN ABOVE. EXPENSES OF OPERATION ARE DIFFICULT TO PREDICT ACCURATELY AND EVEN IF ACCURATELY ESTIMATED INITIALLY, MOST EXPENSES INCREASE WITH THE AGE OF FACILITIES AND WITH INCREASES IN THE COST OF LIVING.

Monthly assessments will commence on all units in this phase on the first day of the month following the closing of the first sale of a unit.

The remedies available to the Association against owners who are delinquent in the payment of assessments are set forth in the Restrictions. These remedies are available against the subdivider as well as against other owners.

The subdivider has posted a letter of credit as partial security for his obligation to pay these assessments. The governing body of the Association should assure itself that the subdivider has satisfied his obligations to the Association with respect to the payment of assessments before agreeing to a release or exoneration of the security.

COMMUNITY ASSESSMENT: Each unit in the subdivision constitutes a part of the Community Association of Bernardo Heights and will be subject to assessments which will be levied against such unit by the Community Association, in addition to the separate assessments which will be levied by the MLP Homeowners Association. The assessments which will be levied by the Community Association will be used for the maintenance and

management of the community common area and community recreational facilities.

The Community Association has adopted a budget in the amount of \$28.33 per month per unit for the maintenance and operation of the common areas and for long-term reserves. You should obtain a copy of this budget from the subdivider.

The Community Association assessments will commence as to units in the subdivision on the first day of the month following the closing of the first sale of a unit in each phase in the subdivision. From that time on the subdivider is required to pay assessments to the Community Association for each unit which the subdivider owns in such phase.

The subdivider has posted a letter of credit as partial security for his obligation to pay these assessments. The governing body of the Community Association should assure itself that the subdivider has satisfied his obligations to the Community Association with respect to the payment of assessments before agreeing to a release or exoneration of the security.

"START-UP" MONEY: In addition to assessments, purchaser must make an Initial Capital Contribution to the MLP Homeowners Association in order for the association to have sufficient "start-up" funds for operating the common areas.

Buyer will deposit the sum representing 1/6th the annual assessment fee as a capital contribution in accordance with the provisions of the covenants, conditions and restrictions, said sum to be paid at the close of escrow to the MLP Homeowners Association.

Six months following the conveyance of record of the first unit to an individual owner, seller will deposit into an escrow the capital contribution, equal to 1/6th the annual assessments fee, for each and every unit on which the escrow has not yet closed. EScrow shall remit these funds directly to the homeowners association. On the units where the capital contribution was so prepaid, the subdivider will be reimbursed upon the close of each individual escrow. This amount represents the purchaser's Initial Capital Contribution and is not a prepayment of assessments or part of the purchase price. This arrangement is set forth in the escrow instructions.

The subdivider has posted a letter of credit as partial security for his obligation to pay these assessment. The governing body of the association should assure itself that the subdivider has satisfied these obligations to the association with respect to the payment of assessments before agreeing to a release or exoneration of the security.

EASEMENTS: Easements for utilities, drainage and other purposes are shown on the Title Report and Subdivision Map recorded in the

Office of the San Diego County Recorder, as Map No. 9562 and Condominium Plan recorded April 26, 1993 as File No. 93-0253772 of Official Records.

Amendments to the original condominium plan may also be recorded. You should ask the subdivider about such changes. If you purchase a condominium, this information will be included in your title policy.

RESTRICTIONS: This subdivision is subject to Restrictions recorded in the Office of the San Diego County Recorder October 3, 1977 as File No. 77-405893; modification recorded March 2, 1982; as File No. 82-056426; modification September 29, 1982 as File No. 82-300943; and Declaration of Restrictions recorded December 29, 1983 as File No. 83-474243; and Declaration of Restrictions recorded October 11, 1989 as File No. 89-551198; Declaration of Annexation November 5, 1992 as File No. 92-0709231; and Supplemental Declaration For "Mira La Paz" recorded April 26, 1993 as File No. 93-0253771 of Official Records.

COMMUNITY RESTRICTIONS: This subdivision is part of the Community of Bernardo Heights which is subject to the Declaration of Covenants, conditions and Restrictions for the Community of Bernardo Heights, (the "Community Declaration"), recorded in the Office of the San Diego County Recorder September 30, 1980 as File No. 80-319018; Declaration of Annexation January 28, 1981 as File No. 81-028249; modification July 31, 1981 as File No. 81-243645 and modification December 14, 1983 as File No. 83-456035. Each lot/unit in this subdivision will be subject to the Covenants, Conditions, and Restrictions contained in the Community Declaration. The subdivider will provide you with a copy of the Community Declaration; you should therefore read and understand the Community Declaration before you obligate yourself to purchase a lot/unit in this subdivision.

FOR INFORMATION AS TO YOUR OBLIGATIONS AND RIGHTS YOU SHOULD READ THE RESTRICTIONS. THE SUBDIVIDER MUST MAKE THEM AVAILABLE TO YOU.

COMMUNITY ARCHITECTURAL COMMITTEE: The Community Declaration also provides for the review by an architectural committee (acting on behalf of the Community Association) of certain kinds of improvements which may be contemplated by an owner of a lot or unit in the Community of Bernardo Heights. Such review by the Community Architectural Committee is in addition to any review by an architectural committee acting on behalf of "MLP HOMEOWNERS ASSOCIATION" which may have been provided for in the management documents for this subdivision.

HAZARDS: Subdivider advises Escondido Freeway (I-15) is approximately 1/2 mile to the West of this project.

TAXES: The maximum amount of any tax on real property that can be collected annually by counties is 1% of the full cash value of the property. With the addition of interest and redemption

charges on any indebtedness, approved by voters prior to July 1, 1978, the total property tax rate in most counties is approximately 1.25% of the full cash value. In some counties the total tax rate could be well above 1.25% of the full cash value. For example, an issue of general obligation bonds previously approved by the voters and sold by a county water district, a sanitation district or other such district could increase the tax rate.

For the purchaser of a lot or unit in this subdivision, the "full cash value" of the lot or unit will be the valuation, as reflected on the tax roll, determined by the county assessor as of the date of purchase of the lot or unit or as of the date of completion of an improvement on the lot if that occurs after the date of purchase.

CONDITIONS OF SALE: Pursuant to Civil Code Sections 2956 through 2967, inclusive, subdividers and purchasers must make certain written disclosures regarding financing terms and related disclosures needed from them, if any.

If your purchase involves financing, a form of deed of trust and note will be used. The provisions of these documents may vary depending upon the lender selected. These documents may contain the following provision(s):

Acceleration Clause: This is a clause in a mortgage or deed of trust which provides that if the borrower (trustor) defaults in repaying the loan, the lender may declare the unpaid balance of the loan immediately due and payable.

Due-on-Sale Clause: If the loan instrument for financing your purchase of an interest in this subdivision includes a due-on-sale clause, the clause will be automatically enforceable by the lender when you sell the property. This means that the loan will not be assumable by a purchaser without the approval of the lender. If the lender does not declare the loan to be all due and payable on transfer of the property by you, the lender is nevertheless likely to insist upon modification of the terms of the instrument as a condition to permitting assumption by the buyer. The lender will almost certainly insist upon an increase in the interest rate if the prevailing interest rate at the time of the proposed sale of the property is higher than the interest rate of the promissory note.

A Balloon Payment: This means that your monthly payments are not large enough to pay off the loan, with interest, during the period for which the loan is written and that at the end of the loan period, you must pay the entire remaining balance in one payment. If you are unable to pay the balance and the remaining balance is a sizeable one, you should be concerned with the possible difficulty in refinancing the balance. If you cannot refinance or sell your property, or pay off the balloon payment, you will lose your property.

A Prepayment Penalty: This means that if you wish to pay off your loan in whole or in part before it is due, you must, in addition, pay a penalty.

A Late Charge: This means that if you fail to make your installment payment on or before the due date, you, in addition, must pay a penalty.

BEFORE SIGNING, YOU SHOULD READ AND THOROUGHLY UNDERSTAND ALL LOAN DOCUMENTS.

PURCHASE MONEY HANDLING: The subdivider must impound all funds received from you in an escrow depository until legal title is delivered to you. (Refer to Sections 11013, 11013.1, and 11013.2(a) of the Business and Professions Code).

Subdivider advises that individual escrows will not close until a maximum 70%, minimum 51%, presell requirement on conventional sales only (based only on the 50 units in this phase) has been met.

If the escrow has not closed on your unit within one (1) year of the date of the Purchase Agreement, you may request return of your deposit.

NOTE: Section 2995 of the Civil Code provides that: No real estate developer shall require as a condition precedent to the transfer of real property containing a single family residential dwelling that escrow services effectuating such transfer shall be provided by an escrow entity in which the developer owns or controls 5% or more of the escrow entity.

THE SUBDIVIDER HAS NO SUCH INTEREST IN THE ESCROW COMPANY WHICH IS TO BE USED IN CONNECTION WITH THE SALE OR LEASE OF UNITS IN THIS SUBDIVISION.

SOILS CONDITIONS: Some lots will contain filled ground. Information concerning filled ground and soils conditions is available at the City of San Diego, Planning Department, 202 "C" Street, San Diego, California.

GEOLOGIC CONDITIONS: THE UNIFORM BUILDING CODE, CHAPTER 70, PROVIDES FOR LOCAL BUILDING OFFICIALS TO EXERCISE PREVENTIVE MEASURES DURING GRADING TO ELIMINATE OR MINIMIZE DAMAGE FROM GEOLOGIC HAZARDS SUCH AS LANDSLIDES, FAULT MOVEMENTS, EARTHQUAKE SHAKING, RAPID EROSION OR SUBSIDENCE. THIS SUBDIVISION IS LOCATED IN AN AREA WHERE SOME OF THESE HAZARDS MAY EXIST. SOME CALIFORNIA COUNTIES AND CITIES HAVE ADOPTED ORDINANCES THAT MAY OR MAY NOT BE AS EFFECTIVE IN THE CONTROL OF GRADING AND SITE PREPARATION.

PURCHASERS MAY CONTACT THE DEVELOPER, THE DEVELOPER'S ENGINEER, THE ENGINEERING GEOLOGIST AND THE LOCAL BUILDING OFFICIALS TO DETERMINE IF THE ABOVE-MENTIONED HAZARDS HAVE BEEN CONSIDERED AND

IF THERE HAS BEEN ADEQUATE COMPLIANCE WITH CHAPTER 70 OR AN EQUIVALENT OR MORE STRINGENT GRADING ORDINANCE DURING THE CONSTRUCTION OF THIS SUBDIVISION.

STREETS AND ROADS: The private streets in this project will be maintained by the Association. The costs of repair and maintenance of these private streets are included in the budget and are a part of your regular assessment.

SCHOOLS: This project lies within the Poway Unified School District.

For the most current information regarding school assignments, facilities and bus service, purchasers are encouraged to contact the district:

Poway Unified School District
13626 Twin Peaks Road
Poway, California
619/586-7500

If you need clarification as to the statements in this Public Report or if you desire to make arrangements to review the documents submitted by the subdivider which the Department of Real Estate used in preparing this Public Report you may call:

Department of Real Estate
Subdivisions South
107 South Broadway, Suite 7111
Los Angeles, CA 90012
(213) 897-3908

BYLAWS
OF
MLP HOMEOWNERS ASSOCIATION

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BYLAWS
OF
MLP HOMEOWNERS ASSOCIATION

ARTICLE I
NAME AND OFFICE LOCATION

The name of the corporation is MLP HOMEOWNERS ASSOCIATION which is referred to as the "Association". The principal office of the Association is located in the County of San Diego, State of California.

ARTICLE II
DEFINITIONS

Section 2.1. "Articles" - The Articles of Incorporation of the Association.

Section 2.2. "Association" - MLP HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation.

Section 2.3. "Board" - The Board of Directors of the Association.

Section 2.4. "Bylaws" - The Bylaws of the Association.

Section 2.5. "Common Area" - All portions of the Condominium Property not located within a Unit.

Section 2.6. "Common Expenses" - The expenses of operating the Condominium Property and Recreation Area and any reasonable reserve for such purposes.

Section 2.7. "Condominium" - A fee simple estate in the Condominium Property as defined in the California Civil Code consisting of a separate interest in space shown and described on the Condominium Plan as a Unit, the exclusive right to use any

appurtenant Exclusive Use Common Area shown and described on the Condominium Plan, and an undivided fractional interest as tenant in common in the Common Area.

Section 2.8. "Condominium Plan" - The Condominium Plan(s) recorded pursuant to the California CIVIL CODE covering the Condominium Property.

Section 2.9. "Condominium Property" - The real property located in The City of San Diego, County of San Diego, State of California, described as such in the Declaration, and such additions as may be annexed to the Declaration.

Section 2.10. "Declarant" - MARTIN GOLDBERG, in his capacity as Receiver appointed by the United States District Court, Southern District of California, in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), its successors and assigns, if such successors or assigns should acquire one or more full lots in the Condominium Property (or property which may be annexed to the Condominium Property as provided in the Declaration) from Declarant and the rights of "Declarant" are assigned to them.

Section 2.11. "Declaration" - The Declaration of Covenants, Conditions and Restrictions recorded with the Office of the County Recorder of San Diego County, California, covering the Condominium Property.

Section 2.12. "Eligible Insurer or Guarantor" - An insurer or governmental guarantor who has requested notice from the Association regarding matters of which an insurer or guarantor is entitled to notice pursuant to the Bylaws or the Declaration.

Section 2.13. "Eligible Mortgage Holder" - A holder of a first Mortgage on a Condominium who has requested notice from the Association regarding matters which a holder is entitled to notice pursuant to the Bylaws or the Declaration.

Section 2.14. "Exclusive Use Common Area" - Those portions of the Common Area shown and described on the Condominium Plan to which an exclusive right to use is granted to an Owner.

Section 2.15. "FHA" - The Federal Housing Administration.

Section 2.16. "Member" - Those persons entitled to membership in the Association as provided in the Declaration.

Section 2.17. "Mortgage" - A deed of trust as well as a mortgage encumbering a Condominium.

Section 2.18. "Mortgagee" - A beneficiary under or holder of a deed of trust as well as a mortgagee.

Section 2.19. "Owner" - The record owner, whether one or more persons or entities, of fee simple title to any Condominium, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.20. "Project" - The Condominium Property and Recreation Area, including all structures and improvements erected or to be erected thereon, and such additions as may hereafter be brought within the jurisdiction of the Association.

Section 2.21. "Recreation Area" - All real property (including improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

Section 2.12. "Unit" - Those portions of the Condominium Property shown and described as such on the Condominium Plan and as defined in the Declaration.

Section 2.23. "VA" - The United States Department of Veterans Affairs.

ARTICLE III

VOTING RIGHTS IN ASSOCIATION

The Association shall have two (2) classes of voting membership as set forth in the Articles and the Declaration.

ARTICLE IV

MEMBERSHIP ASSESSMENTS AND LIEN RIGHTS

Section 4.1. Annual Assessments. The Board shall fix and determine from time to time annual assessments to be paid by each Owner to the Association as provided in the Declaration. The annual assessments shall include an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Area and Recreation Area as set forth in the Declaration.

Section 4.2. Special Assessments. In addition to the annual assessments, the Board may levy special assessments to be paid by each Owner to the Association as set forth in the Declaration.

Section 4.3. Lien Rights. The Association shall have a lien against the interest of each Owner in the Condominium Property to secure the payment of assessments levied by the Association as set forth in the Declaration.

Section 4.4. Payment of Assessments by Declarant. Declarant shall pay all assessments levied by the Association against any Condominium owned by it as set forth in the Declaration.

Section 4.5. Commencement of Assessments. Assessments shall commence and be payable as set forth in the Declaration.

ARTICLE V

MEMBERSHIP RIGHTS, PRIVILEGES AND PENALTIES

Section 5.1. Rights and Privileges. No Member shall have the right without the prior approval of the Board to exercise any of the powers or to perform any of the acts delegated to the Board in the Bylaws. Unless otherwise provided in the Declaration and subject to the rules and regulations adopted by the Board, each Member, his immediate family, guests and tenants shall have the right to use and enjoy the Common Area other than those portions thereof the exclusive right to use of which has been granted to others and the Recreation Area. If a Condominium has been leased, the tenant and not the Member shall have the rights to use and enjoy the Common Area and Recreation Area.

Section 5.2. Suspensions and Penalties. The membership rights and privileges, together with the voting rights of any Member, may be suspended by the Board for any period of time during which the assessment on his Condominium remains unpaid, and for a period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations, after reasonable written notice and an opportunity for a hearing before the Board. The Board may adopt rules and regulations imposing reasonable monetary penalties for the breach or non-compliance. Should the Board believe grounds may exist for any suspension or imposition of monetary penalties, the Board shall give to the Member alleged to be in violation at least fifteen (15) days' prior written notice of the intended suspension or proposed monetary penalty and the reasons therefor. The Member shall be given an opportunity to be heard before the Board either orally or in writing not less than five (5) days before the effective date of suspension or penalty. The notice may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first class or registered mail sent to the last address of the Member shown on the Association's records. No suspension shall affect the rights of the Member to access to his Unit or his right to use of any Exclusive Use Common Area appurtenant to his Unit. A monetary penalty, other than a penalty for non-payment of assessments, shall not be a lien against the Member's Condominium.

ARTICLE VI

MEETINGS OF MEMBERS

Section 6.1. Place of Meeting. All meetings of Members shall be held at the Condominium Property or at such other location in San Diego County, California, in reasonable proximity to the Condominium Property, as may be designated in the notice of meeting.

Section 6.2. Annual Meetings. The first annual meeting of Members shall be held within forty-five (45) days after close of escrow for the sale by Declarant of fifty-one percent (51%) of the Condominiums in the first phase of the Project (as defined in the Declaration), but in no event shall the meeting be held later than six (6) months after the first close of sale of a Condominium. Subsequent annual meetings of Members shall be held within fifteen (15) days before or after the annual anniversary of the first annual meeting of Members. Should any annual meeting day fall upon a weekend or legal holiday, then the annual meeting of Members shall be held at the same place on a day during the next seven (7) days as determined by the Board. An election of directors shall be held at the first annual meeting of Members and all positions of director shall be filled at that election.

Section 6.3. Special Meetings. Special meetings of Members may be called at any time by the president or by a majority of a quorum of the Board, and shall be called by the Board upon receipt of a written request for a special meeting signed by Members representing at least five percent (5%) or more of the total voting power of the Members.

Section 6.4. Notice of Meetings. Written notice of a meeting of Members shall be given to each Member and, upon written request to all first Mortgagees, either personally or by sending a copy of the notice through the mail, first class, or by telegraph charges prepaid, to the Member's address appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice. If no address is supplied, notice shall be deemed to have been given him if mailed to the address of the Condominium owned by the Member or encumbered by the first Mortgagee. All notices shall be sent not less than ten (10) days and not more than ninety (90) days before the meeting; provided, however, if notice is given by mail and is not mailed by first class mail, then the notice shall be given not less than twenty (20) days before the meeting. The notice shall specify the place, day and hour of the meeting, and those matters which the Board at the time of mailing the notice intends to present for action by the Members.

Section 6.5. Adjourned Meetings and Notice. Any membership meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the voting power present in person or represented by proxy, but in the absence of a quorum no other business may be transacted at the meeting. When a meeting of Members is adjourned to another time or place, notice of the adjourned meeting need not be given if the time and place of the adjourned meeting are announced at the meeting which is adjourned. If a time and place for the adjourned meeting is not chosen by those Members at the original meeting or for any reason a new date is fixed for the adjourned meeting after adjournment or the adjournment is for more than forty-five (45) days, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for annual meetings. At the adjourned meeting, the Association may transact any business, except the election of the directors, which might have been transacted at the original meeting.

Section 6.6. Mortgagee Representation. First Mortgagees shall have the right to attend all meetings of Members through a representative designated in writing and delivered to the Board.

Section 6.7. Voting. Voting of the Members may be voice vote or by ballot, except that all elections for directors shall be by secret written ballot.

Section 6.8. Quorum. The presence in person or by proxy of a majority of the voting power entitled to vote at any meeting shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough voting power to leave less than a quorum. In the event any meeting of Members cannot be held because a quorum is not present, the Members present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time of the original meeting date, at which meeting the quorum requirement shall be twenty-five percent (25%) of the voting power of the membership of the Association. In the event the quorum requirement becomes twenty-five percent (25%) of the voting power of the membership, then the only matters that may be voted upon at any meeting actually attended in person or by proxy by one-third (1/3) or less of the voting power are matters notice of the general nature of which was given in the notice of meeting.

Section 6.9. Consent of Absentees. The transactions at any meeting of Members shall be valid if a quorum be present and if, either before or after the meeting, each of the Members not present signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes. All waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 6.10. Action Without Meeting. Any action which may be taken at a meeting of the Members, except the election of directors where cumulative voting is a requirement, may be taken without a meeting if done in compliance with the provisions of §7513 of the California Corporations Code.

Section 6.11. Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or by a written proxy executed by such person and filed with the secretary of the Association. Any form of proxy or written ballot distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot shall provide that, where the member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it will be valid. All proxies shall be revocable and shall automatically terminate upon transfer of title of a Condominium by the Owner.

ARTICLE VII

DIRECTORS

Section 7.1. Powers and Duties. The Board shall have the powers and duties set forth in the Declaration and the Bylaws.

Section 7.2. Number and Qualifications of Directors. The Board shall consist of five (5) directors. Directors need not be Members of the Association.

Section 7.3. Election and Term of Office. At the first annual meeting of Members, three (3) directors shall be elected for a term of (1) one year and two (2) directors shall be elected for a term of two (2) years. Thereafter, directors shall be elected at each annual meeting of Members to fill the vacancies of those directors whose term then expires and the term of each director so elected shall be two (2) years. If any annual meeting is not held or the directors are not elected thereat, the directors may be elected at any special meeting of Members held for that purpose. All directors shall hold office until their successors are elected. Election to the Board shall be by secret written ballot. No Member shall have the right to cumulate his votes unless the candidates' names have been placed in nomination prior to the voting and the Member has given notice to the meeting prior to the voting of the Member's intention to cumulate votes. If one Member is entitled to cumulate votes, all Members shall have the right to cumulate votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which he is entitled, or to distribute his votes on the same principle among as many candidates as he shall think fit. The candidates

receiving the highest number of votes up to the number of directors to be elected shall be elected. Anything contained herein to the contrary notwithstanding, at the first election of directors by Members and thereafter for so long as a majority of the voting power of Members is held by Declarant, or so long as there are two (2) outstanding classes of membership, not fewer than twenty percent (20%) of the directors shall be elected solely by the votes of Members other than Declarant.

Section 7.4. Removal. The entire Board may be removed from the Board, with or without cause, by a majority vote of the Members. Unless the entire Board is removed, an individual director shall not be removed if the number of votes against the resolution for his removal or not consenting in writing to his removal would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election of directors were then being elected. However, any director elected to office solely by the votes of Members other than Declarant may be removed from office prior to the expiration of his term only upon the vote of a simple majority of the voting power of Members other than Declarant.

Section 7.5. Vacancies.

(a) Vacancies on the Board created by death or resignation may be filled by a majority of the remaining directors, though less than a quorum, and each director so elected shall hold office until his successor is elected by the Members.

(b) Vacancies on the Board created by the removal of any director may be filled only by the vote of the Members.

(c) The Members may at any time elect directors to fill any vacancy not filled by the directors, and may elect the additional directors at the meeting at which an amendment of the Bylaws is voted, authorizing an increase in the number of directors. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his term of office.

Section 7.6. Compensation. No director shall receive compensation for services he may render to the Association as a director. However, a director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE VII

MEETINGS OF DIRECTORS

Section 8.1 Place of Meetings. Meetings of the Board shall be held within the Project unless adequate space for the meeting is not available, in which event, the meeting shall be held at the nearest reasonable location which has adequate space.

Section 8.2 Regular Meetings. Regular meetings of the Board shall be held bi-monthly, at such place and hour as may be fixed from time to time by resolution of the Board. Should the meeting day fall upon a legal holiday, then the meeting shall be held at the same time on the next day which is not a legal holiday.

Section 8.3 Special Meetings. Special meetings of the Board shall be held when called by the president of the Association, or by any two (2) directors other than the president.

Section 8.4 Notice of Meetings.

(a) Notice of regular meetings of the Board shall be posted in a prominent place within the Project and communicated to the directors not fewer than four (4) days before the meeting; provided, however, notice of a regular meeting of the Board need not be given to a director who has signed a waiver of notice or a written consent of the holding of the meeting.

(b) Notice of special meetings of the Board shall be posted in a prominent place within the Project and sent to the directors not fewer than seventy-two (72) hours before the meeting; provided, however, notice of a special meeting of the Board need not be given to a director who has signed a waiver of notice or a written consent to the holding of the meeting. Notice of a special meeting of the Board shall specify the time and place of the meeting and the nature of any business to be conducted.

Section 8.5 Waiver of Notice. The transactions at any meeting of the Board shall be valid if a quorum is present, and if, either before or after the meeting, each of the directors not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Nothing contained herein shall remove the obligation to post the notice of all directors' meetings within the Project.

Section 8.6. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 8.7. Attendance. Regular and special meetings of the Board shall be open to all Members; provided, however, that Members who are not on the Board may not participate in any deliberation or discussion unless expressly authorized by the vote of a majority of a quorum of the Board. The Board may, upon the vote of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and other matters of business of a similar nature. Only members of the Board shall be entitled to attend executive sessions. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 8.8. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting, if all members of the Board consent in writing to the action. Action by written consent shall have the same force and effect as a unanimous vote of the Board. Written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action to be taken or actually taken by the Board shall be given to the Members of the Association within three (3) days after all written consents have been obtained. The explanation shall be given in the same manner as provided in the Bylaws for the giving of notice of regular meetings of the Board. Failure to give notice shall not render the action to be taken or actually taken invalid.

ARTICLE IX

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Subject to the Declaration, the Articles and the California Nonprofit Corporation Law applicable to mutual benefit corporations, the Board shall have the following powers and duties:

Section 9.1. Right to Enforce. To enforce the provisions of the Declaration, Articles, Bylaws, rules and regulations adopted by the Board, any agreement to which the Association is a party and other instruments for the management and control of the Project.

Section 9.2. Payment of Taxes. To pay taxes and assessments which are, or could become, a lien on the Common Area or Recreation Area.

Section 9.3. Insurance. To procure and maintain fire, casualty, liability, fidelity and other insurance adequately insuring the Common Area, Recreation Area, the Association and property owned or maintained by the Association as required by the Declaration.

Section 9.4 Goods and Services. To contract and pay for goods and services relating to the Common Area and Recreation Area, and to employ personnel necessary for the operation and maintenance of the Common Area and Recreation Area, including legal and accounting services. Anything herein to the contrary notwithstanding:

(a) The term of any contract with a third person for supplying goods or services to the Common Area or for the Association shall not exceed a term of one year unless a longer term is approved by a majority of the voting power of each class of Members of the Association, with the following exceptions:

(1) A contract with the public utility company for materials or services the rates for which are regulated by the Public Utilities Commission may exceed a term of one year so long as it does not exceed the shortest term for which the public utility will contract at the regulated rate;

(2) A contract for prepaid casualty and/or liability insurance policies may be for a term of not to exceed three (3) years, provided that the policy permits short rate cancellation by the Association;

(3) A management contract the terms of which have been approved by the VA and FHA may exceed a term of one year;

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

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

(6) Agreements for the sale or lease of burglar alarm and fire alarm equipment, installation and services not to exceed five (5) years' duration, provided that the supplier or suppliers are not entities in which

Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(b) Any agreement for management of the Project or for services to be provided by Declarant shall be terminable for cause upon thirty (30) days' written notice, and without cause or payment of a termination fee upon not more than ninety (90) days' written notice. Agreements for management of the Project shall be renewable with the consent of the Board and the management agent.

(c) The Board shall not terminate professional management and assume self-management without the prior written approval of Mortgagees holding the first Mortgages encumbering seventy-five percent (75%) or more of the Condominiums which are encumbered by a Mortgage.

(d) No contract with the Association negotiated by Declarant shall exceed a term of one year except as may otherwise be provided in this Section 9.4.

Section 9.5. Delegation. To delegate any of its rights and duties to others, including committees, officers or employees.

Section 9.6. Budgets and Financial Statements. To prepare budgets and financial statements as provided in the Bylaws.

Section 9.7. Rules. To adopt rules and regulations governing the use of the Common Area, Recreation Area and facilities owned or controlled by the Association.

Section 9.8. Disciplinary Proceedings. To initiate and execute disciplinary proceedings against Members for violations of the provisions of the Articles, Bylaws, Declaration, and rules and regulations adopted by the Board.

Section 9.9. Right to Enter. To enter into any Condominium as necessary in connection with construction, maintenance or repair of the Common Area, Recreation Area or for the benefit of the Owners in common subject to the limitations set forth in the Declaration.

Section 9.10. Select Officers. To select, remove and supervise officers, agents and employees of the Association and prescribe their powers and duties.

Section 9.11. Fill Vacancies on Board. To fill vacancies on the Board, except for a vacancy created by the removal of a member of the Board by vote of the Members.

Section 9.12. Capital Expenditures. To make capital expenditures for and on behalf of the Association; provided, however, expenditures during any fiscal year for capital improvements to the Common Area or Recreation Area shall not exceed five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the vote or written consent of a majority of the voting power of each class of members.

Section 9.13. Sale of Association Property. To sell property of the Association; provided, however, sales of property of the association during a fiscal year having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for a fiscal year shall not be made without the vote or written consent of a majority of the voting power of each class of members.

Section 9.14. Management of Business. To conduct, manage and control the affairs and business of the Association.

Section 9.15. Management of Property. To manage, operate, maintain and repair the Common Area and Recreation Area and all improvements located on the Common Area and Recreation Area.

Section 9.16. Notification to Mortgagees. To give, upon written request to the Association identifying the name and address of the holder, insurer or guarantor and the Condominium number or address, any first Mortgage holder or insurer or guarantor of a Mortgage encumbering the Condominium timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium on which there is a first Mortgage held, insured or guaranteed by the Eligible Mortgage Holder or Eligible Insurer or Guarantor, as applicable.

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium encumbered by a first Mortgage held, insured or guaranteed by the Eligible Mortgage Holder or Eligible Insurer or Guarantor, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of first Mortgage holders as required in the Bylaws or the Declaration.

Section 9.17. Notice to Federal Home Loan Mortgage Corporation. To give notice in writing to the Federal Home Loan Mortgage Corporation ("FHLMC"), in care of the servicers of FHLMC loans on Condominiums, provided the servicers have informed the Association in writing of their addresses, of any loss to or taking of the Common Area or Recreation Area if the loss or taking exceeds \$10,000, and of any damage to a Unit if the damage exceeds \$1,000.

Section 9.18. Payment of Common Area Utilities. To pay all charges for water, electricity, gas, CATV and other utility services for the Common Area and Recreation Area and, to the extent not separately metered or charged, for each Unit.

Section 9.19. Litigation. To prosecute or defend, in the name of the Association, any action affecting or relating to the Common Area, Recreation Area or property owned by the Association, and any action in which all or substantially all of the Owners have an interest.

Section 9.20. Right to Permit Use of Common Area and Recreation Area. To permit utility suppliers and others to use the Common Area and Recreation Area reasonably necessary for the on-going development or operation of the Project.

Section 9.21. Neighborhood Association Duties. To perform the duties of the Association as a "Neighborhood Association" as set forth in the Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights recorded in the Office of the County Recorder of San Diego County, California, on September 30, 1980 as Document No. 80-319018, as amended.

Section 9.22. General Rights and Powers. To exercise for the Association all powers and duties vested in or delegated to the Association and not reserved to the Members by the Articles, Bylaws or Declaration.

ARTICLE X

OFFICERS AND THEIR DUTIES

Section 10.1. Enumeration of Officers. The officers of the Association shall be a president and vice president, who shall at all times be members of the Board, a

secretary and a chief financial officer, and such other officers as the Board may from time to time by resolution create.

Section 10.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 10.3. Term. The officers of the Association shall be elected annually by the Board, and each shall hold office until he shall resign, or be removed, or is otherwise disqualified to serve.

Section 10.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 10.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. A resignation shall take effect on the date of receipt of the resignation or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 10.6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to fill a vacancy shall serve for the remainder of the term of the officer he replaces.

Section 10.7. Multiple Offices. One (1) person may hold two (2) or more offices except that the president and secretary may not be the same person.

Section 10.8. Duties. The duties of the officers are as follows:

President

(a) The president shall be the chief executive officer of the Association and shall, subject to the control of the Board, have general supervision, direction and control of the business and affairs of the Association. The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes unless others are so authorized by resolution of the Board.

Vice President

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

Secretary

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

Chief Financial Officer

(d) The chief financial officer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; sign all checks and promissory notes of the Association unless others are so authorized by resolution of the Board; keep proper books of account; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its annual meeting, and deliver a copy to each of the Members.

Section 10.9. Compensation. No officer of the Association shall receive compensation for his services performed in the conduct of the business of the Association; provided, however, any officer may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE XI

COMMITTEES

The Board shall appoint committees as deemed appropriate in carrying out its purposes.

ARTICLE XII

BOOKS AND RECORDS

The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Members, the Board and Committees of the Board, shall, during reasonable business hours, be subject to inspection and copying by any Member or by his duly appointed representative, and by a representative of the holder of any first Mortgage encumbering a Condominium, at the principal office of the Association or at another location within the Project as the Board may prescribe. The Board shall establish reasonable rules with respect to:

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

Every director of the Association and every director of the Community Association of Bernardo Heights, a California nonprofit mutual benefit corporation, shall have the absolute right at any reasonable time to inspect the Common Area and Recreation Area and all books, records and documents of the Association and the physical properties, if any, owned by the Association. The right of inspection by a director shall include the right at his expense to make extracts and copies of documents.

ARTICLE XIII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: MLP HOMEOWNERS ASSOCIATION, a California corporation.

ARTICLE XIV

AMENDMENTS

Section 14.1. Amendments. Except as may otherwise be stated in the Bylaws, new Bylaws may be adopted or these Bylaws may be amended or repealed by the vote or written consent of the Members entitled to exercise a majority or more of the voting

power of each class of Members of the Association. Anything herein stated to the contrary notwithstanding, no material amendment to the Bylaws shall be made without the prior written approval of Mortgagees holding first Mortgages encumbering seventy-five percent (75%) of the Condominiums which are subject to Mortgages; provided further, that so long as there remains a Class B membership in the Association, amendment of the Bylaws shall require the prior approval of the VA and/or FHA, and a draft of the proposed amendment shall be submitted to the VA for its approval before its adoption by the Members of the Association. "Material amendment" shall mean, for purposes of this Article XV, any amendments to provisions of the Bylaws governing any of the following subjects:

- (a) The fundamental purpose for which the Project was created (such as a change from residential use to a different use).
- (b) Assessments, assessment liens and subordination thereof.
- (c) The reserve for repair and replacement of the Common Area or Recreation Area.
- (d) Property maintenance obligations.
- (e) Insurance and fidelity bonds.
- (f) Reconstruction in the event of damage or destruction.
- (g) Rights to use the Common Area and Recreation Area.
- (h) Expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project.
- (i) Boundaries of any Unit.
- (j) The interests in the Common Area.
- (k) Convertibility of Condominiums into Common Area or of Common Area into Condominiums.
- (l) Leasing of Condominiums.
- (m) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Condominium.

(n) **Voting.**

(o) Any provision which, by its terms, is specifically for the benefit of first Mortgagees, or specifically confers rights on first Mortgagees.

A first Mortgage holder who receives a written request to approve amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days following receipt of the request, shall be deemed to have approved the request.

Notwithstanding the above provisions, the percentage of the voting power necessary to amend a specific clause or provision in the Bylaws shall not be less than the percentage of affirmative votes necessary for action to be taken under that clause or provision.

Anything contained in the Bylaws to the contrary notwithstanding, the rights of each director or the Community Association of Bernardo Heights set forth in Article XII of the Bylaws, may not be amended, modified or rescinded without the prior written consent of the Board of Directors of the Community Association of Bernardo Heights.

Section 14.2. Conflict Between Documents. In the case of any conflict between the Articles and the Bylaws, the Articles shall control; in the case of any conflict between the Declaration and the Bylaws, the Declaration shall control.

ARTICLE XV

MISCELLANEOUS

Section 15.1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association. The fiscal year of the Association may be changed by the Board.

Section 15.2. Financial Statements. The Board shall cause:

(a) a financial statement (including a balance sheet and income and expense statement) of the affairs of the Association to be made as of the last day of the month closest in time to the date six (6) months following the first close of escrow for the sale of a Condominium by Declarant to an Owner other than Declarant. The financial statement shall reflect the financial condition of the Association as of that date and shall summarize the financial transactions in which the Association was involved during the period between the first close of a sale and the date of the financial statement. The financial statement shall include a schedule of assessments

received or receivable itemized by Condominium and shall include the name of the person or entity assessed. A copy of the financial statement shall be distributed personally or by mail to each of the Members and, upon written request, to all first Mortgagees, within sixty (60) days after the date of the financial statement.

(b) an annual report consisting of the following to be distributed to the Members within one hundred twenty (120) days after close of the Association's fiscal year:

- (1) a balance sheet as of the end of the fiscal year;
- (2) an income and expense statement for the fiscal year;
- (3) a statement of changes in financial position for the fiscal year;
- (4) any information required to be reported under §8322 of the California Corporations Code;
- (5) for any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

(c) if the annual report referred to in Subsection (b) above is not prepared by an independent accountant, it shall be accompanied by a certificate of an authorized officer of the Association stating that the report was prepared from the books and records of the Association without independent audit or review.

(d) a statement of the Association's policies and practices in enforcing its remedies against Members for default in the payment of annual and special assessments, including the recording and foreclosing of liens against the Member's Condominium, to be distributed to Members within sixty (60) days prior to the beginning of each fiscal year.

(e) if the Project contains fifty (50) or more Condominiums, any holder, insurer or governmental guarantor of a first Mortgage shall be entitled, upon written request, to an audited financial statement for the immediately preceding fiscal year, free of charge to the party so requesting it. If the Project contains fewer than fifty (50) Condominiums, first Mortgage-

ees shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available. The financial statements required hereby shall be furnished within a reasonable time following request.

Section 15.3. Budget. The Board shall cause a pro forma operating statement (budget) for the Association to be prepared for the second and each succeeding fiscal year of the Association, a copy of which shall be distributed personally or by mail to the Members not fewer than forty-five (45) days nor more than sixty (60) days prior to the beginning of the fiscal year to which the budget relates. The budget shall include the following information:

(a) The estimated revenue and expenses of the Association on an accrual basis for the next fiscal year.

(b) The amount of the total cash reserves of the Association currently available for the replacement or major repair of the Common Area and Recreation Area and for contingencies.

(c) An itemized estimate of the current replacement costs of, the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Common Area and Recreation Area for which the Association is responsible.

(d) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Area and Recreation Area for which the Association is responsible.

In lieu of the distribution of the budget to Members, the Board may elect to distribute a summary of the budget to Members with a written notice that the budget is available at the business office of the Association or at another suitable location within the Project, and that copies will be provided upon request and at the expense of the Association. If any Member requests a copy of the budget to be mailed to the Member, the Association shall provide the copy to the Member by first-class United States mail at the expense of the Association within five (5) days following receipt of the request. The written notice that is distributed to Members shall be in at least 10-point bold type on the front page of the budget summary.

Section 15.4. Operating and Reserve Accounts. The Board shall review, at least quarterly:

- (a) a current reconciliation of the Association's operating accounts.
- (b) a current reconciliation of the Association's reserve accounts.
- (c) the current year's actual reserve revenues and expenses compared to the current year's budget.
- (d) the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.
- (e) an income and expense statement for the Association's operating and reserve accounts.

Section 15.5. Withdrawal From Reserve Accounts. The signatures of at least two persons, either two members of the Board or one member of the Board and an officer who is not a member of the Board, shall be required for the withdrawal of monies from the Association's reserve accounts. As used in this Section 15.5, "reserve accounts" means monies the Board has identified the annual budget for use to defray the future repair or replacement of, or additions to, those major components of the project which the Association is obligated to maintain.

Section 15.6. Voting After Conversion of Membership. Any procedure, action or matter for which the Bylaws require the vote or written assent of a percentage of the voting power of each class of Members, shall, after conversion of the Class B membership in the Association to Class A membership, require the vote or written assent of (i) that percentage of the voting power of Members of the Association, and (ii) at least that percentage of the voting power of Members of the Association other than Declarant.

ARTICLE XVI

NOTICE TO LENDERS

Upon the written request of the holder of a first Mortgage encumbering any Condominium, the Association shall give to the holder (i) prior written notice of any action of the Association taken in connection with any material amendment to the Declaration, the Bylaws or the Articles, the effectuation of a decision to terminate professional management of the Common Area or Recreation Area and the abandonment or termination of the Project; (ii) written notice of any substantial damage to or destruction of any improvement located on the Common Area or Recreation Area promptly upon such damage or destruction; (iii) written notice of any condemnation or eminent domain proceeding or proposed acquisition in lieu thereof of any Unit or the Common Area or Recreation Area or any part thereof, promptly upon the commence-

ment thereof; and (iv) written notification of any default by the Owner of a Condominium encumbered by a first Mortgage, the holder of which requests such notice, in the performance of such Owner's obligations under the Declaration or the Bylaws which is not cured within sixty (60) days.

IN WITNESS WHEREOF, the undersigned, being the Incorporator of the Association, hereby adopts these Bylaws as the Bylaws of the Association.

ALEX C. McDONALD

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of _____, 19____, before me, _____, a Notary Public in and for said state, personally appeared ALEX C. McDONALD, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

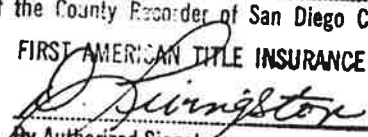
NOTARY PUBLIC

Recording Requested By
and
When Recorded Return To:

McDONALD, HECHT & SOLBERG
Mr. Alex C. McDonald
1100 Great American Building
600 "B" Street
San Diego, California 92101

This instrument is certified to be a true and
exact copy of that certain instrument recorded
on 10-11-89 as File No. 89-551198 in the
office of the County Recorder of San Diego County.

FIRST AMERICAN TITLE INSURANCE


By Authorized Signature

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MIRA LA PAZ
(Condominium/Planned Unit Development)**

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SUBORDINATION AGREEMENT

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made as of September 1, 1989, by MARTIN GOLDBERG, in his capacity as Receiver appointed by the United States District Court, Southern District of California, in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M) (hereinafter referred to as "Declarant"), with reference to the following

RECITALS:

A. Declarant is the duly appointed, qualified and acting Receiver of the real property located in The City of San Diego, County of San Diego, California, which is more particularly described as:

Lots 1 through 7, inclusive, of BERNARDO HEIGHTS UNIT NO. 2 according to Map thereof No. 9562 filed in the Office of the County Recorder of San Diego County, California, on February 20, 1980 ("Real Property")

pursuant to Court Orders entered in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), United States District Court, Southern District of California.

B. The Real Property is planned to be developed as a Common Interest Development which is both a condominium project as defined in §1351(f) of the California CIVIL CODE and a planned development as defined in §1351(k) of the California CIVIL CODE.

C. It is intended to develop the Real Property in three (3) phases as follows:

Phase No.	Residential Property Within Phase	Recreation Area Within Phase	Number of Condominiums	Undivided Fractional Interest in Common Area Within Phase
1	Lots 3 & 5	Lot 4	63	1/63rd
2	Lots 1, 6 & 7		62	1/62nd
3	Lot 2		50	1/50th

D. Each condominium in the Real Property will consist of a separate interest in space shown and described on the Condominium Plan as a Unit, an undivided fractional interest in the Common Area within the phase in which the Unit is located, the exclusive right to use a portion of the Common Area within the phase shown and described on the Condominium Plan as an Exclusive Use Common Area, and an appurtenant membership in MLP HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation ("Association") which will be the management body for the development.

E. The Unit portion of the development will consist of four (4) floor plans varying in size from approximately 1,217 square feet to 1,680 square feet. The buildings in which the Units are located are designed in California/Spanish architectural style with tile roofs. The Common Area in each phase will include private drives, parking and landscaping.

F. The development includes the Recreation Area (hereinafter defined) which will be owned by the Association for the use and enjoyment of the owners of Condominiums within the development. The Recreation Area is part of Phase 1 and will be improved with a swimming pool, cabana, spa, landscaping and a private street.

G. There is no guarantee that all phases will be completed or that the number of Condominiums or the amenities in each phase will be developed as described above. The development will be consistent with the overall development plan submitted to the United States Department of Veterans Affairs and Federal Housing Administration or The City of San Diego, California. Construction of Condominium Units in Phase 1 was completed in August 1989, in Phase 2 in January 1985 (Phase 2 has been occupied as rental units since that time) and it is intended that Phase 3 be completed in September 1991.

H. The Real Property is also a part of the overall planned development of the Community of Bernardo Heights. Each Condominium subject to this Declaration will be subject to assessment by THE COMMUNITY ASSOCIATION OF BERNARDO HEIGHTS, a California nonprofit mutual benefit corporation, and will be subject to the Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights ("Community Declaration"). The Association is the "Neighborhood Association" for the property owned by the members of the Association as that term is defined in the Community Declaration; the property owned by the members of the Association shall constitute a "Neighborhood" as that term is defined in the Community Declaration.

Before selling or conveying any interests in Phase 1, Declarant wishes to subject Phase 1 in accordance with a common plan to certain covenants, conditions and restrictions for the benefit of Declarant and any and all present and future owners of the Real Property.

NOW, THEREFORE, Declarant hereby declares that all of Phase 1 and, upon annexation, each subsequent phase, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are enforceable equitable servitudes as described in the California CIVIL CODE and which are for the purpose of protecting the value and desirability of, and which shall run with, Phase 1 and, upon annexation, each subsequent phase and be binding on all parties having any right, title or interest therein, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1. "Articles" - The Articles of Incorporation of the Association.

Section 1.2. "Association" - MLP HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation.

Section 1.3. "Board" - The Board of Directors of the Association.

Section 1.4. "Bylaws" - The Bylaws of the Association.

Section 1.5. "Common Area" - All portions of the Condominium Property not located within a Unit.

Section 1.6. "Common Expenses" - The expenses of operating the Condominium Property and Recreation Area and any reasonable reserve for such purposes.

Section 1.7. "Community" - The Community of Bernardo Heights, of which the Real Property is a part, which is subject to the Community Declaration.

Section 1.8. "Community Architectural Committee" - The Community Architectural Committee established pursuant to Article VIII of the Community Declaration.

Section 1.9. "Community Articles" - The Articles of Incorporation of the Community Association.

Section 1.10. "Community Assessments" - The assessments levied by the Community Association pursuant to the Community Declaration.

Section 1.11. "Community Association" - The Community Association of Bernardo Heights as defined and established in the Community Declaration.

Section 1.12. "Community Board" - The Board of Directors of the Community Association.

Section 1.13. "Community Bylaws" - The Bylaws of the Community Association.

Section 1.14. "Community Common Area" - All real property in which the Community Association owns an interest for the common use and benefit of the Community Members, their lessees, guests, invitees or patrons. The Community Common Area may include interests held by lease or easement as well as estates in fee.

Section 1.15. "Community Declaration" - The Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, recorded on September 30, 1980 in the Office of the County Recorder of San Diego County, California, as File No. 80-319018, and such amendments thereto as shall from time to time be recorded.

Section 1.16. "Community Member" - Any entity holding membership in the Community Association.

Section 1.17. "Community Rules" - The Rules adopted by the Community Board pursuant to section 3.8 of the Community Declaration.

Section 1.18. "Condominium" - A fee simple estate in the Condominium Property as defined in the California CIVIL CODE consisting of a separate interest in space shown and described in the Condominium Plan as a Unit, the exclusive right to use any appurtenant Exclusive Use Common Area shown and described on the Condominium Plan, and an undivided fractional interest as tenant in common in the Common Area.

Section 1.19. "Condominium Building" - A residential structure containing condominium Units.

Section 1.20. "Condominium Plan" - The Condominium Plan or Plans recorded pursuant to the California CIVIL CODE covering all or a portion of the Condominium Property.

Section 1.21. "Condominium Property" - The real property located in The City of San Diego, County of San Diego, California, more particularly described as:

Lots 3 and 5 of BERNARDO HEIGHTS UNIT NO. 2 according to Map thereof No. 9562 filed in the Office of the County Recorder of San Diego County, California, on February 20, 1980,

and such additions as may be annexed thereto as provided in the Declaration.

Section 1.22. "Declarant" - MARTIN GOLDBERG, in his capacity as Receiver appointed by the United States District Court, Southern District of California, in Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), its successors and assigns if such successors or assigns should acquire one or more lots in the Condominium Property (or property which may be annexed to the Condominium Property as provided in the Declaration) from Declarant and the rights of "Declarant" are assigned to them.

Section 1.23. "Declaration" - This Declaration of Covenants, Conditions and Restrictions.

Section 1.24. "Eligible Insurer or Guarantor" - An insurer or governmental guarantor who has requested notice from the Association regarding matters of which an insurer or guarantor is entitled to notice by reason of the Declaration or the Bylaws.

Section 1.25. "Eligible Mortgage Holder" - A holder of a first Mortgage on a Condominium who has requested notice from the Association regarding matters of which a holder is entitled to notice by reason of the Declaration or the Bylaws.

Section 1.26. "Exclusive Use Common Area" - Those portions of the Common Area to which an exclusive right to use is granted to an Owner as shown and described on the Condominium Plan and shall consist of Entries, Patios, Balconies, Garages and Storage.

Section 1.27. "FHA" - The Federal Housing Administration.

Section 1.28. "Member" - An Owner as defined in Section 1.31, Article I of the Declaration.

Section 1.29. "Mortgage" - A deed of trust as well as a mortgage.

Section 1.30. "Mortgagee" - A beneficiary under or holder of a deed of trust as well as a mortgagee.

Section 1.31. "Owner" - The record owner, whether one or more persons or entities, of fee simple title to a Condominium, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.32. "Project" - The entire Real Property above described, including all structures and improvements erected or to be erected thereon, and such additions as may hereafter be brought within the jurisdiction of the Association.

Section 1.33. "Recreation Area" - All real property (including improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

Section 1.34. "Unit" or "Separate Interest" - A separate interest in space as defined in California CIVIL CODE §1351(f) and as shown and described as such on the Condominium Plan; provided, however, that the following are not part of any Unit or Separate Interest: Bearing walls, columns, floors, roofs, foundations, central heating, central refrigeration and central air conditioning equipment, reservoir tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Unit. In interpreting deeds and plans, the then existing physical boundaries of a Unit, whether in its original state or reconstructed in substantial accordance with the original plans therefor, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed and those of the building.

Section 1.35. "VA" - The United States Department of Veterans Affairs.

ARTICLE II

PROPERTY RIGHTS IN RECREATION AREA

Section 2.1. **Title to the Recreation Area.** Declarant will convey fee simple title to the Recreation Area in each phase of the Project to the Association prior to the first conveyance of a Condominium in that phase to an Owner other than Declarant free and clear of all encumbrances and liens, except real property taxes which may be due but are not delinquent, and easements, covenants, conditions and reservations then of record, including those set forth on the Final Subdivision Map within which the Recreation Area is located and in the Declaration and in the Community Declaration. The Recreation Area is intended to be Lot 4 of Map No. 9562 and to be conveyed to the Association in connection with Phase 1 of the Project.

Section 2.2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress, egress and of enjoyment in and to the Recreation Area which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Recreation Area.

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Condominium remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations, after reasonable written notice and an opportunity for a hearing before the Board which satisfies the minimum requirements of §7341 of the California CORPORATIONS CODE as set forth in the Bylaws.

(c) The right of the Association to dedicate or transfer its assets, including all or any part of the Recreation Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Board. Notwithstanding any contrary provisions in the Articles or Bylaws, so long as there is any Recreation Area for which the Association is obligated to provide management, maintenance, preservation or control, no dedication or transfer of all or substantially all of the assets of the Association shall be effective unless approved in accordance with the California CORPORATIONS CODE.

(d) The right of the Association, in accordance with the Articles and Bylaws, to borrow money for the purpose of improving the Recreation Area and to hypothecate any or all real or personal property owned by the Association.

(e) The right of access, ingress and egress over the Recreation Area and the right of installation and use of utilities on the Recreation Area for the benefit of the Lots.

(f) The right of the Board to grant maintenance and utility easements to others over the Recreation Area.

(g) Subject to a concomitant obligation to restore and repair any damage, Declarant and its sales agents, employees and independent contractors shall have:

(i) a non-exclusive easement over the Recreation Area for the purpose of making repairs to the Recreation Area or to the Common Area and Units, provided access thereto is otherwise not reasonably available, and for the purpose of constructing, marketing and maintaining all phases of the Project;

(ii) the right to the non-exclusive use of the Recreation Area for the purpose of maintaining sales offices and signs reasonably necessary to market the Condominiums, for a period of not more than seven (7) years after conveyance of the Recreation Area to the Association, or the sale of all Condominiums within the Project, whichever is first to occur. The use of the Recreation Area by Declarant and its agents shall not unreasonably interfere with the use of the Recreation Area by the Class A Members of the Association.

Section 2.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his rights of enjoyment to the Recreation Area and facilities to the members of his family, his tenants or contract purchasers who reside in his Unit.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 3.1. Membership. Every Owner of a Condominium shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Condominium. Each Owner is obligated to comply with the Declaration, Articles, Bylaws and rules and regulations adopted by the Board. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Condominium to which it is appurtenant, and then only to the purchaser of the Condominium.

Section 3.2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Condominium owned. When more than one person holds an interest in any Condominium, all such persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Condominium.

Class B. Class B Member(s) shall be Declarant and shall be entitled to three (3) votes for each Condominium owned. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following to occur:

(a) Two (2) years following the date of original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report covering Phase 2 or 3 of development of the property described herein, or First Amended Final Subdivision Public Report covering Phase 1 of development of the property described herein; or

(b) Four (4) years following the date of issuance by the California Department of Real Estate of the First Amended Final Subdivision Public Report for the first phase of development of the Project.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 4.1. Creation of Lien and Personal Obligation for Assessments. Declarant, for each Condominium owned, hereby covenants, and each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in the deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments, which shall include an adequate reserve fund for the periodic maintenance, repair and replacement of the Recreation Area and Common Area; and (ii) special assessments. Assessments shall be established and collected as provided in the Declaration. The annual and special assessments, together with interest, late charges, costs and reasonable attorney's fees, shall (except as otherwise provided in Section 4.4 below) be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each assessment is made. The lien shall become effective upon recordation of a notice of delinquency. Each assessment, together with interest, costs, late charges and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Condominium at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, however, the assessment shall remain a lien on the Condominium.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement, maintenance and operation of the Recreation Area and Common Area, for the common good of the Project, and to reimburse the Association for the costs incurred in bringing an Owner into compliance with the Articles, Bylaws, Declaration and rules and regulations adopted by the Board.

Section 4.3. Limitation on Annual and Special Assessments. The Board shall levy annual and special assessments sufficient to perform the obligations of the Association as provided in the Declaration and Bylaws; provided, however:

(a) until January 1st of the year immediately following the conveyance of the first Condominium to an Owner other than Declarant, the annual assessment for a Condominium shall not exceed \$2,200.

(b) except for assessment increases necessary for emergency situations, the Board may not impose an annual assessment that is more than twenty percent (20%) greater than the annual assessment for the Association's preceding fiscal year nor special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expense of the Association for the fiscal year without the approval of Owners casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with §7510) of Part 3 of Division 2 of Title 1 of the California CORPORATIONS CODE and §7613 of the California CORPORATIONS CODE at which a quorum was present or participated. For purposes of this Section 4.3, "quorum" means more than fifty percent (50%) of the Owners. An emergency situation is any one of the following:

(i) an extraordinary expense required by an order of a court;

(ii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety in the Project is discovered;

(iii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget under CIVIL CODE §1365. However, prior to the imposition or collection of an assessment under this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of assessment;

(c) the term "annual assessment for the Association's preceding fiscal year" as used in Subsection 4.3(b) above, is deemed to be the annual

assessment which would have existed in the absence of any subsidy of assessments paid by Declarant;

(d) anything contained in this Section 4.3 to the contrary notwithstanding, the limitation on annual and special assessments shall comply with the laws of the State of California at the time the annual or special assessment is levied by the Association.

Section 4.4. Individual Special Assessments. The Association may also impose a special assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Condominium into compliance with the provisions of the Declaration, the Articles, the Bylaws and the Association rules and regulations, which assessment may be imposed upon the vote of the Board after notice and an opportunity for a hearing which satisfy the requirements of §7341 of the California CORPORATIONS CODE, as set forth in the Bylaws; provided, however, that except to the extent such special assessment is to reimburse the Association for the cost of collecting assessments, the special assessment shall not constitute a lien on the Owner's Condominium.

Section 4.5. Rate of Assessments. Both annual and special assessments (other than (i) special assessments imposed by reason of non-compliance with the Condominium documents; or (ii) special assessments to raise funds for the rebuilding or major repair of a portion of the structural Common Area) shall be levied upon each Condominium at a uniform rate, and may be collected on a monthly basis or otherwise as determined by the Board. A special assessment against Members to raise funds for the rebuilding or major repair of a portion of the structural Common Area shall be levied upon the basis of the ratio of the square footage of the floor area of the Unit of the Condominium to the total square footage of the aggregate floor area of the Units in all Condominiums to be assessed. A special assessment against a Member to reimburse the Association for costs incurred in bringing the Member and his Condominium into compliance with the provisions of the Condominium documents shall be assessed only against that Member and his Condominium. Any assessment not paid within fifteen (15) days after the due date shall be delinquent. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from thirty (30) days after the due date until paid in full. A late charge may be imposed by the Board subject to the limitations imposed by the California CIVIL CODE.

Section 4.6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Condominiums in each phase of the Project on the first day of the month following the conveyance of the first Condominium to an Owner in that phase, or on the first day of the month following the conveyance of record of the Recreation Area in that phase, if any, to the Association, whichever shall first occur. The first annual assessment shall be adjusted according to the number of months remaining

in the calendar year. The Board shall fix the amount of the annual assessment against each Condominium at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject to the assessment. The due dates for payment of assessments shall be established by the Board.

Section 4.7. Effect of Non-Payment of Assessments; Remedies of the Association.

Any assessment made in accordance with this Declaration shall be a debt of the Owner of a Condominium from the time the assessment is due. At any time after any assessments levied by the Association affecting any Condominium have become delinquent, the Board may file for recording in the Office of the San Diego County Recorder a notice of delinquency as to the Condominium, which notice shall state all amounts which have become delinquent with respect to such Condominium and the costs, including attorney's fees, late charges and interest which have accrued thereon, the amount of any assessments relating to the Condominium which is due and payable although not delinquent, a description of the Condominium with respect to which the delinquent assessments are owed, and the name of the record or reputed record Owner of the Condominium. The notice shall be signed by an officer of the Association.

Immediately upon recording of any notice of delinquency pursuant to this Section, the amounts delinquent, as set forth in such notice, together with the costs, attorney's fees, late charges and interest, shall (except as otherwise provided in Section 4.4 above) be and become a lien upon the Condominium described in the notice, which lien shall also secure all other payments and/or assessments which shall become due and payable with respect to the Condominium following the recording, and all costs, attorney's fees, late charges and interest. When a notice of delinquency has been recorded, the assessment shall constitute a lien on the Condominium prior and superior to all other liens, except (i) taxes, bonds, assessments and other levies which, by law, would be superior; and (ii) the lien or charge of any first Mortgage of record.

In the event the delinquent assessments and all other assessments which have become due and payable with respect to the same Condominium, together with all costs, attorney's fees, late charges and interest, are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of the lien.

Each assessment lien may be foreclosed in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to the California CIVIL CODE, and to that end a power of sale is hereby conferred upon the Association. The Association, acting on behalf of the Owners, shall have the power to bid for the Condominium at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the Condominium. Suit to recover a money

judgment for unpaid assessments, costs, interest, attorney's fees and late charges shall be maintainable without foreclosing or waiving the lien.

Section 4.8. Subordination of the Lien to First Deeds of Trust and First Mortgages.

The lien of the assessments, interest, costs, attorney's fees and late charges shall be subordinate to the lien of any first Mortgage upon any Condominium. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien as to payments which became due prior to such the sale or transfer. No sale or transfer shall relieve the Condominium from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Condominium obtains title as a result of foreclosure, the acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to the Condominium which became due prior to the acquisition of title to the Condominium by the acquirer. The unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Condominiums, including the acquirer, his successors and assigns.

Section 4.9. Treatment of Monetary Penalty. A monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Declaration, Bylaws or rules of the Association or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Recreation Area or Common Area for which the Member was allegedly responsible or in bringing the Member and his Condominium into compliance with the Declaration, Bylaws or rules of the Association, shall not be treated as an assessment which may become a lien against the Member's Condominium enforceable as provided in the California CIVIL CODE. This Section shall not apply to charges imposed against an Owner which are reasonable late payment penalties for delinquent assessments nor charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent assessments.

Section 4.10. Estoppel Certificate. The Association shall furnish, upon demand by any person, a certificate signed by an officer of the Association setting forth whether the assessments on a Condominium have been paid. A properly executed certificate of the Association as to the status of assessments on a Condominium is binding upon the Association as of the date of its issuance.

Section 4.11. Personal Liability of Owner. No Owner may exempt himself from personal liability for assessments levied by the Association, nor release the Condominium owned by him from liens and charges by waiver of the use or enjoyment of any of the Recreation Area or Common Area or by abandonment of his Condominium.

Section 4.12. Taxation of Association. In the event that any taxes are assessed against the Recreation Area or Common Area or the personal property of the Association, rather than against the individual Condominiums, the taxes shall be added to the annual assessments and, if necessary, a special assessment may be levied against the Condominium in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

Section 4.13. Capitalization of Association. Upon acquisition of record title to a Condominium from Declarant, each Owner shall contribute to the capital of the Association an amount equal to one-sixth (1/6) the amount of the then annual assessment for that Condominium. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed from the escrow to the Association. Amounts paid pursuant to this Section 4.13 shall not be considered as advance payments of assessments and are in addition to and not in lieu of annual and special assessments of the Association.

ARTICLE V

COMMUNITY ASSOCIATION

Section 5.1. Easement to Community Association. The officers, agents, employees and independent contractors of the Community Association shall have a non-exclusive easement to enter upon the Real 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, the Community Rules and the rules and regulations of the Community Architectural Committee.

Section 5.2. Subordination of Assessment Lien. Anything contained in this Declaration to the contrary notwithstanding, the lien of any assessment imposed upon any Condominium pursuant to this Declaration shall be subordinate and inferior to the lien of any assessment imposed upon such Condominium pursuant to the Community Declaration.

Section 5.3. Community Association Assessments. Declarant, for each Condominium it owns, hereby covenants, and each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, does and is hereby deemed to covenant and agree to pay to the Community Association the Community Assessments imposed upon such Condominium pursuant to the Community Declaration. The Community Assessments shall be levied and collected as provided in the Community Declaration.

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

The Community Association, in its sole and absolute discretion, may elect to administer, levy, collect and enforce the assessments by the Association provided for under this Declaration. All such funds collected by the Community Association shall be utilized in the manner and for the purposes specified in this Declaration and in the Community Declaration, the Community Bylaws, the Community Articles, the Community Rules and the rules and regulations of the Community Architectural Committee.

Section 5.4. Enforcement. Breach of any of the limitations, restrictions, conditions and covenants set forth in this Declaration or the continuation thereof may be enjoined, abated or remedied by appropriate legal proceedings by the Community Association. The Community Association shall be deemed to be an entity which may enforce the provisions of this Declaration. The failure of the Community Association to enforce any of said limitations, restrictions, conditions or covenants shall not constitute a waiver of the right to enforce the same thereafter. No liability shall be imposed on, or incurred by, the Community Association as a result of such failure. The prevailing party in any action at law or in equity instituted by the Community Association to enforce or interpret said limitations, restrictions, conditions or covenants, shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorney's fees.

Section 5.5. 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, Community Bylaws or Community Articles. The Association (including, without limitation, the Architectural Committee of the Association) 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.

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

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 VI

RESPONSIBILITIES OF MAINTENANCE

Section 6.1. Owner Maintenance of Unit. Each Owner shall be responsible for the maintenance and repair of the doors and windows, including metal frames and tracks, enclosing his Unit, the interior of his Unit and all appliances whether "built-in" or freestanding within the Unit, the interior surfaces of the Unit, and the plumbing, electrical and heating systems servicing his Unit and located within the outside perimeter of the exterior bearing walls, floors and ceilings thereof, including television cable equipment and connections, and all appliances and equipment located within or without said Unit, so long as those systems are used exclusively by such Owner and not in common. Each Owner shall also be responsible for the maintenance and repair of the Entry, Balcony, Patio and Garage area which he has the exclusive right to use, including the interior surfaces of any fence or railing (but not the exterior surfaces), and shall make such repairs as the Board deems necessary to preserve the attractive appearance and protect the value thereof.

Section 6.2. Owner's Grant of Easements. Each Owner grants easements to other Owners to enter into each Unit and to have utility companies enter into Units to repair the plumbing, heating and electrical systems located thereon, subject to the following limitations. Entry into a Unit for emergency purposes may be immediate; provided, however, such entry shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party. Entry into a Unit for other than emergency repairs shall be made only after three (3) days notice has been given to the Owner and shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party.

Section 6.3. Association Maintenance of Common Area. Except as otherwise provided herein, the Association acting through the Board and its officers shall have the sole and exclusive right and duty to manage, operate, control, repair, replace or restore all of the Common Area or any portion thereof, together with the improvements, trees, shrubbery, driveways, plants and grass thereon, including all vehicular parking spaces, and the private water and sewer systems, all as more fully set forth in the Declaration, the Articles and Bylaws. In the event any maintenance or repair results from the act or neglect of an Owner or his guests or licensees, the Owner shall reimburse the Association for such maintenance or repair.

Section 6.4. Association Maintenance of Recreation Area. The Association shall maintain and provide for the maintenance of all the Recreation Area and all improvements, including streets, private sewers and private storm drains, thereon in good repair and appearance. The Association shall provide landscaping and gardening properly to maintain and periodically replace when necessary the trees, plants, grass and other vegetation originally placed in the Recreation Area, pursuant to landscape plans submitted to The City of San Diego and approved by the City in connection with approval of the Project.

Section 6.5. Association Maintenance of Landscaping. Landscaping and irrigation systems within the Common Area and Recreation Area shall be maintained to standards that are at least in accordance with specifications set forth in the Bylaws. Notwithstanding the foregoing, the Association shall perform all landscaping required by the City of San Diego. In addition, at least once during every consecutive three-month period beginning six (6) months after the first conveyance of a Condominium to an Owner other than Declarant, the Board shall conduct a physical inspection of the landscaping and irrigation systems in the Project. The Board shall make a written report of observations made during the inspection and present the report to the Members at the then next regularly scheduled meeting of Members. The report shall be made a part of the written minutes of such meeting. The Association may employ the services of a professional landscape architect, maintenance contractor or other professional person to assist the Association in performing its duties under the Declaration. There is hereby created a non-exclusive easement in favor of the Association, its officers, agents, employees and independent contractors, to conduct inspections and to provide maintenance, repair and replacement of the landscaping and irrigation systems on the Common Area and Recreation Area.

Section 6.6. Association Right of Entry. For the purpose of performing the maintenance of the Recreation Area or Common Area or for any other purpose reasonably related to the performance by the Board of its responsibilities under the Declaration, the Association agents and employees shall have the right to enter any Unit or upon any portion of the Common Area and Recreation Area. Entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by the Association. Entry into a Unit for other than emergency repairs shall be made only after not less than three (3) days' notice has been given to the Owner.

Section 6.7. Association Right to Adopt Rules. The Board shall have the right to adopt reasonable rules not inconsistent with the provisions contained in this Declaration, and to amend the rules from time to time relating to the use of the Recreation Area and Common Area and the recreational and other facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to automobile parking, outside storage of boats, trailers, bicycles and other objects, disposal of waste materials, drying of laundry, control of pets and other activities which, if not so regulated,

might detract from the appearance of the community or offend or cause inconvenience or danger to persons residing or visiting therein. The rules may provide that the Owner of a Condominium whose occupant leaves property on the Recreation Area or Common Area in violation of the rules may be assessed (on a non-lien basis) to cover the expense incurred by the Association in removing the property and storing or disposing of it, after appropriate notice and an opportunity for a hearing before the Board and a two-thirds (2/3) vote of approval by the Board. The Board may suspend the voting rights and right to use the recreational facilities located on the Recreation Area and Common Area of a Member who is in default in the payment of any assessment for any period during which such assessment remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations, after reasonable written notice and an opportunity for a hearing before the Board as set forth in the Bylaws which satisfies the minimum requirements of §7341 of the California CORPORATIONS CODE.

Section 6.8. Association Right to Grant Permits. The Board shall have the right to grant permits, licenses and easements over, under, upon and across the Recreation Area and Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, fence, wall, patio cover or other structure or improvement shall be commenced, erected, placed or altered upon the Recreation Area or Common Area (including the Exclusive Use Common Area) until the location and complete plans and specifications showing the nature, kind, shape, height and materials, including the color scheme, have been submitted to and approved in writing as to harmony of external design and location of surrounding structures and topography by the Board, or by an architectural committee appointed by the Board and composed of three (3) or more, but not to exceed five (5), representatives. In the event the Board or its designated committee fails to approve or disapprove such locations, plans and specifications or other requests within thirty (30) days after the submission thereof to it, then such approval will not be required, provided that any structure or improvement so erected or altered conforms to all of the conditions and restrictions herein contained, and is in harmony with similar structures erected within the Project. The grade, level or drainage characteristics of the Condominium Property or any portion thereof, shall not be altered without the prior written consent of the Board or its designated committee. The provisions of this Article shall not apply to the initial construction of Condominiums or other improvements to the Condominium Property or Recreation Area, and neither the Board nor any committee appointed by the Board shall have any authority or right to approve or disapprove the initial construction

by Declarant of Condominiums or other improvements to the Condominium Property or Recreation Area.

ARTICLE VIII

SEPARATION OF INTEREST AND PROHIBITION OF PARTITION

Section 8.1. Separation of Interest. No Owner may sell, assign, lease or convey (i) his interest in the Common Area separate and apart from his Unit; nor (ii) his interest in any Exclusive Use Common Area separate and apart from his interest in the Common Area and Unit.

Section 8.2. Prohibition of Partition. Each of the Owners of a Condominium, whether such ownership is in fee simple or as a tenant in common, is hereby prohibited from partitioning or in any way severing or separating such ownership from any of the other ownerships in the Condominium Property, except upon the showing that: (i) more than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part thereof was unfit for its use and the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or (ii) that three-fourths (3/4) or more of the Project has been destroyed or substantially damaged, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; or (iii) that the Project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; provided, however, that if any Condominium shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing herein shall be deemed to prevent a judicial partition as between such co-tenants and no Condominium may be partitioned or subdivided without the prior written approval of the Mortgagee holding the first Mortgage on that Condominium.

Section 8.3. Power of Attorney. The Association is hereby granted an irrevocable power of attorney to sell the Condominium Property for the benefit of all the Owners when the partition of the Owners' interests in the Condominium Property may be had pursuant to Section 8.2 above. The power of attorney herein granted may be exercised upon the vote or written consent of Owners holding in the aggregate at least two-thirds (2/3) of the interest in the Common Area by any two (2) Members of the Board who are hereby authorized to record a certificate of exercise in the Office of the County Recorder of San Diego County, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith; provided, however, that the power of attorney shall not apply to the Secretary of Veterans Affairs, an officer of the United States of America.

ARTICLE IX

RIGHT OF MORTGAGEES

Section 9.1. Actions Requiring Mortgagee Approval. Provided that the Mortgagee informs the Association in writing of its appropriate address and requests in writing to be notified, neither the Association nor any Owner shall do any of the following, unless the Mortgagees of first Mortgages encumbering at least sixty-seven percent (67%) of the Condominiums which are encumbered by a mortgage have given their prior written approval:

(a) Seek, by act or omission, to abandon the Condominium Project or to terminate the Condominium Plan or the Declaration (whether or not because of any destruction of the Project), or change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or the exterior appearance or maintenance of Units, the Recreation Area or the Common Area;

(b) Change the *pro rata* interest or obligations of any Condominium for purposes of levying assessments or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the *pro rata* share of the Common Area appurtenant to each Unit;

(c) Partition or subdivide any Condominium;

(d) Seek, by act or omission, to abandon, partition, subdivide, encumber, sell or transfer the Recreation Area or Common Area; provided, however, that the granting of easements for public utility or other public purposes consistent with the uses of the Recreation Area or Common Area shall not be deemed a transfer within the meaning of this provision;

(e) Use hazard insurance proceeds for losses to any portion of the Condominium Property or Recreation Area for other than the repair, replacement or reconstruction of the Condominium Property or Recreation Area, except as may be provided by statute upon substantial loss to the Unit, Recreation Area or Common Area;

(f) Fail to maintain fire and extended coverage insurance on the Common Area and improvements thereto and the Recreation Area and improvements thereto on a current replacement cost basis in an amount less than one hundred percent (100%) of the insurable value, based on current replacement cost.

Section 9.2. Notification to Mortgagee. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Condominium number or address, any Eligible Mortgage Holder or Eligible Insurer or Guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium on which there is a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, as applicable.

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium subject to a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent specified percentage of Eligible Mortgage Holders as required in the Bylaws or in the Declaration.

ARTICLE X

**DESTRUCTION OF COMMON AREA,
RECREATION AREA OR UNITS**

Section 10.1. Casualty Destruction of Common Area. If any portion of the Area is damaged or destroyed by fire or other casualty, then:

(a) If the cost of repairing or rebuilding does not exceed the amount of the available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, the Board shall contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications.

(b) If the cost of repairing or rebuilding exceeds the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, and if the Owners holding in aggregate more

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x .05

30,895.15
5% of gross
expenses of
Assoc 1991
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than fifty percent (50%) interest in the Common Area agree to the repair or restoration of the Project, then the Board shall contract as provided in Subsection (a) above.

(c) If the Owners do not agree to the repair or rebuilding of the Common Area as provided in Subsection (b) above, then each Owner (and his Mortgagee(s) as their respective interests then appear) shall be entitled to receive that portion of the insurance proceeds equal to the proportion of the decrease in fair market value of his Condominium as compared to the aggregate decrease in the fair market values of all the Condominiums caused by such damage or destruction. For purposes hereof, fair market value shall be determined by a member of the American Institute of Real Estate Appraisers selected by the Board and hired by and at the expense of the Association. Should dispute arise as to the distribution of insurance proceeds, the dispute shall be decided by arbitration by the American Arbitration Association pursuant to its Commercial Rules of Arbitration.

(d) Anything in Subsection (c) above to the contrary notwithstanding, the Board shall contract for such repair or rebuilding of Common Area which consists of Condominium Building(s) containing Units (or portions thereof and/or improvements thereto) if fifty percent (50%) or more of the Owners owning Units in the Condominium Building(s) agree to the repair or restoration of the Condominium Building(s).

(e) If a bid to repair or rebuild is accepted, the Board shall levy a special assessment against each Condominium in the proportion the Condominiums are assessed, pursuant to Section 4.5 of Article IV of this Declaration, for purposes of raising funds for the rebuilding or major repair of a portion of the structural Common Area, to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to the account of the Association to be used for such rebuilding.

Section 10.2. Taking of Common Area. If any portion of the Common Area is taken by condemnation, eminent domain or any proceeding in lieu thereof, and the award therefor is not apportioned among the Owners (and their Mortgagees as their respective interests then appear) by court judgment or by agreement between the condemning authority and each of the affecting Owners, then the Owners of the Common Area (and their Mortgagees as their respective interests then appear) shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds will be distributed pursuant to Subsection (c) of Section 10.1 above; provided, however,

that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in Section 10.1 for repairing damaged or destroyed portions of the Common Area. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in Section 10.1 for determining whether to rebuild or repair following damage or destruction.

Section 10.3. Casualty Destruction of Unit. In the event of damage or destruction to any Unit, the Owner shall reconstruct the same as soon as reasonably practicable and substantially in accord with the original plans and specifications; provided, however, that the Owner may, with the written consent of the Board, reconstruct or repair the Unit pursuant to new or changed plans and specifications. In the event the Board fails to approve or disapprove the changed plans and specifications within sixty (60) days of the receipt thereof, they shall be deemed to have been approved.

Section 10.4. Taking of Unit. In the event of any taking of a Unit, the Owner (and his Mortgagees as their interests may then appear) of the Unit shall be entitled to receive the award for such taking and after acceptance thereof he (and his Mortgagee) shall be divested of any further interests in the Condominium Property if such Owner shall vacate his Unit as the result of such taking. In such event, the Owner shall grant his remaining interests in the Common Area appurtenant to the Unit so taken, if any, to the other Owners owning a fractional interest in the same Common Area, the grant to be in proportion to the fractional interest in the Common Area then owned by each other Owner.

Section 10.5. Taking of Recreation Area. In the event the Recreation Area or any portion thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, then the award or consideration for such taking or transfer shall be paid to and belong to the Association.

Section 10.6. Association Insurance. The Association shall obtain and continue in effect the following insurance:

- (a) A master fire insurance policy with glass coverage and extended coverage endorsement for the full insurable value of all of the improvements within the Project. "Improvements" means and refers to the Common Area together with those appliances and improvements located within the Units provided by Declarant to the initial Owners of Condominiums and only includes items provided by Declarant. The form and content of the policy must be satisfactory to all institutional first Mortgagees and shall meet the

maximum standards of the various institutional first Mortgagees whose loan(s) encumber any of the Condominiums.

(b) A public liability and property damage insurance policy with cross liability endorsement, if available, insuring the Association, any manager, the Declarant and the Owners against liability incident to ownership or use of the Recreation Area and Common Area. The limits of such insurance shall not be less than \$1,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence.

(c) If requested by Members of the Association who have at least ten percent (10%) of the Association's voting power or any first Mortgagee or any insurer or governmental guarantor of any first Mortgage, a fidelity bond covering Members of the Board, officers and employees of the Association, and employees of any manager or managing agent, whether or not such persons are compensated for their services, naming the Association as obligee and written in an amount equal to the amount of funds held by the Association during the term of the bond but not less than one-fourth of the estimated annual operating expenses of the Association, including reserves. A fidelity bond shall be obtained if any first Mortgage is acquired by the Federal National Mortgage Association ("FNMA") or is guaranteed by the VA.

(d) Workers' compensation insurance covering any employees of the Association.

(e) A standard all risk of loss perils insurance policy under an extended coverage casualty policy in the amount of the maximum insurable replacement value of all improvements to the Recreation Area, a policy covering all loss to personalty owned by the Association insured with coverage in the maximum insurable fair market value of such personalty as determined annually by an insurance carrier selected by the Association. Insurance proceeds for improvements in the Recreation Area and personalty owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction, the Association shall cause the same to be replaced, repaired or rebuilt if it occurred in the Recreation Area. In the event the cost of such replacement, repair or rebuilding of Recreation Area (i) exceeds the insurance proceeds available therefor; or (ii) no insurance proceeds are available therefor, the deficiency or full cost thereof shall be assessed to the Owners as a special assessment pursuant to Section 4.1 above.

Insurance premiums for the insurance policies set forth above shall be a Common Expense to be included in the annual assessments levied by the Association. Each Owner shall be responsible to pay any deductible amount for any loss to his Condominium. Each Owner may separately insure the improvements not covered by the master fire insurance policy and personal property within his Unit. No Owner shall insure his Condominium in any manner which would cause any diminution in insurance proceeds from the master policy. Should any Owner violate this provision he shall be responsible to the Association for any such diminution. 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 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. Anything contained herein to the contrary notwithstanding, the Association shall maintain such insurance coverage as may be required by the FNMA so long as FNMA holds a mortgage on or owns any Condominium.

Section 10.7. Mortgagee Approval. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with original plans and specifications, unless other action is approved by Eligible Mortgage Holders of first Mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Mortgage Holders' Mortgages.

ARTICLE XI

USE OF UNITS AND COMMON AREA AS DESCRIBED IN CONDOMINIUM PLAN

Section 11.1. Residential Purposes. Each Unit shall be improved, used and occupied for private, single-family dwelling purposes only, and no portion thereof nor the Common Area shall be used for any commercial purpose whatsoever; provided, however, Declarant may use any of the Units and Exclusive Use Common Areas owned or leased by Declarant as model homes and sales offices during that period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums in the Project are sold and conveyed by Declarant to separate owners thereof or seven (7) years after the first escrow closes, whichever first occurs.

Section 11.2. Lease of Condominium. Each Owner shall have the right to lease his Condominium, provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of this Declaration, the Bylaws and the rules and regulations of the Board, and that the failure to comply with the provisions of these

documents shall be a default under the lease. With the exception of a lender in possession of a Condominium following a default under a first Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Owner shall lease his Condominium for transient or hotel purposes. Any lease which is either for a period of less than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes.

Section 11.3. No Use Causing Loss of Insurance. No Unit, Exclusive Use Common Area or improvements situated therein shall be occupied or used for any purpose or in any manner which shall cause such improvements to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any such policy or policies representing such insurance to be cancelled or suspended, or the company issuing the same to refuse renewal thereof.

Section 11.4. Pets. Not exceeding two (2) usual and ordinary household pets (exclusive of caged birds or aquarium fish) neither of which weighs more than 40 pounds may be kept in any Unit or Exclusive Use Common Area without the prior written consent of the Board. Pets shall not be allowed on other portions of the Recreation Area or Common Area except as may be permitted by rules made by the Board. Except as provided hereinabove, no animals, livestock, birds or poultry shall be brought within the Condominium Property or kept in any Unit or on any portion of the Common Area. No pet shall be permitted to be kept within any portion of the Condominium Property if it makes excessive noise or otherwise constitutes an unreasonable annoyance to other Owners.

Section 11.5. Nuisance. No Unit or Exclusive Use Common Area shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other such areas or annoy them by unreasonable noise or otherwise, nor shall any nuisance be committed or permitted to occur in any Unit nor on the Common Area.

Section 11.6. Sign Control. No signs other than one sign of customary and reasonable dimensions advertising a Condominium for sale or lease shall be erected or displayed in any Unit so that it is visible from without such Unit without the prior written permission of the Board. All signs must conform with applicable governmental ordinances. No signs shall be erected or displayed on the Common Area or Recreation Area except signs placed by authority of the Board. Anything contained in this Declaration to the contrary notwithstanding, Declarant shall have the right to install and maintain during the sales period set forth in Section 11.1 above, such signs, poles and advertisements as it deems appropriate in connection with its sales program for the sale to the public of Condominiums.

Section 11.7. Outside Antennae. There shall be no outside television or radio antennae, masts, poles or flag poles constructed, installed or maintained on the Condomini-

um Property for any purpose whatsoever other than one master television antenna system which may be installed by Declarant or at the Board's direction.

Section 11.8. Owner Not to Alter Common Area. Except as otherwise specifically provided herein, nothing herein contained shall give the Owner the right to paint, decorate, remodel, landscape or adorn any part or parcel of the Common Area without the written consent of the Board.

Section 11.9. No Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or on the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners other than construction or repair of improvements made at the Board's instruction or at Declarant's instruction. Nothing shall be done in any Unit or in, on or to the Common Area which will impair the structural integrity of any building, or which would structurally change any building located therein. Except as otherwise provided herein, nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Board or an architectural committee appointed by the Board. All equipment, garbage cans, wood piles or storage piles shall be kept screened and concealed from view of neighboring Units, streets and Common Area. All rubbish, trash or garbage shall be regularly removed from each Unit, and shall not be allowed to accumulate thereon or on the adjacent Common Area. No fences, hedges or walls shall be erected or maintained upon the Condominium Property except such as are installed in accordance with the initial construction of the buildings located on the Condominium Property or as allowed by the Board. No exterior clotheslines shall be erected or maintained, and there shall be no outside drying or laundering of clothes on the Common Area, except in areas which may be approved by the Board.

Section 11.10. Power Equipment. No power equipment, hobby shops or car maintenance (other than emergency work) shall be permitted on the Condominium Property, except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

Section 11.11. Use of Common Area. Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

- (a) affording vehicular passage and pedestrian movement within the Condominium Property, including access to the Units;

(b) recreational use by the Owners and occupants of Units in the Condominium Property and their guests, subject to rules established by the Board;

(c) beautification of the Common Area and providing privacy to the residents of the Condominium Property through landscaping and such other means as the Board shall deem appropriate;

(d) parking of automotive passenger vehicles in areas provided therefor as may be designated and approved by the Board by such persons, upon such terms and conditions as may from time to time be determined by the Board. Each parking space shall be permanently maintained as a parking space and shall not be converted to any other use. No charge shall be made for the use of parking spaces;

(e) as Exclusive Use Common Areas to be used in the manner hereinafter described. Nothing herein shall be deemed to allow persons other than the Owner of a Unit to which an Exclusive Use Common Area is appurtenant (or his tenants and lessees) to enjoy the use thereof;

(f) as sales offices and for display to prospective purchasers of Condominiums for the period described in Section 11.1 above;

(g) for such other purposes as the Board may authorize consistent with the Declaration or as provided in the Declaration.

No part of the Common Area shall be obstructed so as to interfere with its use for the purposes hereinabove permitted, nor shall any part of the Common Area be used for storage purposes (except as incidental to one of such permitted uses, or for storage of maintenance equipment used exclusively to maintain the Common Area or in storage areas designated by the Board), nor in any manner which shall increase the rate of which insurance against loss by fire, or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or bodily injury, or property damage liability insurance covering the Common Area and improvements situated thereon may be obtained, or cause such premises to be uninsurable against such risks or any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse renewal thereof.

Section 11.12. Additional Use. The Board shall have the right to allow one or more Owners exclusively to use portions of the otherwise nonexclusive Common Area, provided that such portions of the Common Area are nominal in area and adjacent to the Owner's Exclusive Use Common Area(s) or Unit, and, provided further, that such use does not

unreasonably interfere with any other Owner's use or enjoyment of the Project. Each Owner shall also have the right to use those portions of the Common Area in which Declarant has installed heating, air conditioning or solar panel equipment for purposes of serving that Owner's Unit as part of the initial construction of the Project, or which is thereafter installed by the Owner; provided, however, that no installation shall be made by an Owner without the prior written approval of the Board. All heating, air conditioning and solar panel equipment shall be maintained and repaired by the Owner of the Unit being served.

Section 11.13. Owners Liable for Damage. Each Owner shall be legally liable to the Association for all damages to the Recreation Area and Common Area, including, but not limited to, the buildings, recreation facilities and landscaping caused by such Owner, his licensee(s) or any occupant of such Owner's Unit as such liability may be determined under California law. Each Owner shall be responsible for compliance with the provisions of the Declaration, Articles, Bylaws and rules of the Board by his guests, lessees and all occupants of his Unit, and shall, after written notice and an opportunity for a hearing, pay the fines and penalties assessed pursuant to the Declaration, the Bylaws or Board rules for any violation by his guests, lessees and occupants of his Unit.

Section 11.14. Interior Surfaces. Each Owner shall have the right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim and perimeter walls of the Unit, and the surfaces of the bearing walls and partitions located within the Unit. Owners shall have the right to substitute new finished surfaces in place of those existing on the ceiling, floors, walls and doors of said Unit. Each Owner shall keep his Unit in good repair.

Section 11.15. Exclusive Use Common Areas Appurtenant. Each Exclusive Use Common Area shall be (i) appurtenant to the Unit with which the Exclusive Use Common Area is conveyed; and (ii) used only for the purposes set forth in the Declaration. The right to so use an Exclusive Use Common Area shall be exercisable only by the Owner(s) of the Condominium appurtenant thereto and/or said Owner's tenants and licensee(s). Conveyance of a Condominium shall effect conveyance of Exclusive Use Common Areas appurtenant thereto and transfer of all rights thereto to the vested Owner of the Condominium. Any license(s) thereto shall be terminated upon such conveyance. No Exclusive Use Common Area or any rights thereto (other than said revokable licenses) shall be transferred or conveyed apart from conveyance of the Condominium to which they are appurtenant. Each Exclusive Use Common Area shall be deemed to be Common Area for all those purposes set forth in this Declaration which are not inconsistent with this Article XI or Article VI.

Section 11.16. Use of Exclusive Use Common Areas. Each Owner shall have the right to place furniture and potted plants upon the Entry, Patio and Balcony which he has the exclusive right to use.

Each Owner shall have the right to park motor vehicles in the Garage which he has the exclusive right to use.

Each Owner shall have the right to store non-flammable items of personal property in the Storage which he has the exclusive right to use.

Except as provided in the Declaration, nothing contained herein shall give any Owner the right to paint, decorate, remodel or alter an Exclusive Use Common Area or any other part of the Common Area without the prior written consent of the Board.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1. Enforcement. The Association, the Community Association, Declarant and any Owner shall have the right to enforce by any proceedings at law or in equity, all covenants, conditions, restrictions and reservations now or hereafter imposed by the provisions of the Declaration. Each Owner shall have a right of action against the Association for any failure of the Association to comply with the provisions of the Declaration or of the Bylaws or Articles. Failure by the Association, Community Association, Declarant or any Owner to enforce any covenant, condition, restriction or reservation in the Declaration shall, in no event, be deemed a waiver of the right to do so thereafter.

Section 12.2. Severability. Should any provision in the Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions shall be and remain in full force and effect.

Section 12.3. Amendments. Except as otherwise provided in this Section 12.3, during the period of time prior to conversion of the Class B membership to Class A membership in the Association, the Declaration may be amended by the vote or written consent of seventy-five percent (75%) of the voting power of each class of Members of the Association, which amendment shall become effective upon the recording of the amendment in the Office of the County Recorder of San Diego County, California. After conversion of the Class B membership in the Association to Class A membership, the Declaration may be amended by the vote or written consent of (i) seventy-five percent (75%) of the total voting power of the Association; and (ii) at least seventy-five percent (75%) of the voting power of Members of the Association other than Declarant. Anything contained herein to the contrary notwithstanding, no amendment material to a Mortgagee may be made to this

Declaration without the prior written consent of Eligible Mortgage Holders whose Mortgages encumber sixty-seven percent (67%) or more of the Condominiums within the Condominium Property which are subject to Eligible Mortgage Holder Mortgages. For purposes hereof, any amendments to provisions of this Declaration governing any of the following subjects, shall be deemed "material to a Mortgagee":

(a) The fundamental purpose for which the Project was created (such as a change from residential use to a different use).

(b) Assessments, assessment liens and subordination thereof.

(c) The reserve for maintenance, repair and replacement of the Recreation Area and Common Area.

(d) Property maintenance and repair obligations.

(e) Casualty, liability insurance and fidelity bonds.

(f) Reconstruction in the event of damage or destruction.

(g) Rights to use the Recreation Area and Common Area.

(h) Annexation.

(i) Voting.

(j) The percentage interest of the Owners in the Common Area.

(k) Boundaries of any Unit.

(l) The interests in Exclusive Use Common Areas and other portions of the Common Area.

(m) Leasing of Condominiums.

(n) Imposition of any right of first refusal or similar restriction on the right of a Condominium Owner to sell, transfer or otherwise convey his Condominium.

(o) Any provision which, by its terms, is specifically for the benefit of the first Mortgagees, or specifically confers rights on first Mortgagees.

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

Sections 1.7 through 1.17 and Sections 5.1 through 5.5 of this Declaration may not be amended, modified or rescinded without the prior written consent of the Community Board, and no such amendment, modification or rescission shall be effective without recording the written consent in the Office of the County Recorder of San Diego County, California.

Anything contained herein to the contrary notwithstanding, the percentage of voting power of Members necessary to amend a specific clause or provision of the Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision. The percentage of membership votes or written consents required to amend the Declaration may be reduced under certain circumstances by Court Order obtained pursuant to California CIVIL CODE §1356.

Section 12.4. Extension of Declaration. Each and all of these covenants, conditions and restrictions shall terminate on December 31, 2035, after which date they shall automatically be extended for successive periods of ten (10) years unless the Owners have executed and recorded at any time within six (6) months prior to December 31, 2035, or within six (6) months prior to the end of any such ten (10) year period, in the manner required for a conveyance of real property, a writing in which it is agreed that said restrictions shall terminate on December 31, 2035 or at the end of any such ten (10) year period.

Section 12.5. FHA and VA Approval. So long as there is a Class B membership in the Association, the following actions shall require prior approval of the FHA and VA: annexation of additional properties to the Project, mergers and consolidations, special assessments and any amendment to this Declaration. If VA approval is required, a draft of the amendment to this Declaration shall be submitted to and approved by the VA prior to recordation of the amendment.

Section 12.6. Encroachment Easement. In the event any portion of the Recreation Area or Common Area encroaches upon any Unit or any Unit encroaches upon the Recreation Area or Common Area or another Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. There shall be easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall

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

Section 12.7. Litigation. In the event the Association, Community Association, Declarant or any Owner shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, or contained in the Bylaws, the prevailing party in the litigation shall be entitled to costs of suit and such attorney's fees as the court may adjudge reasonable and proper. The "prevailing party" shall be the party who is entitled to recover costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover his costs shall not recover attorney's fees. No sum for attorney's fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover costs or attorney's fees.

Section 12.8. Annexation of Additional Property.

(a) Upon approval in writing of the Association, pursuant to two-thirds (2/3) of the voting power of each class of Members of the Association, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Declaration of Annexation which shall extend the scheme of this Declaration to such property. After conversion of the Class B membership in the Association to Class A membership, the action herein requiring membership approval shall require the vote or written consent of (i) two-thirds (2/3) of the voting power of Members of the Association; and (ii) two-thirds (2/3) or more of the voting power of Members of the Association other than Declarant.

(b) If, within three (3) years following the date of issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report for a Phase 2 or 3 or First Amended Final Subdivision Public Report for Phase 1 of the Project, Declarant should develop additional lands within the Real Property, the additional lands or any portion thereof may be added to the Condominium Property or Recreation Area and included within this Declaration and the jurisdiction of the Association by action of Declarant without the assent of Members of the Association; provided, however, that the development of the additional lands shall be in accord with the plan of development submitted to (i) the Depart-

ment of Real Estate prior to the time a Final Subdivision Public Report is issued in connection with the Condominium Property; and (ii) the VA. Annexation may be accomplished by the recording of a Declaration of Annexation or by the recording of a separate Declaration of Covenants, Conditions and Restrictions which requires Owners of Condominiums in the annexed property to be Members of the Association. The obligation of Owners to pay dues to the Association and the right of Owners to exercise voting rights in the Association in the annexed property shall not commence until the first day of the month following close of the first sale of a Condominium by Declarant in that particular phase of development so annexed. Prior to any annexation under this Subsection 12.8(b), detailed plans for the development of the additional property must be submitted to the VA, and the VA must determine that such detailed plans are in accordance with the general plan and so advise Declarant. Subject to annexation of additional property as set forth in this Subsection 12.8(b):

(i) Declarant hereby reserves, for the benefit of and appurtenant to the Condominiums hereinafter located in Phases 2 and 3, respectively, and their respective Owners, non-exclusive easements to use the Common Area and Recreation Area (other than any residential building or Exclusive Use Common Area) in the Project, pursuant to and in the manner set forth in this Declaration, to the same extent and with the same effect as if each of the Owners of a Condominium in Phases 2 and 3, respectively, owned an undivided interest in the Common Area in the Condominium Property.

(ii) Declarant hereby grants, for the benefit of and appurtenant to each Condominium in the Condominium Property and their Owners, the non-exclusive easement to use the Common Area and Recreation Area (other than any residential building or Exclusive Use Common Area) in Phases 2 and 3, respectively, pursuant to the provisions of and in the manner prescribed by this Declaration, to the same extent and with the same effect as if each of the Owners of a Condominium in the Condominium Property owned an undivided interest in the Common Area of the property annexed.

The reciprocal cross-easements set forth herein shall be effective as to each phase, respectively, and as to the Condominium Property, only at such time as each phase, respectively, has been annexed by the recording of a Declaration of Annexation or separate Declaration of Covenants, Conditions and Restrictions by Declarant, and prior to that time, neither the Condominium Property nor Phases 2 and 3, respectively, shall be affected hereby nor shall the Owners in phases 2 and 3, respectively, have such rights in the Common Area within the Condominium Property.

In the event any Condominium in a phase to be annexed to the Declaration has been rented for a period of one (1) year prior to the close of the first escrow for the sale of a Condominium in that phase, Declarant shall, as a condition to annexing that phase pursuant to Subsection (b), provide to the Association a written commitment to pay to the Association, concurrently with the closing of the escrow for the first sale in that phase, appropriate amounts for reserves for replacement or deferred maintenance of Common Area improvements in that phase necessitated or arising out of the use and occupancy of Condominiums in that phase.

A Declaration of Annexation may be revoked or amended by Declarant without the approval of the Association or any Owner at any time before the conveyance of record by Declarant of a Condominium within the property annexed by the Declaration of Annexation. A draft of the notice of revocation or amendment must be submitted to and approved by the VA prior to its recordation.

Section 12.9. Owner Compliance. Each Owner, tenant or occupant of a Condominium shall comply with the provisions of the Declaration, the Bylaws, decisions and resolutions of the Association as lawfully amended from time to time. Failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover damages for sums due or for injunctive relief.

Section 12.10. Special Responsibilities of Association. In the event that the improvements to be installed by Declarant to the Recreation Area or Common Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the Condominium Property, and in the further event that the Association is the obligee under a bond to secure performance by the Declarant to complete such improvements, then if such improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any such improvement then the Board shall consider and vote on the question if the improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event that the Board determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then, in either such event, upon petition signed by Members representing not less than five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of the Members of the Association to consider the question of overriding the decision of the Board or of requiring the Board to take action on the question of enforcing the obligations secured by the bond. The meeting of Members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following receipt of the petition. At the meeting a vote of a majority of the

voting power of the Members of the Association, excluding the vote of 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 the decision by initiating and pursuing appropriate action in the name of the Association.

Section 12.11. Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of residential Condominium dwellings and incidental improvements upon the Condominium Property and on the Recreation Area. The completion of that work, and the sale, rental and other disposal of said Condominium dwellings is essential to the establishment and welfare of said Condominium Property as a residential community. In order that said work may be completed and said Condominium Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors or subcontractors from doing on the Recreation Area, Condominium Property or in any Unit whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Condominium Property or Recreation Area, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Condominium Property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on any part of the Condominium Property or Recreation Area its business of completing said work, and of establishing a plan of Condominium ownership and of disposing of said Condominium Property in Condominium dwellings by sale, lease or otherwise; or

(d) Prevent Declarant from maintaining such sign or signs on any of the Condominium Property and Recreation Area as may be necessary for the sale, lease or disposition thereof; provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of his Unit, the Recreation Area or the Common Area.

The rights of Declarant provided in Subparagraphs (a) through (d) above, may be exercised during the period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums in the Project are sold and conveyed by Declarant to separate owners, or seven (7) years following the

date of conveyance of the first Condominium in the Project from Declarant to a retail purchaser, whichever shall first occur. So long as Declarant, its successors and assigns owns one or more of the Condominiums established and described herein, Declarant, its successors and assigns shall be subject to the provisions of this Declaration. Declarant, in executing its rights under this Section 12.11, shall not unreasonably interfere with the use of the Recreation Area or Common Area by any Owner.

Section 12.12. Liens Not Invalid. No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise.

Section 12.13. Provisions of Civil Code Section 1360. Section 1360 of the California CIVIL CODE provides as follows:

"(a) Subject to the provisions of the governing documents and other applicable provisions of law, if the boundaries of the separate interest are contained within a building, the owner of the separate interest may do the following:

(1) Make any improvements or alterations within...the separate interest that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify a unit in a condominium project, at the owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the unit for the purposes of this paragraph if the unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the owner when the unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf or physically disabled.

(D) Any owner who intends to modify a unit pursuant to this paragraph shall submit his or her plans and specifications to the association of the condominium project for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law."

Section 12.14. Documents to be Provided to Prospective Purchaser. Each Owner, other than Declarant, shall, as soon as practicable before transfer of title to a Condominium, provide to the prospective purchaser the following:

- (a) A copy of the Articles, Bylaws and Declaration.
- (b) A copy of the most recent financial statements of the Association.
- (c) A true statement in writing from an authorized representative of the Association as to the amount of any assessments levied upon the Condominium which are unpaid as of the date of the statement. The statement shall also include true information on late charges, interest and costs of collection which, as of the date of the statement, are or may be made a lien upon the Condominium.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has executed this instrument the day and year first hereinabove written.

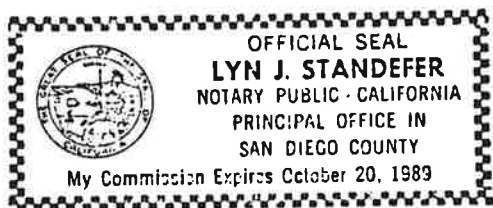
MARTIN GOLDBERG, in his capacity as Receiver
appointed by the United States District Court, Southern
District of California, in Case Nos. 880633 B(M),
880628 B(M) and 880632 B(M)

A handwritten signature in cursive script, reading "Martin Goldberg", is written over a horizontal line.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this 1st day of September, 19 89, before me, Lyn J. Standefer, a Notary Public in and for said state, personally appeared MARTIN GOLDBERG, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Receiver appointed by the United States District Court, Southern District of California, Case Nos. 880633 B(M), 880628 B(M) and 880632 B(M), known to me to be the person who executed the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.



Lyn J. Standefer
NOTARY PUBLIC

SUBORDINATION AGREEMENT

CALIFORNIA FEDERAL BANK, a Federal Savings Bank, a federally chartered savings bank, formerly known as

CALIFORNIA FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation, successor by merger to LA JOLLA PACIFIC SAVINGS BANK, being the beneficiary as to a \$2,570,000 interest under that certain deed of trust recorded October 11, 1985 as File/Page No. 85-379721 with the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of said deed of trust are and shall be subordinate to the Declaration of Covenants, Conditions and Restrictions to which this Subordination Agreement is attached.

CALIFORNIA FEDERAL BANK, a Federal Savings Bank, a federally chartered savings bank, formerly known as CALIFORNIA FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation, successor by merger to LA JOLLA PACIFIC SAVINGS BANK

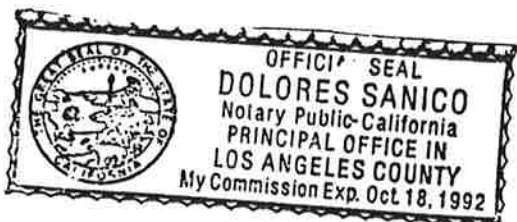
By Clarence S. Goldfinger SVP

By Bobbi Koehler, VP

STATE OF CALIFORNIA)
 Los Angeles) ss.
COUNTY OF ~~SAN DIEGO~~)

On this 3rd day of October, 1989, before me, Dolores Sanico, a Notary Public in and for said state, personally appeared Clarence S. Goldfinger, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the Sr. Vice President, and Bobbi Koehler, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the Vice President Secretary of the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



Dolores Sanico
NOTARY PUBLIC

SUBORDINATION AGREEMENT

FEDERAL DEPOSIT INSURANCE CORPORATION, as Manager of the FSLIC Resolution Fund as Receiver for Vernon Savings & Loan Association, FSA, being the beneficiary under that certain deed of trust recorded October 11, 1985 as File/Page No. 85-379721 with the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of said deed of trust are and shall be subordinate to the Declaration of Covenants, Conditions and Restrictions to which this Subordination Agreement is attached.

FEDERAL DEPOSIT INSURANCE CORPORATION, as
Manager of the FSLIC Resolution Fund as Receiver for
Vernon Savings & Loan Association, FSA

By Joseph J Ferlo

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

On this 28 day of September, 1989, before me,
Cheryl Ann Struck, a Notary Public in and for said state,
personally appeared Joseph J. Ferlo,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person
who executed this instrument as _____ of the FEDERAL DEPOSIT
INSURANCE CORPORATION ("FDIC") as Manager of the FSLIC Resolution Fund as Receiver
for Vernon Savings & Loan Association, FSA, and acknowledged to me that such persons subscribed
their names to the within instrument on behalf of FDIC, and acknowledged to me that FDIC
executed the same.

WITNESS my hand and official seal.



Cheryl Ann Struck
NOTARY PUBLIC