

AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP
HARBORWALK OWNER ASSOCIATION, INC

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THIS DECLARATION is made as of the date set forth below by the HARBORWALK OWNERS ASSOCIATION, hereinafter referred to as "Association."

RECITALS

1. Association is the community association for that certain property located in the County of Ventura, State of California, which is more particularly described as:

Parcels *A, B and C* of the Parcel Map No. 72 - 26, together with all condominium units located thereon, in the City of Oxnard, County of Ventura, State of California, as per Parcel Map recorded November 27, 1973, in Book 15 of Parcel Maps, pages 33 and 34, Instrument No. 82281, records of said County.

2. This Declaration amends and restates that certain Declaration of Covenants, Conditions and Restrictions recorded on April 1, 1974 as Instrument Number 19462, Book 4242, Pages 155 through 232, inclusive, in the official records of Ventura County.

DECLARATION

NOW, THEREFORE, Declarant Association hereby declares that the real property described in *Recital 1*, above, is and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in Sections 1350 to 1373, inclusive, of the California Civil Code, for the subdivision, improvement, protection, maintenance, and sale of condominiums within the aforesaid real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the aforesaid real property. All of said limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in the aforesaid real property, and shall be binding upon and

inure to the benefit of the successors in interest of such parties. Association hereby further declares that it is the express purport and intent hereof that this Declaration satisfy the requirements of Section 1353 of the California Civil Code.

ARTICLE I
DEFINITIONS

Section 1. The "articles" shall mean the articles of incorporation of the Association, as said articles may be amended from time to time.

Section 2. The "Association" shall mean and refer to HARBORWALK OWNERS ASSOCIATION, a California nonprofit mutual benefit corporation, its successors and assigns.

Section 3. The "Association Real Property" shall mean real property owned from time to time by the Association.

Section 4. The "Board" shall mean the Board of Directors of the Association.

Section 5. The "by-laws" shall mean the by-laws of the Association, as such by-laws may be amended from time to time.

Section 6. The "common areas" shall mean the entire development excepting all units as shown on the *condominium plan* and excepting the Association Real Property.

Section 7. A "condominium" shall mean an estate in real property as defined in Section 783 of the California Civil Code consisting of an undivided interest as a tenant-in-common in the common area as defined in the Deed for said condominium together with a fee interest in a unit (defined below) shown and described on the condominium plan and separate interests in--other real property, if any.

Section 8. The "condominium plan" shall mean the condominium plan or plans recorded or to be recorded pursuant to Section 1351 of the California Civil Code respecting the development or a portion thereof, and any amendments thereto.

Section 9. The "exclusive use common area" shall mean that portion of the common areas designated for the exclusive use of one or more, but fewer than all, of the owners of the *units* and which are appurtenant to the units including any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, door frames, and hardware incident thereto, screens and windows or other fixtures designed to serve a unit but located outside the boundaries of the unit.

Section 10. A "member" shall mean every person or entity who holds a membership in the Association.

Section 11. A "mortgage" shall mean a mortgage or deed of trust encumbering a condominium or other portion of the development. A "mortgage" shall also mean an installment sales contract as to a condominium or other portion of the development entered into under and pursuant to Article 3, Chapter 6, Division 4 of the California Military and Veterans Code whereunder The Department of Veterans Affairs of the State of California ("DVA") is Seller (a "Cal-Vet"

contract). The term "mortgage" shall include the beneficiary under a deed of trust and the DVA under a Cal-Vet contract.

Section 12. An "owner" shall mean each person and entity holding a record ownership interest in a condominium. The term "owner" shall not include persons or entities who hold an interest in a condominium merely as a security for the performance of an obligation or as a contract purchaser; provided, however, that the contract purchaser or purchasers of a condominium from the DVA under a Cal-Vet contract shall be an owner.

Section 13. A "unit" shall mean the elements of a condominium which are not owned in common with the other owners of condominiums in the development. The boundaries of a unit are shown and described on the condominium plan. In interpreting deeds and plans the existing physical boundaries of a unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be exclusively presumed to be its boundaries rather than the description expressed in the deeds or plans, regardless of minor variance between boundaries shown on the plans or in the deed and those of the building. Whenever reference is made herein, in the condominium plan, in any deed or elsewhere to a unit it shall

be assumed that such reference is made to the unit as a whole, including each of its component elements, and to any and all exclusive easements appurtenant thereto over common area, if any.

ARTICLE II
PROPERTY RIGHTS, RIGHTS OF
ENJOYMENT AND EASEMENTS

Section 1. Ownership of Condominium; Exclusive Easements. Ownership of each condominium within the development shall include a unit, the respective interest in the common area (which undivided interest may not be altered or changed so long as the prohibition against severability of component interests in a condominium remains in effect as hereinafter provided), and any exclusive use common area, exclusive easement, or easements appurtenant to such unit over common area as described in the deed thereto or in the condominium plan, or this Declaration.

Section 2. Owners Non-Exclusive Easements of Enjoyment.

Etc. Every owner shall have a non-exclusive easement and equitable right of use and enjoyment in and to and throughout the common areas and any Association Real Property as well as a non-exclusive easement and equitable right for ingress, egress and support over and through the common areas of all phases of development and any Association Real Property; provided, however, such non-exclusive easements and equitable rights shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to units over the common area, if any. Each such easement and right shall be appurtenant to and pass with the title to every unit, subject to the following restrictions:

(a) The right of the Association to limit the number of guests, and to adopt Association rules and regulations regulating the use and enjoyment of the common areas and any Association Real Property.

(b) The right of the Association to charge reasonable admission and other fees for the use of any unassigned parking and storage spaces and any recreational facility situated upon the common areas and any Association Real Property.

(c) The right of the Association to borrow money for the purpose of improving the common areas, any Association Real Property, and the recreational areas therein.

(d) The right of the Association to assign, rent, license or otherwise designate and control use of unassigned parking and storage spaces within the common areas (other than those portions subject to exclusive easements appurtenant to units, if any) and any Association Real Property.

(e) The right of the Association, or its agents, to enter any of the units in order to perform its obligations hereunder, which right shall be immediate in case of an emergency originating in or threatening such unit, whether the owner is present or not.

(f) The right of any owner, or his representatives, to enter the unit of any other owner for purposes of performing permissible installations, alterations or repairs to mechanical or electrical services, including installation of television antennae and related cables, provided requests for entry are made in advance and that such entry is at a time convenient to the owner whose unit is being entered; and in the case of emergency such right of entry shall be immediate.

Section 3. Delegation of Use. Any owner may delegate his rights of enjoyment in the development, including any recreational facilities thereof, to the members of his family, his guests, and invitees, and to such other persons as may be permitted by the bylaws and the Association rules and regulations, subject-however, to said by-laws and said Association rules and regulations; provided, however, that neither an owner of a condominium who has sold same to a contract purchaser thereof or has leased or rented same, nor members of his family, his guests and invitees shall be entitled to use

and enjoy the recreational facilities of the development while such owner's condominium is occupied by such contract purchaser, lessees or renter, but, instead, such contract purchaser, lessee or renter, while occupying such condominium, shall be entitled to use and enjoy the recreational facilities of the development and to delegate the rights of enjoyment in the same manner as if such contract purchaser, lessee or renter were the owner of such condominium during the period of his occupancy of such condominium. Each owner shall notify the secretary of the Association of the names of any contract purchasers, lessees or renters of such owner's condominium. Each owner, contract purchaser, lessee or renter shall also notify the secretary of the Association of the names of all persons to whom such owner, contract purchaser, lessee

or renter has delegated any rights of enjoyment in the development and the relationship which each such person bears to such owner, contract purchaser, lessee or renter. Any rights of enjoyment delegated pursuant hereto are subject to suspension to the same extent that rights of owners are subject thereto.

Section 4. Minor Encroachments. If any portion of the common areas encroaches upon any of the units, a valid easement for such encroachment and for the maintenance of same so long as it remains shall and does exist, and, pursuant to this Declaration, all units are made subject to such easements. In the event that any structure containing a unit is partially or totally destroyed and then rebuilt and minor encroachments result, a valid easement for such minor encroachments, and for the maintenance of same so long as same shall remain, shall and does exist, and, pursuant to this Declaration, all units, the common areas and any Association Real Property are made subject to such easements for minor encroachments

Section 5. Easements Granted by Association. The Association shall have the power to grant and convey to any third party easements and rights-of-way, in, on, over or under the common areas and any Association Real Property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder overhead or underground lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purpose, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to his condominium, expressly consents hereto; provided, however, that no such easements may be granted if same would interfere with the use, occupancy or enjoyment by any owner of his unit, any exclusive use common area or exclusive easements over common area appurtenant thereto, if any, or the recreational facilities of the development.

ARTICLE III
USE RESTRICTIONS

Section 1. Residential Use. Units shall be used for residential purposes only. Nothing herein shall prevent an owner from leasing or renting his condominium, provided, however, any lessee or renter thereof shall abide by and be subject to all terms and provisions of this Declaration, the articles and by-laws, and the Association rules.

Section 2. Commercial Use. Excepting as otherwise expressly provided in this Declaration, no part of the development shall ever be used or caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purpose.

Section 3. Interior Maintenance. Each owner of a condominium shall be responsible for maintaining his unit in good repair including the equipment and fixtures thereof and the interior walls, ceilings, shutters, windows and doors thereof, in a clean, sanitary, workable and attractive condition, reserving to each owner, however, complete discretion as to the choice of furniture, furnishings, and interior decorating; provided, however, windows may only be covered by drapes, shades, shutters or blinds, and may not be painted or covered by foil, cardboard, or other similar materials. Each owner shall also be responsible for repair, replacement and cleaning of the windows and glass of his unit, both exterior and interior. Unless otherwise specifically provided in this Declaration, the Association shall clean and maintain exclusive easements appurtenant to any of the units-over common area, if any.

Section 4. Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind, shall be permitted upon or in the development, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of the development or within five (500) feet below the

surface of the development. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the development.

Section 5. Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, shall be carried on, upon, or within the development, nor shall anything be done thereon which may be or become an annoyance or nuisance to the residents of the development, or which shall in any way interfere with the quiet enjoyment of occupants of condominiums. Unless otherwise permitted by the Association, no owner shall serve food or beverages, cook,

barbecue, or engage in similar activities, excepting within such owner's unit and excepting within those portions of any common area subject to exclusive easements appurtenant to such owner's unit, if any.

Section 6. Parking Restrictions: Use of Garages.. Unless otherwise permitted by the Association, no automobile shall be parked or left on any street or on any property subject to this Declaration other than on or within a garage, carport or assigned or appurtenant parking stall or space. No boat, trailer, recreation vehicle or camper shall be parked or left on any street or any part of the development; provided, however, parking by commercial vehicles for purposes of making delivery shall be permitted in accordance with the Association rules. Garages and carports, if any, shall be used for the parking of automobiles only and shall not be converted for living or recreational activities. Garage doors, if any, shall remain closed at all times excepting when entering or exiting.

Section 7. Signs. No sign of any kind shall be displayed to the public view on or from any condominium or on or from the common areas or any Association Real Property without the approval of the Board of Directors. Notwithstanding the foregoing, one sign of customary and reasonable dimensions, as described in the

Association's Rules and Regulations, advertising a condominium for sale or rent may be placed within each unit by the owner or owners thereof, the location and design thereof to be subject to approval by the architectural committee.

Section 8. Antennae External Fixtures. Etc. No television or radio poles, antennae, flag poles, clotheslines or other external fixtures other than those originally installed in the development or approved by the architectural committee, if any, and any replacements thereof, shall be constructed, erected or maintained on or within the common areas, including any structures thereof, or on or within Association Real Property, including any structures thereof. No wiring, insulation, air-conditioning or other machinery or equipment other than that originally installed within the development or approved by the architectural committee, and any replacements thereof, shall be constructed, erected or maintained on or within the common areas, including any structures thereof, or on or within any Association Real Property, including any structures thereof. Each owner shall have the right to maintain television or radio antennae within completely enclosed portions of his unit.

Section. 9. Fences, etc. No fences, gates, doors awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the development except such as are installed in accordance with the original construction of the development, and any replacement thereof, or as are authorized and approved by the architectural committee.

Section 10. Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any condominium or elsewhere within the development except that domestic dogs, cats,

fish and birds inside bird cages may be kept as household pets within any unit, provided they are not kept, bred or raised therein for commercial purposes, or in

unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of all dogs, cats and birds to two (2) per condominium. The Association shall have the right to prohibit maintenance of any animal which constitutes, in the sole and exclusive opinion of the Board, a nuisance to any other owner. Each person bringing or keeping a pet upon the development shall be absolutely liable to each and all other owners, their family members, guests, invitees, lessees, renters and contract purchaser, and their respective family members, guests, and invitees for any damage to persons or property caused by any pet brought upon or kept upon the development by such person or by members of his family, his guests or invitees. Unless otherwise agreed to by the Board, all pets shall be kept under restraint, e.g. leashed, while outside of units.

Section 11. Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary *containers*. No owner of condominium shall permit or cause any trash or refuse to be kept on any portion of the development subject to this Declaration other than in the receptacles customarily used therefor.

Section 12. Outside Drying and Laundering. No exterior clothesline shall be erected or maintained and there shall be no exterior drying or laundering of clothes on balconies, patios, porches or other areas.

Section 13. Structural Alterations. No structural alterations to the interior of any unit shall be made and no plumbing or electrical work within any bearing or common walls, if any, shall be made by any owner without the prior written consent of the architectural committee. A city permit shall be required for all structural alterations.

Section 14. Exterior Alterations. No owner shall at his expense or otherwise make any alterations or modifications to the exterior of the buildings, fences, railings or walls situated within the development without the prior written consent of the architectural committee. A City permit shall be required for all exterior alterations. No owner shall be allowed to make any alterations or modifications which create any

encroachment upon the common area without the prior approval of three-fourths (3/4) of the Association Members.

Section 15. Compliance With Laws, etc. Nothing shall be done or kept in any unit or in any common area or in any Association Real Property which might increase the rate of, or cause the cancellation of, insurance on the development, or any portion thereof, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his unit which is immoral or in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. No owner shall allow furniture, furnishings or other personalty belonging to such owner to remain within any portion of common area appurtenant to such owner's unit, if any, and excepting as may otherwise be permitted by the Association.

Section 16- Indemnification. Each owner shall be liable to the remaining owners for any damage to any common area and any Association Real Property which may be sustained by reason of the negligence of said owner, members of his family, his contract purchasers, lessees, renters, guests or invitees, to the extent that any such damage shall not be covered by insurance. The cost of repair may be collected by the Association as an individual Special Assessment pursuant to all rights and remedies in Article VIII herein. Each owner does further, by acceptance of his deed, agree for himself and for the members of his family, his contract purchasers, lessees, renters, guests or invitees, to indemnify each and every other owner, and to hold him or her harmless from, and to defend him or her against, any claim of any person or persons for personal injury or property damage occurring within the unit of that particular owner and any exclusive easements over any common area appurtenant thereto, if any, unless said injury or damage occurred by reason of the negligence of any other owner or person temporarily visiting in said

condominium or portion of the common area subject to an exclusive easement appurtenant thereto, if any.

Section 17. Owners' Obligation For Taxes. Each owner shall be obligated to pay any taxes or assessments assessed by the County Assessor of said County against his condominium and against his personal property.

ARTICLE IV

THE ASSOCIATION

Section 1. Formation. The Association is incorporated as a nonprofit mutual benefit corporation under laws of the State of California and, is charged with the duties and invested with the powers set forth in the articles, the by-laws and this Declaration, including, but not limited to, control of the common areas and any Association Real Property. Neither the articles nor the by-laws shall, for any reason, be amended or otherwise-changed or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. In the event of any inconsistency as between the articles and by-laws, the provisions of the articles shall prevail.

Section 2. Association Action; Board of Directors and Officers. Except as to matters expressly requiring the approval of members as set forth in this Declaration, the articles or the bylaws, the affairs of the Association shall in all instances be conducted by the Board and such officers as the Board may elect or appoint, such election or appointment to be in accordance with the by-laws, as the name may be amended from time to time. Except as otherwise expressly provided in this Declaration, the articles or the by-laws, all matters requiring the approval of members shall be deemed approved if members holding a majority of the total voting rights assent thereto by vote of written consent as provided in the by-laws.

Section 3. Powers and Duties of Association.

(a)Powers. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law of California subject only to such limitations upon the exercise of such powers as are expressly set forth in the articles, the by-laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be *done* by the Association under this Declaration, the articles and the by-laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including without limitation the following:

(i) Assessments. The Association shall have the power to establish, fix and levy assessments against the owners of condominiums and to enforce payment of such assessments, all in accordance with the provisions of this Declaration; provided, however, the approval of members shall be required as to the amounts of all regular and special assessments except as otherwise hereinafter specifically provided.

(ii) Right of Enforcement. The Association shall have the power and authority from time to time in its own name and on its own behalf, or on behalf of any owner or owners who consent thereto, to commence and maintain actions and suits at law for damage or in equity to restrain and enjoin any breach or threatened breach of any provisions of this Declaration or of the articles or by-laws, or of the Association rules adopted pursuant to Section 3

of this Article IV, or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of said provisions. In addition to the foregoing remedies, the Association shall have the right to suspend the voting rights, suspend use privileges of the common areas and any Association Real Property, or assess monetary penalties against any owner or other person entitled to exercise such rights or privileges by reason of any violation of this

Declaration or the articles, by-laws, Association rules, or Board resolutions, provided, however, that:

- a. any such suspension of use privileges may not exceed a period of thirty (30) days for any one violation; and
- b. any such monetary penalty shall not exceed a reasonable amount pursuant to a schedule of penalties adopted from time to time by the Board.

Each suspended or fined owner or other person shall have the right to appeal such action by filing with the Board written notice of his intention to appeal. Such action imposing such fine or suspension shall thereupon become ineffective until the fine or suspension shall thereafter be approved by a majority of all Board members at a duly called and held regular or special meeting of the Board at which all such Board members are present, and the owner or other person to be fined or suspended shall have the right to appear, to be represented by counsel and to be heard thereat.

(iii) Delegation of Powers. The Association acting by and through the Board shall have the authority to delegate its powers, duties, and responsibilities to committees or employees.

It may in any event, employ self-management personnel, or hire a professional managing agent (sometimes hereinafter referred to as the "manager") for the development. Such manager shall be experienced *in* the management of condominium developments.

(iv) Association Rules. The Association shall have the power to adopt, amend and repeal such rules and regulations as it deems reasonable (hereinafter sometimes referred to as the "Association rules"). The Association rules shall govern the use of the common areas and any Association Real Property, including, but not limited to, any recreational facilities and private streets, by an owner, the family members of an owner, or by any guest, invitee, contract purchaser, lessee or renter of an owner, or their respective family members, guests or invitees,; provided, however, that the Association rules shall not be inconsistent with or materially alter any other provision of this Declaration, the articles or by-laws. A copy of the

Association rules as the same may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and a copy shall be posted in a conspicuous place within the development. In the event of any conflict between any such Association rules and any other provisions of this Declaration, or the articles or by-laws, the provisions of the Association rules shall be deemed to be superseded by the provisions of this Declaration, the articles or the by-laws to the extent of any such inconsistency.

(v) Permanent Modification of Recreational Facilities. The Association, with the approval of two-thirds (2/3) of the voting

power of the members, may permanently modify the use of recreational facilities located on the common areas.

(b) Duties of the Association. In addition to powers delegated to it by its articles or in the by-laws, and without limiting the generality thereof, the Association acting by and through the Board, or by and through persons or entities described in paragraph (a)(iii), above, if applicable, shall have the obligation to conduct all business affairs of common interest to all owners, and to perform each of the following duties:

(i) Operation and Maintenance of Common Areas and Any Association Real Property. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the common areas, including all private driveways and private streets thereof, if any, any Association Real Property and all facilities, improvements and landscaping thereon and thereof, and all other property acquired by the Association, including personal property, in a first class condition and in a good state of repair. In this connection, the Association shall employ self management personnel or a managing agent and may enter into contracts for services or materials for the benefit of the Association, the common areas or any Association Real Property, provided, however, that the term of any such service contract shall not exceed one (1) year unless approved by a majority of the members of the Association.

(ii) Taxes and Assessments. Pay all real and personal property taxes and assessments and all other taxes levied against

the common areas, the Association Real Property, personal property owned by the Association, or against the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes.

(iii) Water and Other Utilities. Acquire, provide and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone and gas

and other necessary utility services for the common areas and any Association Real Property, and for condominiums when the *condominiums* are not separately billed therefor.

(iv) Insurance. Obtain, from reputable insurance companies, and maintain in effect, the insurance described in Article IX hereof.

(v) Architectural Committee. Appoint and remove members of the architectural committee as provided in this Declaration.

(vi) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration, the articles and by-laws, and the Association rules and Board resolutions.

(vii) Wood Destroying Pests or Organisms. Repair and maintain the common area due to damage caused by the presence of wood destroying pests or organisms; provided, however, that the costs of temporary relocation during the repair and maintenance of

the areas within the responsibility of the Association shall be borne by the unit owners.

Section 4. Personal Liability. No member of the Board, or any committee of the Association, or any officer of the Association, or the manager, if any, shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of any person or entity, provided that such person or entity has, upon the basis of such information as may be possessed by him or it, acted in good faith without wilful or intentional misconduct. In addition, the directors and officers of the Association shall be entitled to all protection from liability authorized by California law, including, but not limited to, the protection authorized by California Civil Code, Section 1365.7, or any successor code section, and provided that the Association maintains the minimum insurance coverage provided by any of such code sections.

Section 5. Annual Meeting and Notice. Annual meetings of

members of the Association shall be held in the month of March on a date to be determined by the Board, which day shall not be a legal holiday. Special meetings may be called as provided for in the by-laws. Notice of all members meetings, annual or special, shall be given by regular mail or telegram and shall be given not less than ten (10) days nor more than ninety (90) days prior to the time of said meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken.

All such meetings shall be held within the development or as close thereto as practicable, at a reasonable place selected by the Board. The presence at any meeting in person or by proxy of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of said total votes. Any meeting of members whereat a quorum is present may be adjourned for any reason to a time not less than 48 hours nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present thereat in person or by proxy.

Section 6. Review and Annual Operating Statement: Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause an independent review of the accounts of the maintenance fund to be prepared for each year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars (\$75,000.00), and upon completion of such review shall cause to be prepared and delivered to each owner within thirty (30) days after

completion, a true and correct copy thereof. In addition, the Association shall prepare, or cause to be prepared, a pro-forma operating budget reflecting the income and

expenditures of the Association for its fiscal year and a copy of said statement shall be distributed to each member not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the Association's fiscal year.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership.

(a) Qualifications. Each owner of a condominium shall be a member of the Association. No such owner shall hold more than one membership in the Association even though owner may own, or own an interest in, more than one condominium. Ownership of a condominium or interest therein shall be the sole qualification for and entitlement to membership in the Association. Each owner shall remain a member of the Association until such time as his ownership or ownership interest in all condominiums in the development ceases for any reason, at which time his membership in the Association shall automatically cease. A member is not intended to include persons or entities who hold an interest in a condominium merely as security for performance of an obligation; nor is a member intended to include contract purchasers, excepting, however, a contract purchaser or contract purchasers from the DVA under a Cal-Vet contract, if any.

(b) Members' Rights and Duties. Each member shall have the rights, duties and obligations set forth in this Declaration, the articles, the by-laws and the Association rules, as the same may from time to time be amended.

(c) Transfer of Membership The Association membership of each person or entity who *owns, or owns* an interest in, one or more condominiums shall be appurtenant to each such condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon a transfer of title to each such condominium or interest therein and then only to the transferee thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a condominium or interest therein shall operate automatically to transfer the membership rights in the Association appurtenant thereto to the new owner thereof.

Section 2. Voting.

(a) Number of Votes. The Association shall have one (1) class of voting membership who shall be all the owners. Each member shall be entitled to one (1) vote for each condominium in which such member owns an interest; provided, however, when more than one member owns an interest in a condominium, the vote for such condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one such condominium.

(b) Joint Owner Votes. The voting rights for each condominium may not be cast on a fractional basis. In the event that the joint owners of a condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit same as to the matter in question. If any owner or owners cast the voting rights of a particular condominium, it will

thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other owners of the same condominium. In the event more than one (1) person or entity casts the voting rights for a particular condominium, said voting rights shall not be counted and shall be deemed void.

(c) Cumulative Voting. Election to and removal from the Board shall be by cumulative voting as provided in sections 7615 of the California Corporations Code. In this regard, each member shall be entitled to vote, in person or by proxy, as many votes as such member is entitled to exercise as above provided multiplied by the number of directors to be elected or removed, as the case may be, and he may cast all of such votes for or against a single candidate or director, or he may distribute them among the number of candidates or directors to be so elected or removed, or any two or more of them, in such a manner as he deems appropriate. The candidates receiving the highest number of votes up to the number of Board members to be elected shall be deemed elected. As to removal, neither the entire Board nor a single director shall be removed unless the number of votes in favor thereof satisfies the requirements of Section 7222 of the California Corporations Code.

ARTICLE VI

ARCHITECTURAL COMMITTEE

Section 1. Committee. There shall be architectural committee (hereinafter referred to as the "committee") which shall consist of one (1) or more persons, all of whom shall be members of the Association.

Section 2. Membership. Members of the committee shall be appointed by the Board and shall serve for terms of three (3) years; provided, however, said members may be removed from the committee by the Board without cause. In case of the death, resignation or removal of any member of the committee appointed by

the Board, the Board shall appoint a successor to serve for the unexpired term of such member.

Section 3. Duties. It shall be the duty of the committee to

consider and act upon any and all proposals or plans submitted to it by the Board or pursuant to the terms hereof, to insure that any improvements constructed on the development by anyone conform to plans approved by the committee, to adopt architectural rules, and to perform other duties imposed upon it by this Declaration. Notwithstanding anything contained in this Declaration expressly or implied to the contrary, no building, fence, wall or other structure or improvement shall be constructed or placed upon the development, by anyone nor shall any exterior addition, change or alteration be made in, on or to the development, or any part thereof, by anyone, until the plans and specifications showing the nature, shape, dimensions, materials and location of the same shall have been submitted to and approved in writing as to harmony of design and location in relation to surrounding improvements and topography by, the committee. A city permit shall be required for all exterior alterations and a copy provided to the committee before final approval is given. The committee may, in its own name and on behalf of the Association, exercise all available legal and equitable remedies to prevent or remove any unauthorized and unapproved construction of improvements on the development or any portion thereof, including, but not limited to, the recording of a "Notice of Violation".

Section 4. Meetings. The committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the members, at a meeting or otherwise, shall constitute the act of the committee. The committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the committee shall not receive any compensation for services rendered.

Section 5. Architectural Rules. The committee may, from time to time, and with approval of the Board of Directors, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "architectural rules." The architectural rules shall interpret this Declaration by setting forth the standards and procedures for committee review and the guidelines for design and placement of improvements.

Section 6. Waiver. The approval of the committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plans, drawings, specifications or other matters subsequently submitted for approval.

Section 7. Liability. Neither the committee nor any member thereof shall be liable to the Association, any owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of the approval or disapproval of any plans, drawings, or specifications, or the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; provided that with respect to the liability of a member, such member has acted in good faith on the basis of actual knowledge possessed by him.

Section 8. Board of Directors. All decisions of the architectural committee are subject to review by the Board of Directors and may be appealed to the Board. The Committee shall notify the Board of all violations of this Article and of any noncompliance with its rulings or with the plans and specifications submitted to and approved by it. Thereafter, the Board shall take any action it deems necessary, in accordance with the provisions of this Declaration, including, but not limited to, the recording of a "Notice of Violation".

ARTICLE VII
ASSESSMENTS

Section 1. Agreement to Pay. By purchase of a condominium within the development, each owner hereby covenants and agrees, and each future purchaser of a condominium by his acceptance of a deed thereof, whether or not it is so expressed in such deed, is deemed to covenant and agree, for each condominium owned, to pay to the Association regular assessments and special assessments, such

assessments to be established, made and collected as hereinafter provided.

Section 2. Personal Obligation. Each such assessment, or installment thereof, together with any late charge, interest thereon, collection costs and reasonable attorneys fees, shall also be the personal obligation of the person or entity who was an owner at the time such assessment, or installment thereof, became due and payable. In the event more than one person or entity was the owner of a condominium, the personal obligation to pay such-assessment, installment thereof, respecting such condominium shall be both joint and several. The personal obligation for delinquent installments thereof, and such other sums, shall not pass to an owner's successors in interest unless expressly assumed by them. No owner of a condominium may exempt himself from payment of assessments, or installments thereof, by waiver of the use or enjoyment of all or portion of the common areas or any Association Real Property or by waiver of the use or enjoyment of, or by abandonment of, his condominium.

Section 3. Purpose of Assessments. The assessments levied by used exclusively to promote the health, safety and welfare of the members of the Association, the improvement, operation and maintenance of the common areas, and any Association Real Property and the performance of the Association as set forth in this Declaration. All assessments, regular and special, shall require the approval of members.

Section 4. Assessments.

(a) Regular Assessments. Not more than sixty (60) days nor less than thirty (30) days prior to the beginning of each fiscal year the Board shall estimate the total amount of funds necessary to defray the expenses of the Association for the next fiscal year, and same shall become the regular assessment for such year subject to Section 8 of this Article VII. Said assessments shall *be uniform* and shall be determined as provided in Section 5 hereof.

(b) Special Assessments. In the event the Board shall determine that the theretofore estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is, or will become, inadequate to meet such expenses for any reason, including, but not limited to, unanticipated delinquencies, costs of construction or reconstruction, unexpected repairs or replacement of capital improvements upon the common areas or any Association Real Property, or otherwise, the Board shall determine the approximate amount necessary to defray such expenses, and the same shall become a special assessment which may be assessed hereunder subject to the limitations of subsection (c) below. The Board may, in its discretion, pro rate such special assessment over the remaining months of the fiscal year or levy such assessments immediately against each condominium, or levy a multi-year special assessment payable monthly or otherwise.

(c) Limitation Respecting Special Assessments. The foregoing notwithstanding, any such special assessment in excess of five percent (5%) of the Association's budgeted gross expenses for the fiscal year shall require approval by vote or the written consent of the members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association. Board may impose an

individual Special Assessment against member to recover the cost of any damage to any common area and Association Real Property which may be sustained by reason of the of said owner, members of his family, his contract purchasers, lessees, renters, guests or invitees, to the extent that such damage shall not be covered by insurance.

(d) Nothing contained herein shall limit assessment increases or special assessments necessary for emergency situations. For purposes of this section, an emergency situation of the following:

(1) An extraordinary expense required by an order of the court.

(2) An extraordinary expense necessary to repair or the common interest development or any part of it for association is responsible where a threat to personal safety on the property is discovered.

(3) An extraordinary expense necessary to repair or maintain the common interest development 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 Section 1365. However, prior to the imposition or collection of an assessment under this subdivision, 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 mailed to the members with the notice of assessment.

Section 5. Uniform Rate of Assessment. Except as otherwise specifically hereinafter provided, regular and special-assessments must be fixed at a uniform rate for all condominiums. In this regard, the assessment shall be determined by

dividing the amount thereof by the total number of condominiums within the development and subject to assessment.

Section 6. Assessment Period. Unless otherwise changed by vote of the members to alter the Association's fiscal year, the regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and regular assessments shall be payable in equal monthly installments unless the Board adopts some other basis for collection. All special assessments shall be adjusted according to the number of months remaining in the calendar year and shall be payable in equal monthly installments unless the Board or members adopt some other basis for collection including a multi-year payment of special assessments. The Association shall not change the pro rata interest or obligation of any condominium for purposes of levying

assessments unless all owners and all mortgagees have given their prior written consent thereto.

Section 7. Notice and Assessment Installment Due Dates.

Prior written notice of each increase in regular assessment and each special assessment shall be sent to the owner or owners of every condominium subject thereto wherein the due dates for the payments of installments thereof shall be specified. Said written notice shall be sent to all owners by first-class mail not less than thirty (30) nor more than sixty (60) days prior to the increased regular or special assessment becoming due. The due dates for the payment of installments of regular assessments and special assessments shall normally be the first day of each month unless some other due date is established by the Board or members. Each installment of regular assessments and special assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge set by the Board of Directors consistent with State law, together with interest at the rate of percent set by the Board of

Directors consistent with state law per annum calculated from the due date to and including the date full payment is received by the Association, commencing thirty (30) days after the assessment becomes due.

Section 8. Increase in Assessments. Notwithstanding the foregoing the Board may, for the fiscal year, increase the regular assessments of each year by an amount not in excess of twenty percent (20%) above the maximum regular assessment per condominium. for the previous year, without the vote or consent of the members of the Association.

Section 9. Estoppel Certificate. The Board or manager, upon not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular owner is in default as to said owner's condominium under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such condominium, it being intended that any such certificate delivered pursuant to this Section 9 may be relied upon by any prospective purchaser or mortgagee of said condominium, but reliance on such certificate may not extend to any default not involving the payment of assessments as to which the signer had no actual knowledge.

ARTICLE VIII

COLLECTION OF ASSESSMENTS, LIENS

Section 1. Right to Enforce. The right to collect and enforce assessments is hereby vested in the Board acting by and on behalf of the Association. The Board or its authorized representative, including the manager, if any, may enforce the obligations of the owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 2 hereof to enforce the lien rights created hereby. Suit to recover

a money judgment for unpaid assessment together with all other amounts described in Section 2 of Article VII hereof shall be maintainable without foreclosing or waiving said lien rights.

Section 2. Creation of Lien. In the event of a delinquency in the payment of any assessments, or installment thereof, respecting a condominium, as described in Section 7 of Article VII hereof, such amounts as may be delinquent, together with the late charge described in said Section 7, interest thereon at the percent as set by the Board of Directors consistent with State Law, per annum, and all costs which may be incurred by the Board or its authorized representative in the collection of said amounts, including reasonable attorneys fees, shall be and become a lien against such condominium upon the recordation in the office of the County Recorder of said County of a Notice of Assessment as provided in Section 1367 of the California Civil Code. The Notice of Assessment shall not be recorded unless and until the Board or its authorized representative has delivered to the delinquent owner or owners of such condominium, not less than ten (10) days prior to the recordation of said Notice of Assessment, a written notice of default and a demand for payment, and such delinquency has not been cured within ten (10) days after delivery thereof.

Section 3. Notice of Default; Foreclosure. Not less than ten (10) days after the recording of said Notice of Assessment, the Board or its authorized representative may record a notice of default and thereafter may cause such condominium to be sold in the same manner as a sale is conducted as provided by Section 2924,

2924b and 2924c of the California Civil Code, or through judicial foreclosure; provided, however, that as a condition precedent to the holding any such sale under said Section 2924c appropriate publication shall be made; and provided, further, that in *connection* with any sale pursuant thereto the Board is hereby authorized to appoint its attorney, any officer or director, or any title insurance company authorized

to do business in California as Trustee for purposes of conducting such sale. If any such delinquency is cured prior to sale, or prior to completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the office of the County Recorder of said County a certificate of setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorneys fees by such delinquent owner or owners. During the pendency of any foreclosure proceeding, whether judicial or by power of sale, the condominium owner or owners shall be required to pay to the Association reasonable rental for the condominium and the Association shall be entitled to the appointment of a receiver to collect the same. In this regard, on becoming delinquent in the payment of any

assessments, or installments thereof, each delinquent owner or owners shall be deemed to have absolutely assigned all rents, issues and profits of his condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association by the remedy of

2924b and 2924c of the California Civil Code, or through judicial foreclosure; provided, however, that as a condition precedent to the holding any such sale under said Section 2924c appropriate publication shall be made; and provided, further, that in connection with any sale pursuant thereto the Board is hereby authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in California as Trustee for purposes of conducting such sale. If any such delinquency is cured prior to sale, or prior to completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the office of the County Recorder of said County a certificate of setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorneys fees by such

delinquent owner or owners. During the pendency of any foreclosure proceeding, whether judicial or by power of sale, the condominium owner or owners shall be required to pay to the Association reasonable rental for the condominium and the Association shall be entitled to the appointment of a receiver to collect the same. In this regard, on becoming delinquent in the payment of any assessments, or installments thereof, each delinquent owner or owners shall be deemed to have absolutely assigned all rents, issues and profits of his condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association by the remedy of

\$3,000,000 for property damage in any one occurrence, or the minimum amount required by State law, whichever is greater.

Section 2. Fire and Extended Coverage Insurance The Association shall also obtain and maintain in force a master or blanket policy of fire insurance for the full insurable value of all the improvements within the development. Such policy and any endorsements thereon shall be in the form and content, for such term and in such company as may be satisfactory to any mortgagee, and, if more than one mortgage has a loan of record against the development, or any part thereof, such policy and endorsements shall meet the maximum standards of the various mortgages represented in the development. Such policy shall contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause, and a determinable cash adjustment clause, or a similar clause to permit cash settlement covering full value of the improvements in the event of partial destruction and a decision not to rebuild. Such policy shall be in such amounts as shall be determined from time to time by the Board, shall name as insured the Association, the owners and all mortgagees as their respective interests

may appear, and may contain a loss payable endorsement in favor of the trustee hereinafter described.

Section 3. Earthquake Insurance. The Association may, at the discretion of the Board, carry earthquake insurance for the full insurable value of all of the improvements within the development.

Individual owners shall be encouraged to carry earthquake insurance on their individual condominiums with such insurance to include loss assessment coverage.

Section 4. Individual Fire Insurance. If available, underlying fire insurance coverage for individual condominiums shall be written as a part of, or in conjunction with, said master policy, where necessary to protect individual lenders. If such coverage is not available, each owner or owners of each condominium shall purchase at his or their expense and maintain such fire and casualty coverage as may be required by his or their individual mortgages. Any such underlying insurance shall contain a replacement cost endorsement, if available, and, to the extent available, such other endorsements as may be a part of the master policy. Such insurance shall likewise name as insured all of the owners and all mortgagees, as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee hereinafter described.

Section 5. Trustee. All insurance proceeds payable under Sections 2, 3 and 4, above, and subject to the rights of the mortgagees under Section 8, may be paid to a trustee, to be held and expended for the benefit of the owners, mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank, or branch thereof, in said County, which has agreed in writing to accept such trust. In the event repair or *reconstruction* is authorized, the Board shall have the duty to contract for such work as provided for herein.

Section 6. Other Insurance. The Board may purchase and maintain in force demolition insurance in adequate amounts to cover demolition in the event of total or partial destruction and a decision not to rebuild. The Board shall also purchase and maintain workmen's compensation insurance, to the extent that the same shall be

required by law, for all employees of the development. The Board may also purchase and maintain fidelity bonds, insurance on personal property owned by the Association, and such other insurance as it deems necessary.

Section 7. Owner's Insurance. An owner may carry such personal liability and property damage insurance respecting his condominium as he may desire, provided, however, any such policy shall include a waiver of subrogation clause.

Section 8. Distribution to Mortgagees. With respect to insurance coverage under Sections 2, 3, and 4 above, any mortgagee shall have the option to apply insurance proceeds payable thereunder to such mortgagee in reduction of the obligation secured by the mortgage of such mortgagee.

ARTICLE X

DESTRUCTION OF IMPROVEMENTS

Section 1. Destruction: Proceeds Exceed-85% of Reconstruction Costs. In the event of a total or partial destruction of the development, and if the available proceeds of the insurance carried pursuant to Article IX are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction thereof, the same shall be promptly

rebuilt unless, within ninety (90) days from the date of such destruction, members then holding at least seventy-five percent (75%) of the total voting power present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall not take place.

Section 2. Destruction; Proceeds Less Than 85% of Reconstruction Costs. If the proceeds of such insurance are less than eighty-five percent (85%) of the costs of repair and reconstruction, such repair and reconstruction may nevertheless take place if members then holding at least fifty-one percent (51%) of the total voting power present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall take place.

Section 3. Procedures Respecting Rebuilding. If the members determine to rebuild, pursuant to Sections 1 or 2, above, the owner or owners of each condominium shall be obligated to contribute such funds as shall be necessary to pay his or her proportionate share of the cost of reconstruction, over and above the available insurance proceeds, and the proportionate share of each such owner or owners shall be the same as his or their proportionate share of Association assessments as established in Article VII. In the event that the cost of reconstruction is financed by a loan from a private financial institution or governmental entity, the repayment of such loan may be secured by a multi-year special assessment approved by the members as provided in Article VII hereof. In the event of the failure or refusal of such owner or owners to pay his

or their proportionate share, the Board may levy a special assessment against the condominium of each owner or owners which may be enforced under the lien provisions contained in Article VIII hereof or in any other manner provided in this Declaration. For purposes hereof, the "proportionate share of an owner or owners of the cost of reconstruction" shall be increased as to such owner or owners by the amount of insurance proceeds paid to the mortgagee of the condominium of such owner or owners (and in respect to such condominium) pursuant to Section 7 of Article IX hereof.

Section 4. Repair Responsibilities. If the members determine to rebuild, the Association shall be responsible for the repair of the common area and Association Real Property while the owners shall be responsible for the repair of their units, including, but not limited to, all furniture, appliances, carpeting, tile, paint, wallpaper, cabinets, and other fixtures located inside the units.

Section 5. Contract Re Rebuilding. If the members determine to rebuild, the Board or its authorized representative shall, if feasible, obtain bids from at least two reputable contractors, and shall award the repair and reconstruction work to the lowest

qualified bidder. The Board shall have the authority to enter into a written contract with said contractor for such repair and reconstruction, and the insurance proceeds held by the trustee or the Association shall be disbursed to said contractor according to the terms of the agreement. It shall be the obligation of the Board to take all steps necessary to assure the commencement and

completion of such repair and reconstruction at the earliest possible date if same is authorized.

Section 6. Rebuilding Not Authorized. If the members determine not to rebuild, then, subject to the rights of mortgagees as set forth in Section 8 of Article IX hereof, any insurance proceeds then available for such rebuilding shall be distributed to the owner or owners of each condominium proportionately in accordance with the respective fair market values of the units at the time of the destruction as determined by an independent appraisal obtained by the Board. The Board shall have the duty to execute, acknowledge and record in the office of the County Recorder of said County, a certificate declaring the intention of the members not to rebuild.

Section 7. Minor Repair and Reconstruction. The foregoing notwithstanding, the Board shall have the duty to repair and reconstruct improvements, without the consent of members and irrespective of the amount of available insurance proceeds, in all instances of partial destruction where the estimated cost of repair and reconstruction does not exceed Two Hundred Thousand Dollars (\$200,000). The Board is expressly empowered to levy a special assessment for the cost of same to the extent insurance proceeds are unavailable therefor, such assessments to be levied as described in Section 3 hereof (but without the consent or approval of members, any other provisions of this Declaration to the contrary notwithstanding).

Section 8. Revival of Right to Partition. Upon recordation of a certificate described in Section 6 hereof, the right of any owner to partition through legal action as described in Article XII hereof shall forthwith revive.

Section 9. Arbitration. In the event of a dispute among the owners or mortgagees with respect to the provisions of this Article X, any owner may cause the same to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, notice thereof shall be given to the members of the Board and to all other owners and their respective mortgagees as promptly thereafter as possible, giving all Board members, owners and mortgagees an opportunity to appear in such arbitration proceedings. The decision of such arbitrator in the matter shall be final and conclusive upon all parties. The arbitrator may include in his decision an award for costs and/or attorneys fees against any one or more parties to the arbitration. The award or decision may be confirmed and enforced by an court of competent jurisdiction.

Section 10. Negligently or Willfully Caused Damages. Any owner or other person negligently or willfully damaging the development shall be liable therefor.

ARTICLE XI

CONDEMNATION

Section 1. Sale by Unanimous Consent. In the event that an action for condemnation of all or a portion of the development is proposed or threatened by any governmental agency having the right of eminent domain, then, upon unanimous written consent of all of the owners, the development, or such portion thereof may be sold.

Section 2. Distribution of Proceeds of Sale. Upon a sale occurring as described in Section 1 hereof, the proceeds resulting therefrom shall be distributed to and among each owner and his respective mortgagee in accordance with an agreement entered into by all owners and mortgagees. Lacking such agreement within ninety (90)

days after the proceeds of sale become available for distribution, the matter shall be referred to arbitration in accordance with Section 9 of Article X.

Section 3. Distribution of Condemnation Award. In the event sold but is of condemnation shall by its terms and their respective the development, or such portion thereof, is not instead taken, the judgment apportion the award among the owners mortgagees.

Section 4. Revival of Right to Partition. Upon a sale or taking pursuant hereto which renders more than fifty percent (50%) of the units in the development owner to partition through legal action shall forthwith revive.

ARTICLE XII

PARTITION

Section 1. Suspension. The right of partition is hereby pursuant to Section 1359 of the California Civil Code. Partition may be had of each phase of development upon a showing that the conditions for such partition as set forth in Section 8 of Article XI or in Section 4 of Article XI have been met. Nothing

herein contained shall prevent the partition or division of interest between joint or common owners of one (1) condominium.

Section 2. Power of Attorney. Each of the owners hereby grants the Association an irrevocable power of attorney to sell any portion of the development for the benefit of the owners thereof when partition thereof may be had under Section 752b of the California Code of Civil Procedure. Exercise of said power shall be subject to the approval of two-thirds (2/3) of the members.

ARTICLE XIII

NON-SEVERABILITY OF COMPONENT INTERESTS IN A CONDOMINIUM

Section 1. Prohibition Against Severance. No owner shall be entitled to sever his unit in any condominium from his undivided interest in the common area for any purpose. Neither of said component interests may be severally sold, conveyed, encumbered,

hypothecated or otherwise dealt with, and any violation attempted violation of this provision shall be void and of effect Similarly, no owner shall be entitled to sever any exclusive easement *appurtenant* to his unit over common area from his condominium, and any attempt so to do shall be void and of no effect. The suspension of this right of severability will, in no event, extend beyond the period set forth in Article XII respecting the suspension of partition. It is intended hereby to restrict severability pursuant to Section 1358 of the California Civil Code.

Section 2. Conveyances. Subsequent to the initial sales of the condominiums, any conveyance of a unit, or of the component interest in any common area, by the owner of any condominium, shall be presumed to convey the entire condominium, provided, however, that nothing herein contained shall be construed as precluding the owner of any condominium from creating a co-tenancy or joint tenancy in the ownership of said condominium with any other person or persons.

ARTICLE XIV
TERM OF DECLARATION; COMPLIANCE WITH RULE AGAINST
PERPETUITIES AND RESTRAINTS ON ALIENATION

Section 1. Term of Declaration. This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from and after the date on which this Thereafter, this Declaration and all covenants, conditions, restrictions and other provisions herein contained shall continue in full force and effect for successive periods of ten (10) years each unless terminated by an instrument executed by owners of not less than two-thirds (2/3) of the development and recorded in the office of the of said County.

Section 2. Rule Against Perpetuities. Excepting as to the suspension of the right of partition as provided in Article XII and excepting as to the prohibition against severability of component interests in a condominium as provided in Article XIII, in no event shall the vesting of any interest in real or personal property or the

suspension of the alienation of any interest in real or personal property occur under the provisions of this Declaration later than twenty-one (21) years following the death of the last survivor of the following persons: William Clinton, President of the United States; his wife, Hillary Clinton; his daughter, Chelsea Clinton; Albert Gore, Vice-President of the United States and his wife, Tipper Gore.

ARTICLE XV
PROTECTION OF
MORTGAGEES

Section 1. Mortgage Permitted. Any owner may encumber condominium with a mortgage.

Section 2. Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any mortgage encumbering all or a portion of the development, or any condominium therein, made in good faith and for value, and no such lien shall in any way defeat, invalidate or impair the obligation or priority of such mortgage unless the mortgagee thereof shall expressly subordinate his interest, in writing, to such lien.

Section 3. Amendment. No amendment to this Declaration shall pct the rights of any mortgagee under any mortgage made in faith and for value and recorded prior to the recordation of any such amendment unless said mortgagee shall either join in the execution of such amendment or shall approve the same in writing as a part of such amendment.

Section 4. Voting Rights on Default. In the event of a default by any owner or owners of any condominium in any payment due under the terms of any first mortgage (meaning a mortgage with priority over other mortgages) encumbering such condominiums, or

the promissory note secured thereby, the mortgagee, or his representative, shall have the right, upon giving written notice to such defaulting owners or owners, and placing of record a notice of default, to exercise the voting rights of such defaulting owner or owners attributable to such condominium at any regular or special meeting of the members held during such time as such default may continue.

Section 5. Effect of Breach Hereof. No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any mortgage in good faith and for value, said covenants, conditions and restrictions shall be binding upon any owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

Section 6. Foreclosure. If any condominium is encumbered by a mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments thereof, shall not operate to affect or impair the lien of such mortgage. Upon foreclosure of such mortgage, or the acceptance of a deed-in-lieu of the foreclosure by the mortgagee, the lien hereof for assessments, or installments thereof, as shall have accrued up to the time of foreclosure sale or delivery of the deed in lieu of the foreclosure; and upon so coming into title to such condominium, such foreclosure-purchaser or such deed-in-lieu-grantee shall only be obligated to pay assessments or other charges levied or assessed by the Association subsequent to the time such foreclosure-purchaser or such deed-in-

lieu-grantee acquired title to such condominium, which subsequently levied assessments or other charges may include previously unpaid assessments provided all owners, including such foreclosure purchaser or such deed-in-lieu-grantee, and the successors and assigns thereof, are required to pay their proportionate share thereof as hereinabove provided.

Section 7. Non-Curable Breach Any mortgagee who acquires title to a condominium by foreclosure or by deed in lieu of foreclosure shall not be obligated

to cure any breach of this Declaration which is non-curable or of a type which is not practical or feasible to cure.

Section 8. Loan to Facilitate. Any mortgage given to secure a loan to facilitate the resale of a condominium after acquisition by foreclosure or by a deed in lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article XV.

Section 9. Appearance at Meetings. Because of its financial interest in the development, any mortgagee may appear (but may not vote except under the circumstances set forth in Section 4 hereof) at meetings of the members and the Board to draw attention to violations of this Declaration which have not been corrected or made the subject of remedial proceedings or assessments.

Section 10. Right to Further Information: Collection of Insurance Premiums. Any mortgagee shall have the right to furnish information to the Board concerning the status of any mortgage. The Board may also delegate to any mortgagee the right to collect

such portion of a condominium's assessments, or installments thereof, representing premiums payable for insurance coverage.

Section 11. Loss Payable Clauses. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses naming the mortgagees, as their interests may appear.

ARTICLE XVI

AMENDMENT

Section 1. Amendment. This Declaration may be amended or revoked in any respect or revoked by the vote or written assent of not less than sixty-six and two thirds percent (66-2/3%) of the then record owners. The existence of any amendment hereto shall be made in a written instrument signed and acknowledged by the president and secretary of the Association or any other officer or officers

designated by the Board. Said written instrument shall be recorded in the office of the County Recorder of Ventura County.

Section 2. Conflict with Article XV or Other Provisions of this Declaration. To the extent any provisions of this Article XVI conflict with the provisions of Article XV or any other provisions of this Declaration, the conflicting provisions of Article XV or other conflicting provisions shall control.

Section 3. Approval of Governmental Authority. Any amendment which would defeat the obligation of the Board, acting by and on behalf of the Association, or other Association to provide management and maintenance of the common areas and any Association Real Property, including any private driveways or private streets

thereof, in a first class condition and in a good state of repair, or which would defeat the assessment procedure established or contemplated in this Declaration to insure said management and maintenance, must be approved in writing by a representative of the City of Oxnard, California. Such written approval may be in the form of a letter and need not be a part of any recorded instrument.

Section 4. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid as to anyone relying thereon in good faith.

ARTICLE XVII

GENERAL PROVISIONS

Section 1. Headings. The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning of any of the provisions of *this* Declaration, or otherwise.

Section 2. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions hereto shall not invalidate any other provisions hereof.

Section 3. Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver thereof.

Section 4. Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth,

may be abated or enjoined by any owner, any member of the Board, the manager, or the Association.

Section 5. No Unlawful Restrictions. No owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his condominium on the basis of race, color or creed, gender, or other basis of discrimination which may be deemed unlawful by the laws of the United States of America or the State of California.

Section 6. Districts. To the extent permitted by law, no owner shall oppose the formation of any district in which the development would be included.

Section 7. Access to Books. Any owner may, at any reasonable time and upon reasonable notice to the Board or manager and at his own expense, cause an audit or inspection to be made of the books and financial records of the Association.

Section 8. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan of condominium ownership for the development. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

Section 9. Notification of Sale of Condominium. Concurrently with the consummation of the sale of any condominium under circumstances whereby the transferee becomes an owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and his transferor, the street

address of the condominium purchased by the transferee, the transferee's mailing address, and the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to his transferor if the Board has received no notice of transfer as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or upon personal delivery to any occupant of a condominium.

Section 10. Number: Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

Section 11. Exhibits. Any and all exhibits attached hereto shall be deemed made a part hereof and incorporated by reference herein.

Section 12. Easements Reserved and Granted. Any and all easements referred to herein shall be deemed reserved or granted, or both reserved and granted, as appropriate, by reference to this Declaration in a conveyance of any condominium.

Section 13. Binding Effect. This Declaration shall inure to the benefit of and be binding upon the heirs, personal representatives, grantees, lessees, successors and assigns of the owners.

Section 14. Additional Provisions. Additional provisions are set forth in Exhibit "A" attached hereto.

EXHIBIT "A"
Financing By
Federal Home Loan Mortgage Corporation
and
Cal-Vet Financing

Notwithstanding any and all provisions hereof to the contrary, there are hereby added to the within instrument the following provisions (and to the extent these added provisions conflict with any other provisions of the within instrument, these added provisions shall control):

A. Each holder of a first mortgage (meaning a mortgage with priority over other mortgages) is entitled to written notification from the Association of any default by the mortgagor of such condominium in the performance of such mortgagor's obligations under the condominium documents which is not cured within thirty (30) days.

B. Each holder of a first mortgage which comes into possession of a condominium pursuant to the remedies provided in the mortgage, or by foreclosure of the mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal."

C. Each holder of a first mortgage which comes into possession of a condominium pursuant to the remedies provided in the mortgage, or by foreclosure of the mortgage, or by deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged condominium which accrue prior to the time such holder comes into possession of the condominium (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all condominiums including the mortgaged condominium).

D. Unless all holders of first mortgages on individual *condominiums* have given their prior written approval, the Association shall not:

- (i) except as otherwise provided in- the within instrument with respect to annexation or as set forth in Section 1 of Article XII thereof, change the proportionate share of the owner or owners of any condominium in Association assessments;
- (ii) subject to Section 752b of the California Code of Civil Procedure, partition or subdivide the development, or separate the units, their respective interest in the common areas and exclusive easements appurtenant over common area, if any; nor
- (iii) by act or omission seek to abandon the condominium status of the development except upon termination of the within *instrument* or as provided in said Section 752b of the California Code of Civil Procedure.

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