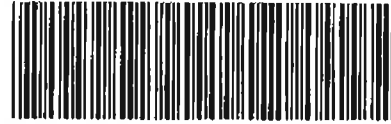


RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

KEVIN D. FREDERICK, ESQ.  
702 MARSHALL STREET, SUITE 620  
REDWOOD CITY, CALIFORNIA 94063  
(650) 365-9800



OFFICIAL RECORDS OF SAN MATEO COUNTY  
ASSESSOR-COUNTY CLERK-RECORDER  
WARREN SLOCUM

Recorded at Request of  
KEVIN D FREDERICK

98-149432 09/16/98 03:16

Recording Fee: 142 00 RSOARES

468

AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
LIGHTHOUSE COVE HOMEOWNERS ASSOCIATION

AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
LIGHTHOUSE COVE HOMEOWNERS ASSOCIATION

---

ARTICLE I	DEFINITIONS	2
ARTICLE II	DESCRIPTION OF PROJECT, DIVISION OF PROPERTY AND CREATION OF PROPERTY RIGHTS	5
	2.1 Description of Project	5
	2.2 Division of Property	5
	2.3 Partition Prohibited	6
	2.4 Owner's Easements	6
	2.5 Conveyance of Unit	6
	2.6 Delegation of Use	7
	2.7 Subsequent Conveyances	7
	2.8 Access for Municipal Services	7
	2.9 Right of Entry and Use	7
	2.10 Encroachment Rights	8
ARTICLE III	MANAGEMENT, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS	8
	3.1 Association to Manage Common Areas	8
	3.2 Membership	8
	3.3 Transferred Membership	8
	3.4 Voting	9
ARTICLE IV	ASSESSMENTS	9
	4.1 Creation of the Lien and Personal Obligation of Assessments	9
	4.2 Purpose of Assessments	10
	4.3 Assessments	10
	4.3.1 Annual Assessments	10
	4.3.2 Special Assessments	10
	4.3.3 Reimbursement Assessments	10
	4.4 Restrictions on Annual or Special Assessments	10
	4.5 Notice and Quorum for Any Action Authorized Under Section 4.4	11
	4.6 Division of Assessments	12
	4.7 Date of Commencement of Annual Assessment; Due Dates	12
	4.8 Effect of Nonpayment of Assessments	12
	4.9 Transfer of Condominium by Sale or Foreclosure	12
	4.10 Priorities; Enforcement; Remedies	13
	4.11 Unallocated Taxes	14

ARTICLE V	POWERS AND DUTIES OF THE ASSOCIATION	15
	5.1 Powers	15
	5.1.1 Easements	15
	5.1.2 Manager	15
	5.1.3 Owner Charges	15
	5.1.4 Access	15
	5.1.5 Enforcement	15
	5.1.6 Use of Recreational Facilities	16
	5.1.7 Taxes	16
	5.1.8 Financial Statements	16
	5.1.9 Adoption of Rules	16
	5.1.10 Acquisition and Disposition of Property	16
	5.1.11 Loans	16
	5.1.12 Contracts	17
	5.1.13 Delegation	17
	5.1.14 Appointment of Trustee	17
	5.1.15 Other Powers	17
	5.2 Duties	17
	5.2.1 Maintenance	17
	5.2.2 Insurance	18
	5.2.3 Discharge of Liens	18
	5.2.4 Assessments	18
	5.2.5 Payment of Expenses	18
ARTICLE VI	INSURANCE	19
ARTICLE VII	DAMAGE OR DESTRUCTION; CONDEMNATION	21
ARTICLE VIII	USE RESTRICTIONS	25
	8.1 Residence	25
	8.2 Nuisances	25
	8.3 Vehicle Restrictions and Towing	26
	8.4 Signs	26
	8.5 Storage	26
	8.6 Animals	27
	8.7 Garbage and Refuse Disposal	27
	8.8 Radio and Television Antennas	27
	8.9 Artificial Pond	27
	8.10 Leasing	27
	8.11 Architectural Control	29
	8.12 Drapes	30
	8.13 Clothes Lines	30
	8.14 Power Equipment and Car Maintenance	30
	8.15 Liability of Owners for Damages to Common Area	30
	8.16 Guests and Tenants	31
	8.17 Owner's Right and Obligation to Maintain and Repair	31
	8.18 Maintenance Powers of Others	31
	8.19 Boat Storage and Mooring	32

ARTICLE IX	RIGHTS OF FIRST LENDERS	32
	9.1 Rights of First Lenders	32
	9.2 Copies of Project Documents	32
	9.3 Audited Statement	33
	9.4 Notice of Action	33
	9.5 Consent to Action	33
	9.6 Right to First Refusal	35
	9.7 Reserves	35
	9.8 Priority of Liens	35
	9.9 Distribution of Insurance or Condemnation Proceeds	35
	9.10 Termination of Professional Management	36
ARTICLE X	GENERAL PROVISIONS	36
	10.1 Non Discrimination	36
	10.2 Interpretation	36
	10.3 Gender, Number and Captions	36
	10.4 Term	36
	10.5 Notice	37
	10.6 Amendment	37
	10.7 Enforcement and Nonwaiver	37
	10.7.1 Violation and Nuisance	37
	10.7.2 Violation of Law	37
	10.7.3 Remedies Cumulative	38
	10.8 Binding	38

CC&R\lighthse.inc

AMENDED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
LIGHTHOUSE COVE HOMEOWNERS ASSOCIATION

This amended Declaration, made on the date hereinafter set forth, pursuant to the written consent of seventy-five (75%) percent of the Owners of the Property, hereinafter collectively referred to as "The Association" is made with reference to the following facts:

1. The Association and its Members are the Owners of certain Property located in the City of Redwood City, County of San Mateo, State of California, more particularly described on that certain Subdivision Map entitled "MARLIN SUBDIVISION NO. 7 BEING A RESUBDIVISION OF PARCEL B OF THE PARCEL MAP AS RECORDED IN VOLUME 41, PAGES 6 AND 7 OF OFFICIAL RECORDS, REDWOOD CITY - SAN MATEO COUNTY - CALIFORNIA", which map was filed in the Office of the Recorder of the County of San Mateo, State of California, on March 31, 1978, in Book 97 of Maps at Pages 11 through 27.

2. Covenants, conditions and restrictions have previously been imposed upon the Property as recorded on January 24, 1979, Reel 7817, pages 758 to 801 in the Office of the Recorder of San Mateo County, State of California.

3. The Association intends by this document to amend those restrictions previously imposed upon the Property by the Declarations described herein. Said prior Declarations are hereby consolidated into this single document, which retains and incorporates all the provisions of said prior Declarations which are not inconsistent with the provisions hereof.

NOW, THEREFORE, Association hereby declares that the Property shall continue to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the said prior Declaration and to these covenants, conditions and restrictions, all of which are imposed as equitable servitudes pursuant to a general plan for the purpose of improving and protecting the value and attractiveness of the Property, and every part thereof. All of these covenants, conditions and restrictions, including the prior Declaration to the extent they are not inconsistent herewith, shall constitute covenants which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in or to any part of the Property.

ARTICLE I  
DEFINITIONS

1.1 "Articles" shall mean or refer to the Articles of Incorporation of the Association as amended from time to time.

1.2 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the Property which is to be paid by each unit Owner as determined by the Association.

1.3 "Association" shall mean the LIGHTHOUSE COVE HOMEOWNERS ASSOCIATION, a California non-profit mutual benefit corporation, the Members of which shall be the Owners of Condominiums in the Project.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean or refer to the Bylaws of the Association, as amended from time to time.

1.6 "Common Area" or "Common Areas" shall mean and refer to all those portions of the Property to which title is held by all of the Owners in common, and excepting the individual Condominium Units. The Common Area includes, without limitation: land; parking and driveway areas; recreation buildings; swimming pool; artificial pond; docks; garage areas; stairs; basements and storage areas; bearing walls, columns, girders, subfloors, unfinished floors, roofs, and foundations; central heating, central air-conditioning equipment, reservoirs, tanks, pumps, motors, ducts, flues and chutes; conduits, pipes, plumbing, wires and other utility installations (except the outlets thereof when located within the unit) required to provide power, light, telephone, gas, water, sewerage, drainage, heat, air-conditioning; sprinklers, sprinkler pipes, and sprinkler heads which protrude into the airspace of a Condominium Unit; and the central television antenna.

1.7 "Common interest" means the proportionate undivided interest in the Common Area which is appurtenant to each Condominium unit as set forth in this Declaration.

1.8 "Condominium" shall mean an estate in real Property as defined in California Civil Code §1351(f) consisting of an undivided interest in a common area together with an interest in a Unit including certain easements appurtenant to such Unit. For the purpose of this Declaration, the Ownership of each Condominium shall include a Unit together with the easements appurtenant to such Unit, the respective undivided interests in the Common Area and a membership in the Association herein defined.

1.9 "Condominium building" shall mean a residential structure containing Condominium Units.

1.10 "Condominium Documents" means and includes this Declaration as it may be amended from time to time, the exhibits, if any, attached hereto, the Articles and Bylaws of the Association, and the rules and regulations for the Members as established from time to time.

1.11 "Condominium Plan" shall mean and refer to the recorded diagrammatic floor plan of the units built on the Property which identifies each unit and shows its dimensions pursuant to Civil Code §1351.

1.12 "Declarant" shall mean and refer to the LIGHTHOUSE COVE HOMEOWNERS ASSOCIATION, its successors and assigns.

1.13 "Declaration" shall mean and refer to this enabling Declaration, as amended or supplemented from time to time.

1.14 "Eligible Holder Mortgages" shall mean mortgages held by "eligible mortgage holders".

1.15 "Eligible mortgage holder" shall mean a First Lender who has requested notice of certain matters from the Association in accordance with Section 9.4.

1.16 "Eligible insurer or guarantor" shall mean an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters from the Association in accordance with Section 9.4.

1.17 "First Mortgage" shall mean and refer to any recorded Mortgage on a Condominium with first priority over other mortgages thereon.

1.18 "First lender" shall mean any person, entity, bank, savings and loan association, insurance company, or financial institution holding a recorded First Mortgage on any Condominium Unit.

1.19 "Map" shall mean and refer to that subdivision map entitled "LIGHTHOUSE COVE", recorded March 31, 1978, in Book 97 of Maps at Pages 11 through 27, in the Official Records of San Mateo County.

1.20 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

1.21 "Mortgage" shall include a deed of trust as well as a Mortgage.

1.22 "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a Mortgage.

1.23 "Mortgagor" shall include the trustor of a deed of trust as well as a Mortgagor.

1.24 "Owner" or "Owners" shall mean and refer to the record holder or holders of title, if more than one, of a Condominium in the Project. This shall include any person having a fee simple title to any unit but shall exclude persons or entities having any interest merely as security for the performance of an obligation. If a condominium is sold under a recorded contract of sale, the purchaser, rather than the fee Owner, shall be considered the "Owner" from and after the date the Association receives written notice of the recorded contract.

1.25 "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

1.26 "Project" shall mean and refer to the entire Property above described, including all structures and improvements erected or to be erected thereon.

1.27 "Property" or "Properties" shall mean and refer to that certain real Property hereinabove described, and such additions thereto as may be brought within the jurisdiction of the Association.

1.28 "Restricted Common Area" shall mean and refer to those portions of the Common Area, set aside for exclusive use of a Unit and its Owners, pursuant to Section 2.2C of this Declaration.

1.29 "Unit" shall mean the elements of a Condominium which are not owned in common with the Owners of other Condominiums. Each Unit is a numbered parcel shown on the Map. The boundary lines of each Unit are as defined in Section 2.2A of this Declaration.



ARTICLE II  
DESCRIPTION OF PROJECT, DIVISION OF PROPERTY,  
AND CREATION OF PROPERTY RIGHTS

2.1 **Description of Project:** The Project is a Condominium project consisting of the underlying real Property, the Common Areas and 124 Condominium units as shown on the Map.

2.2 **Division of Property:** The Property is hereby divided into the following separate freehold estates:

A. **Units:** Each of the Units as separately shown, numbered and designated on the Condominium Plan consists of the space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors of each Unit, each of such spaces being defined and referred to herein as a "Unit". Each Unit includes both the portions of the building so described and the airspace so encompassed. The Unit does not include those areas and those things which are defined as "Common Area" in Section 1.6. Each Unit is subject to such encroachments as are contained in the building, whether the same now exists or may be later caused or created in any manner referred to in Section 2.10. 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 thereof 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.

B. **Common Areas:** The remaining portion of the Property, referred to herein as "Common Area" or "Common Areas", shall include, without limitation, all of the elements set forth in Section 1.6. Each Owner shall have, as appurtenant to his Unit, a 1/124th undivided interest in the Common Areas. The ownership of each Condominium shall include a Unit and such undivided interest in the Common Area. The common interest appurtenant to each Unit is declared to be permanent in character and cannot be altered without the consent of all the Owners affected, and the First Mortgagees of such Owners, as expressed in an amended Declaration. Such common interest cannot be separated from the Unit to which it is appurtenant. Those portions of the Common Area consisting of the vehicular circulation system, including streets, drives, parking areas, street signs, street lights, traffic signs and marks, striping and storm drains shall irrevocably remain as private facilities.

C. **Restricted Common Areas:** Portions of the Common Area are hereby set aside and allocated for the restricted use of the Units as designated and delineated on the Map. Said areas

shall be known as "Restricted Common Areas". Restricted Common Areas are as follows:

(i) Each parcel designated with a "B" or a "P" followed by a Unit number (e.g. B-1) is a balcony area ("B"), or a patio area ("P") reserved as an exclusive easement for the Owner of the corresponding numbered Unit.

(ii) Each parcel designated with a "G" followed by a number (e.g. G-1) is a garage area, at least one of which has been granted as an exclusive easement to each Owner of a Unit. The use of any such garage areas which are not designated as an exclusive easement shall be governed by this Declaration and shall be utilized for vehicular parking purposes.

**D. Uncovered Parking Spaces:** Each parcel designated with a "PS" followed by a number (i.e. PS-1) is an uncovered parking space. Uncovered parking spaces designated PS-22 through PS-36, and PS-62 through PS-75, shall be reserved for the exclusive use as guest parking and shall be so designated on the ground. Uncovered parking spaces designated PS-1 through PS-9, PS-14 through PS-21, PS-37 through PS-41, PS-61, PS-103 through PS-110, PS-115 through PS-119, PS-124 and PS-125 shall remain unassigned and shall not be granted as an exclusive-use easement to any specific Unit. All other uncovered parking spaces may be assigned to specific Units as the Board may designate.

**2.3 Partition Prohibited:** The Common Areas shall remain undivided as set forth above. Except as provided by California Civil Code §1359, no Owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Unit owned by two or more persons and division of the sale proceeds is not prohibited hereby.

**2.4 Owner's Easements:** Each of the Units shown on the Map shall have appurtenant to it the nonexclusive right of use of the Common Area (excepting therefrom the Restricted Common Areas defined in Section 2.2 C. above) for ingress and egress, and for any other use and enjoyment thereof compatible with the rights of others and consistent with any reasonable regulations of the Association relative to such use. Such nonexclusive easements shall also be subject to the powers of the Association provided by Article V of this Declaration.

**2.5 Conveyance of Unit:** Any conveyance of a Unit shall be deemed accompanied by a conveyance of such easement and rights of the Common Areas.

2.6 Delegation of Use: Any Owner may delegate his right of enjoyment of the Common Area and facilities to the Members of his family, his tenants, or contract purchasers who reside on the Property.

2.7 Subsequent Conveyances: In the event of any conveyance of any portion of the Property subject to these covenants, conditions and restrictions, each grantee shall accept the same subject to all of the covenants, conditions and restrictions herein and each shall be deemed to have agreed to be bound by the same by acceptance of delivery of the deed. The burdens imposed by the covenants, conditions and restrictions in this Declaration are to be imposed upon the grantees of all Units and constitute a general scheme for the benefit of all Owners. Said covenants and conditions are for the benefit of all Owners, may be enforced by the Association or any Owner, and shall bind all of the Owners. Said covenants and conditions shall be a burden upon and a benefit to not only each original purchaser, but his grantees and all subsequent Owners, and shall constitute covenants running with the land or equitable servitudes on the land, as the case may be, and are intended to and shall be binding upon any future Owner of an interest in the herein described Property. Failure to enforce any condition or covenant herein contained shall not constitute a waiver of the right to do so thereafter.

2.8 Access for Municipal Services: The City of Redwood City is granted the irrevocable right of access to the Units and Common Area for the purpose of providing police and fire emergency services and maintenance of water and sanitary services facilities.

2.9 Right of Entry and Use: The Units and Common Area shall be subject to the following rights of entry and use:

A. The right of the Association, its agents or employees to enter any Unit to cure any violation of the Condominium Documents or to inspect the Unit, provided that the Owner has received notice and a hearing as required by the Bylaws (except in the case of an emergency) and the Owner has failed to cure the violation or take steps necessary to cure the violation within thirty (30) days after the finding of a violation by the Board.

B. The access rights of the Association to inspect, maintain, repair or replace improvements or Property located in the Common Area.

C. The rights of the Owners, and the Association to install, maintain, repair, or replace utilities.

D. The encroachment easements described in section 2.10.

2.10 **Encroachment Rights:** If any portion of the Common Area encroaches on any Unit or any part thereof or any portion of a Unit encroaches on any Common Area or Unit due to engineering errors, errors or adjustments in original construction, reconstruction, repair, settlement, shifting, or movement of the building, or any other cause, the Owner of the encroachment shall have the right to maintain, repair or replace the encroachment, as long as it exists, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that no right shall be created in favor of an Owner or Owners if said encroachment occurred due to the intentional conduct of said Owner or Owners other than adjustments in the original construction. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be appropriate rights of the maintenance of said encroachments so long as they shall exist. In the event that an error in engineering, design or construction results in an encroachment of a building into the Common Area, or into or onto an adjoining Unit, or into a required setback area, a correcting modification may be made in the map. Said modification shall be in the form of a certificate of correction and shall be executed by the President and by the Association's engineer (in the case of a subdivision map or parcel map). The Board of Directors may authorize the execution of the certificate of correction.

### ARTICLE III

#### MANAGEMENT, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

3.1 **Association to Manage Common Areas:** The management of the Common Area shall be vested in the Association in accordance with its Bylaws. The Owners covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, and of the Articles and Bylaws of the Association.

3.2 **Membership:** The Owner of a Condominium shall automatically, upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as the ownership ceases for any reason, at which time the membership in the Association shall automatically cease. Membership shall be held in accordance with this Declaration, the Articles, and Bylaws of the Association.

3.3 **Transferred Membership:** Membership in the Association shall not be transferred, encumbered, pledged or

alienated in any way, except upon the sale or encumbrance of the Condominium to which it is appurtenant, and then only to the purchaser, in the case of a sale, or Mortgagee, in the case of an encumbrance of such Condominium. On any transfer of title to an Owner's Condominium, including a transfer on the death of an Owner, membership passes automatically with title to the transferee. A Mortgagee does not have membership rights until it obtains title to the Condominium by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No Member may resign his or her membership. On notice of a transfer, the Association shall record the transfer on its books.

3.4 **Voting:** At any meeting of the Members, each of the Owners shall be entitled to cast one vote for each Condominium owned by him or her. When more than one (1) person holds an interest in any Condominium, all such persons shall be Members. The vote for such Condominium shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium.

#### ARTICLE IV ASSESSMENTS

4.1 **Creation of the Lien and Personal Obligation of Assessments:** The Declarant, for each Condominium within the Project, hereby covenants, and each Owner of any Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees: (1) to pay to the Association annual assessments or charges, special assessments for purposes permitted herein, and reimbursement assessments, such assessments to be established and collected as hereinafter provided; and (2) to allow the Association to enforce any assessment lien established hereunder by nonjudicial proceedings under a power of sale or by any other means authorized by law. The annual special and reimbursement assessments, together with interest, late charges, collection costs, and attorneys' fees, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such assessment is made, the lien to become effective upon recordation of a notice of delinquent assessment. Each such assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the assessment fell due. No Owner shall be exempt from liability for payment of assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of the Owner's Condominium. The interest of any Owner in the amounts paid pursuant to any assessment upon the transfer of Ownership shall pass to the new Owner. Upon the termination of these covenants for any reason, any amounts remaining from the collection of such assessments after paying all amounts properly charged against

such assessment shall be distributed to the then Owners on the same pro rata basis on which the Assessments were collected.

4.2 Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the economic interests, recreation, health, safety, and welfare of all the residents in the Association, and to enable the Association to perform its obligations hereunder.

4.3 Assessments.

4.3.1 Annual Assessment: The Board shall establish and levy annual assessments, in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year. The annual assessment shall also include a portion for Reserves as the Board considers appropriate to adequately meet the costs of the future repair, replacement or additions to the major improvements and fixtures that the Association is obligated to maintain and repair. Such Reserve funds shall be deposited in a separate account and the signatures of at least two (2) directors shall be required to withdraw monies from the reserve account. Reserve funds may not be expended for any purpose other than repairing, replacing or adding to the major improvements or fixtures that the Association is obligated to maintain without

such assessment shall be distributed to the then Owners on the same pro rata basis on which the Assessments were collected.

4.2 **Purpose of Assessments:** The assessments levied by the Association shall be used exclusively to promote the economic interests, recreation, health, safety, and welfare of all the residents in the Association, and to enable the Association to perform its obligations hereunder.

4.3 **Assessments.**

4.3.1 **Annual Assessment:** The Board shall establish and levy annual assessments, in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year. The annual assessment shall also include a portion for Reserves as the Board considers appropriate to adequately meet the costs of the future repair, replacement or additions to the major improvements and fixtures that the Association is obligated to maintain and repair. Such Reserve funds shall be deposited in a separate account and the signatures of at least two (2) directors shall be required to withdraw monies from the reserve account. Reserve funds may not be expended for any purpose other than repairing, replacing or adding to the major improvements or fixtures that the Association is obligated to maintain without the consent of Owners holding a majority of the voting power either at a duly held meeting or by written ballot.

4.3.2 **Special Assessments:** The Board, at any time may levy a special assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. Special assessments shall be allocated among the Units in the same manner as annual assessments.

4.3.3 **Reimbursement Assessments:** The Board shall levy a reimbursement assessment against any Owner and the Condominium owned by such Owner whose failure to comply with the Condominium Documents has necessitated an expenditure of monies by the Association to bring such Owner and Condominium into compliance with said documents or in otherwise performing its functions under this Declaration, after notice and hearing as provided in the Bylaws. Such assessment shall be for the purpose of reimbursing the Association, shall be limited to the amount so expended, shall be due and payable to the Association when levied and shall be levied only after notice to the Owner and an opportunity for a hearing before the Board to the affected Owner.

4.4 **Restrictions on Annual or Special Assessments:** The Board may not impose an annual assessment on any Condominium which is more than 20% greater than the annual assessment for the immediate preceding fiscal year or levy a special assessment to

defray the cost of any action or undertaking on behalf of the Association which in the aggregate exceeds 5% of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of Members casting a majority of the votes at a meeting of the Association at which a quorum is present. For purposes of this section, a "quorum" means more than fifty percent (50%) of the Members of the Association. Any meeting of the Association for purposes of complying with this section shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code, which authorizes voting by proxy.

However, the Board, without membership approval, may increase annual assessments or levy special assessments necessary for an emergency situation. For purposes of this section, an emergency situation is one of the following:

4.4.1 an extraordinary expense required by an order of a court,

4.4.2 an extraordinary expense necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety or the Property is discovered, or

4.4.3 an extraordinary expense necessary to repair or maintain the Property 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 proforma operating budget, provided, however, that prior to the imposition or collection of the assessment, 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 the assessment.

The Association shall provide notice by first-class mail to the Owners, of any increase in the regular or special assessments of the Association, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due.

This section incorporates the statutory requirements of Civil Code Section 1366. If this section of the Civil Code is amended in any manner, this section automatically shall be amended in the same manner without the necessity of amending this Declaration.

4.5 Notice and Quorum for Any Action Authorized Under Section 4.4: Any action authorized under section 4.4, which



requires a vote of the membership, shall be taken at a meeting called for that purpose. Written notice of the meeting shall be personally delivered or sent to all Members not less than ten (10) nor more than ninety (90) days in advance of the meeting specifying the place, day, and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. The action may also be taken without a meeting by written ballot pursuant to the provisions of California Corporations Code Section 7513.

**4.6 Division of Assessments:**

4.7.1 Annual and special assessments shall be levied in accordance with Exhibit "A" attached hereto and incorporated herein by reference.

4.6.2 Reimbursement assessments may be levied against any individual Condominium.

**4.7 Date of Commencement of Annual Assessment: Due Dates:** The Board shall use its best efforts to fix the amount of the annual assessment against each Condominium and send written notice thereof to every Owner at least forty five (45) days in advance of each annual assessment period, provided that failure to comply with the foregoing shall not affect the validity of any assessment levied by the Association. Each Owner shall be obligated to pay assessments in equal monthly installments on or before the first day of each month, or in such other reasonable manner as the Board shall designate. Notice of at least thirty (30) days shall be given to Members prior to the levy of any special assessment. Special Assessments may be collected in one (1) payment, or periodically as the Board shall direct. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Condominium have been paid. Such a certificate shall be conclusive evidence of such payment.

**4.8 Effect of Nonpayment of Assessments:** Any assessment not paid within fifteen (15) days after the due date shall be delinquent, shall incur a late payment penalty in the amount of \$10.00 or ten percent (10%) of the delinquent assessment, whichever is greater, and shall bear interest at the maximum rate allowed by law commencing thirty (30) days after the due date until paid.

**4.9 Transfer of Condominium by Sale or Foreclosure:** Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale of any Condominium pursuant to mortgage foreclosure of a First Mortgage shall extinguish the lien of such assessments (including attorney's fees, late charges, or interest levied in connection therewith) as to

payments which became due prior to such foreclosure sale, except for assessment liens recorded prior to the Mortgage. No sale or transfer shall relieve such Condominium from liability for any assessments thereafter becoming due or from the lien thereof.

Where the Mortgagee of a First Mortgage of record or other purchaser of a Condominium obtains title to the same as a result of foreclosure of any such First Mortgage, such acquirer of title, his successor and assigns, shall not be liable for the assessment by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such acquirer, except for assessment liens recorded prior to the Mortgage. No amendment to the preceding sentence may be made without the consent of at least sixty-seven percent (67%) of the Owners, and the consent of the Eligible Mortgage Holders holding First Mortgages on Condominiums comprising fifty-one percent (51%) of the Condominiums subject to First Mortgages. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Owners including such acquirer, his successors or assigns.

In any transfer of a Condominium, a grantor shall remain liable to the Association for all unpaid assessments against the Condominium up to and including the date of the transfer. The grantee shall be entitled to a statement from the Association dated as of the date of transfer, setting forth the amount of the unpaid assessments against the grantor due the Association, and the Condominium so transferred shall not be subject to a lien for the unpaid assessments in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such assessments that become due after the date of the transfer.

4.10 **Priorities; Enforcement; Remedies:** If an assessment is delinquent, the Association may record a notice of delinquent assessment and establish a lien against the Condominium of the delinquent Owner prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto, and (2) the lien or charge of any First Mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. The notice of delinquent assessment shall state the amount of the assessment, collection costs, attorney's fees, late charges, and interest, a description of the Condominium against which the assessment and other sums are levied, the name of the record Owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or any agent retained by the Association for that purpose.

An assessment lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to California Civil Code Section 2934(a). Any sale shall be conducted in accordance with the provisions of Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h of the California Civil Code, or any successor statutes thereto, applicable to the exercise of powers of sale in Mortgages and deeds of trust, or in any other manner permitted by law. Nothing herein shall preclude the Association from bringing an action directly against an Owner for breach of the personal obligation to pay assessments.

The Association, acting on behalf of the Owners, shall have the power to bid for the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Where the purchase of a foreclosure Condominium will result in a five percent (5%) or greater increase in assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association. During the period a Condominium is owned by the Association, following foreclosure: (1) no right to vote shall be exercised on behalf of the Condominium; (2) no assessment shall be assessed or levied on the Condominium; and (3) each other Condominium shall be charged, in addition to its usual assessment, its share of the assessment that would have been charged to such Condominium had it not been acquired by the Association as a result of foreclosure.

Suit to recover a money judgment for unpaid assessments, late charges, interest and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

After acquiring title to the Condominium at foreclosure sale following notice and publication, the Association may execute, acknowledge, and record a deed conveying title to the Condominium which deed shall be binding on the Owners, successors, and all other parties.

The Board may suspend the voting rights and the right to use recreational facilities of a Member who is in default in payment of any assessment, without notice and hearing.

**4.11 Unallocated Taxes:** If any taxes are assessed against the Common Area, or the personal Property of the Association, rather than against the Condominiums, such taxes shall be included in the annual assessments. If necessary, a special assessment may be levied against the Condominiums, in an amount equal to said taxes to be paid in two installments, no later than thirty (30) days prior to the due date of each tax installment.

ARTICLE V  
POWERS AND DUTIES OF THE ASSOCIATION

5.1 **Powers**: In addition to the powers enumerated in its Articles of Incorporation and Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

5.1.1 **Easements**: The Association shall have the authority, by the vote or written consent of a majority of the total voting power of the Association, to grant easements in addition to those shown on the Map, where necessary for utilities, cable television, and sewer facilities over the Common Area to serve the common and open space areas and the Condominiums.

5.1.2 **Manager**: The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform any assigned duties as directed by the Board, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, and shall provide for the right of the Association to terminate the same for cause on thirty (30) days' written notice, and without cause and without payment of a termination fee or penalty on ninety days' written notice.

5.1.3 **Owner Charges**: The Association shall have the authority to charge to the Owner of any Unit the cost of maintenance or repairs which, in the opinion of the Board or its committee, are the result of act or omission of the Owner, his agents, employees, invitees, guests, pets or members of the family or which are of special benefit only to a particular Unit. Such charges shall become a part of the assessment against that Unit pursuant to Section 4.3.3.

5.1.4 **Access**: For the purpose of performing inspection, construction, maintenance, or emergency repair for the benefit of the Common Area or the Owners in common, or correcting violations of the Condominium Documents, the Association's agents or employees shall have the right, after reasonable notice (not less than twenty-four (24) hours except in emergencies) to the Owner thereof, to enter any Unit or to enter any portion of the Common Area at reasonable hours. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the Association.

5.1.5 **Enforcement**: The Board shall have the power to enforce the provisions of the Condominium Documents in any manner

provided by law or in equity, including but not limited to selfhelp. The Association may impose fines or take disciplinary action against any Owner for failure to pay assessments or for violation of any provision of the Condominium Documents. Penalties may include, but are not limited to, fines, recording a notice of noncompliance against a Condominium, temporary suspension of voting rights, rights to the use of recreational facilities, or other appropriate discipline, provided the Member is given notice and a hearing as provided in the Bylaws before the imposition of any fine or disciplinary action, except for the failure to pay assessments.

5.1.6 Use of Recreational Facilities: The Association shall have the power to limit the number of an Owner's tenants or guests who may use the recreational facilities, provided that all limitations apply equally to all Owners, unless imposed for disciplinary reasons, after notice and hearing, and to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area.

5.1.7 Taxes: To pay taxes and assessments which are or could become a lien on the Common Area or a portion thereof.

5.1.8 Financial Statements: To prepare budgets and financial statements for the Association as prescribed in the Condominium Documents.

5.1.9 Adoption of Rules: The Board for the Association may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Project and other Owners. Written copies of the rules and any schedule of fines shall be furnished to the Owners. The Board for the Association may establish move-in fees, title transfer fees, and such other fees as may reasonably be necessary for the operation of the Project.

5.1.10 Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal Property in connection with the affairs of the Association. Any transfer of real Property, except the sale of a Condominium acquired through foreclosure of assessment lien, shall be approved by the vote or written consent of a majority of the total voting power of the Association.

5.1.11 Loans: The Association shall have the power to borrow money, but, except as otherwise provided herein, only with the assent (by vote or written consent) of a majority of the total voting power of the Association, to mortgage, pledge, deed

in trust, or hypothecate any or all of its real or personal Property as security for money borrowed or debts incurred.

5.1.12 **Contracts:** The Association shall have the power to contract for goods and/or services for the Common Area, and interests of the Association, subject to limitations of the Bylaws, or elsewhere set forth in the Declaration.

5.1.13 **Delegation:** The Association, the Board, and the officers of the Association shall have the power to delegate specific tasks or duties to committees, officers, or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

(a) To make expenditures for capital additions or improvements chargeable against the reserve funds;

(b) To conduct hearings concerning compliance by an Owner or his tenant, lessee, guest, or invitee with the Condominium Documents;

(c) To make a decision to levy monetary fines, impose reimbursement assessments against individual Condominiums, temporarily suspend an Owner's rights as a member of the Association, or otherwise impose discipline;

(d) To make a decision to levy regular or special assessments; or

(e) To make a decision to bring suit.

5.1.14 **Appointment of Trustee:** The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce assessment liens by sale as provided in this Declaration and Civil Code Section 1367(b).

5.1.15 **Other Powers:** In addition to the powers contained herein, the Association may exercise the powers granted to a nonprofit mutual benefit corporation under California Corporations Code Section 7140.

5.2 **Duties:** In addition to the duties enumerated in its Articles and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

5.2.1 **Maintenance:** The Association shall maintain, repair, replace, restore, operate and manage all of the Common Area and all facilities, improvements, furnishings, equipment and landscaping thereon, and all Property that may be acquired by the Association, provided that each Owner shall maintain the

Restricted Common Area appurtenant to that Owner's Unit in a neat and clean condition, and further provided that each Owner shall maintain, repair and replace all appliances serving or located within that Owner's Unit, and all glass surfaces. Common Area maintenance shall include painting, maintaining, cleaning, repairing and replacing of all Common Areas, including doors and landscaping (except for enclosed patio areas and decks). The Association shall maintain and otherwise be responsible for the repair and maintenance of facilities described in Exhibit "B" attached hereto.

The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner, or his pets, guests, tenant or invitees, the cost of which is not covered by insurance. The cost of repair or replacement resulting from such excluded items shall be the responsibility of each Owner; provided, however, that if an Owner shall fail to make the repairs or replacements which are the responsibility of such Owner, as provided above, then, upon a vote of a majority of the Board of Directors, and after not less than fifteen (15) days notice to the Owner and a Board hearing, the Association shall have the right (but not the obligation) to enter the Unit (if necessary) and make such repairs or replacements, and the cost thereof shall constitute a reimbursement assessment chargeable to such Condominium and shall be payable to the Association by the Owner of such Condominium.

5.2.2 **Insurance:** The Association shall maintain such policy or policies of insurance as are required by Article VI of this Declaration.

5.2.3 **Discharge of Liens:** The Association shall discharge by payment, if necessary, any lien against the Common Area, and charge the cost thereof to the Member or Members responsible for the existence of the lien after notice and a hearing, as provided in the Bylaws.

5.2.4 **Assessments:** The Association shall fix, levy, collect, and enforce assessments as set forth in Article IV hereof.

5.2.5 **Payment of Expenses:** The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the Property of the Association.

ARTICLE VI  
INSURANCE

6.1 The Association shall obtain and maintain the following insurance:

6.1.1 A master hazard policy ("special form") insuring 100% of the insurable replacement cost of all improvements, equipment and fixtures in the Project (including the Units as originally constructed);

6.1.2 If obtainable, an occurrence version comprehensive general liability policy insuring the Association, its agents, the Owners and their respective family Members, against liability incident to the Ownership or use of the Common Area or any other Association owned or maintained real or personal Property; the amount of general liability insurance which the Association shall carry at all times shall be not less than \$3,000,000.00;

6.1.3 Workers' compensation insurance to the extent required by law (or such greater amount as the Board deems necessary); the Association shall obtain a Certificate of Insurance naming it as an additional insured in regard to workers' compensation claims from any independent contractor who performs any service for the Association, if the receipt of such a certificate is practicable;

6.1.4 Fidelity bonds or insurance covering officers, directors, and employees that have access to any Association funds;

6.1.5 Officers and directors liability insurance in at least the minimum amounts required by law;

6.1.6 Earthquake insurance to the extent required by law, and if not required by law, then to the extent available at commercially reasonable rates in the opinion of the Board; and

6.1.7 Such other insurance as the Board in its discretion considers necessary or advisable.

6.1.8 The following endorsements should be included, if applicable:

(a) changes in building codes, and demolition coverage (sometimes referred to as "ordinance or law endorsement");

(b) inflation guard coverage;



(c) "agreed-amount" endorsement (to eliminate a coinsurance problem);

(d) replacement cost endorsement;

(e) primary coverage endorsement.

6.1.9 The amount, term, and coverage of any policy required hereunder including the type of endorsements, the amount of the deductible, the named insureds, the loss payees, standard mortgage clauses, and notices of changes or cancellations shall satisfy the minimum requirements imposed for this type of Project by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor thereto, unless the cost thereof is determined by the Board to be unreasonable. If the FNMA or FHLMC requirements conflict, the more stringent requirement shall be met. If FNMA and FHLMC do not impose requirements on any policy required hereunder, the term, amount, and coverage of such policy shall be no less than that which is customary for similar policies on similar Projects in the area.

6.1.10 Each Owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including, without limitation, representing the Owners in any proceeding, negotiation, settlement, or agreement.

6.1.11 Any insurance maintained by the Association shall contain "waiver of subrogation" as to the Association and its officers, directors, and Members, the Owners and occupants of the Condominiums and Mortgagees, and, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The Association shall periodically and not less than once every three (3) years review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

6.1.12 All individually owned insurance shall contain a waiver of subrogation as to the Association and its officers, directors, and Members, the Owners and occupants of the Condominiums, and of mortgagees. No Owner shall separately insure his or her Condominium against loss by fire or other casualty covered by any insurance carried by the Association. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance. Insurance maintained by the Association does not cover the Owner's or occupant's personal Property and does not cover personal

liability for damages or injuries occurring within the Unit. Any Owner can insure his or her personal Property against loss and obtain any personal liability insurance that he or she desires. In addition, any improvements made by an Owner within his or her Unit may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "improvements insurance".

6.1.13 The Association, and its directors, and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain the insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Mortgagee entitled to notice that the insurance will not be obtained or renewed.

ARTICLE VII  
DAMAGE OR DESTRUCTION; CONDEMNATION

7.1 If any improvement on the Project is damaged or destroyed by fire or other casualty, the improvement shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as maybe approved by the Board, unless either of the following occurs: (1) The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement costs of all Project improvements, available insurance proceeds are not sufficient to pay for at least eighty-five (85%) of the cost of such repairs or reconstruction, and three-fourths (3/4) of the total voting power of the Association residing in Members and their First Lenders vote against such repair and reconstruction; or (2) available insurance proceeds are not sufficient to substantially repair or reconstruct the improvement within a reasonable time as determined by the Board, a special assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in section 4.4, and the Board, without the requirement of approval by the Owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

## 7.2 Procedures for Repair.

7.2.1 If the improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of twenty five percent (25%) of the current replacement cost of all the Project improvements, the Board shall designate a construction consultant, a general contractor, or an architect for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general contractor, or architect certify within ten (10) days prior to any disbursement substantially the following:

A. That all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

B. That such disbursement request represents monies which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, or other persons (whose names and addresses shall be stated) who have rendered services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

C. That the sum then requested to be disbursed plus all sums previously disbursed does not exceed the costs of the work insofar as actually accomplished up to the date of such certificate;

D. That no part of the cost of the services and materials described in the foregoing paragraph has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

E. That the amount held by the depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

7.2.2 If the cost of repair or reconstruction is twenty five percent (25%) or less of the current replacement cost of all the Project improvements, the Board shall disburse the

available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

7.2.3 The repair or reconstruction shall commence no later than ninety (90) days after the date of such damage or destruction and shall be completed no later than one hundred eighty (180) days after commencement of construction subject to delays that are beyond the control of the party responsible for making the repairs. The Owner of the damaged or destroyed improvement immediately shall take such steps as may be reasonably necessary to secure any hazardous condition and to screen any unsightly views resulting from the damage or destruction.

### 7.3 Procedure Without Repair.

7.3.1 If the improvements are not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among all Owners and their respective mortgagees in proportion to the respective fair market values of their Condominiums as of the date immediately preceding the date of damage or destruction as determined by a qualified independent appraiser selected by the Board, after first applying the proceeds to the cost of mitigating hazardous conditions on the Project, making provision for the continuance of public liability insurance to protect the interests of the Owners until the Project can be sold, and complying with all other applicable requirements of governmental agencies. In the event of a failure to agree on an appraiser, the appraiser shall be appointed by the then President of the San Mateo County Bar Association.

7.3.2 If the failure to repair or reconstruct results in a material alteration of the use of the Project from its use immediately preceding the damage or destruction as determined by the Board (a material alteration shall be conclusively presumed if repair or reconstruction costs exceed twenty-five percent (25%) of the current replacement cost of all Project improvements), the Project shall be sold in its entirety under such terms and conditions as the Board deems appropriate. If any Owner or First Lender disputes the Board's determination as to a material alteration, the dispute shall be submitted to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the arbitrator shall be conclusive and binding on all Owners and their Mortgagees.

7.3.3 If the Project is sold, the sales proceeds shall be distributed to all Owners and their respective Mortgagees in proportion to their respective fair market values of their Condominiums as of the date immediately preceding the date of damage or destruction as determined by the independent appraisal procedure described above. For the purpose of effecting a sale

under this section, each Owner grants to the Association an irrevocable power of attorney to sell the entire Project for the benefit of the Owners, to terminate the Declaration and to dissolve the Association. In the event the Association fails to take the necessary steps to sell the entire Project as required hereunder within sixty (60) days following the date of a determination by the Board or arbitrator of a material alteration, or if within one hundred twenty (120) days following the date of damage or destruction the Board has failed to make a determination as to a material alteration, any Owner may file a partition action as to the entire Project under California Civil Code Section 1359, or any successor statute, and the court shall order partition by sale of the entire Project and distribution of the sale proceeds as provided herein.

7.3.4 Notwithstanding anything herein to the contrary, any Owner or group of Owners shall have a right of first refusal to match the terms and conditions of any offer made to the Association in the event of a sale of the Project under this section, provided this right is exercised within ten (10) days of receipt by the Owners of a notice from the Association containing the terms and conditions of any offer it has received. If the Owner or group of Owners subsequently default on their offer to purchase, they shall be liable to the other Owners and their respective mortgagees for any damages resulting from the default. If more than one (1) Owner or group elects to exercise this right, the Board shall accept the offer that in its determination is the best offer.

7.4 Condemnation: The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area, or part thereof. In the event of a taking or acquisition of part or all of the Common Area by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their Mortgagees as their interests may appear. In the event of an award for the taking of any Condominium in the Project by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking and after acceptance thereof, he and his Mortgagee shall be divested of all interest in the Project if such Owner shall vacate his Condominium as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project, or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project. In the event of a taking by eminent domain of any part of the Common Area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of

condemnation, where Condominiums are not valued separately by the condemning authority or by the court. Proceeds of condemnation shall be distributed among Owners of Condominiums and their respective mortgagees according to the relative values of the Condominiums affected by the condemnation, said values to be determined by the method provided in Section 7.3.1.

If there is a substantial taking of the Project (more than fifty percent (50%)), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California Civil Code Section 1359 or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association and the approval of Eligible Mortgage Holders holding mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Holder Mortgages. The proceeds from the partition sale shall be distributed to the Owners and their respective Mortgagees in proportion to the fair market values of their Condominiums as determined under the method described in Section 7.3.1.

#### ARTICLE VIII USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Condominium therein is subject to the following:

8.1 **Residence:** No Condominium shall be occupied and used except for residential purposes by the Owners, their tenants and social guests and no trade or business shall be conducted therein except that a Condominium may be used as a combined residence and executive or professional office by the Owner or tenant thereof, so long as such use does not violate any law or interfere with the quiet enjoyment of other residents as determined by the Board. Residency shall be limited to no more than two (2) persons per bedroom in any Condominium. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

8.2 **Nuisances:** No noxious, illegal or offensive activities shall be carried on upon any Condominium, or in any part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of the Condominiums, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be canceled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

8.3 Vehicle Restrictions and Towing: No trailer, camper, mobile home, commercial vehicle, truck larger than a one-half ton pickup, inoperable automobile, boat, aircraft, or similar equipment shall be permitted to remain upon any area within the Project, other than temporarily, unless placed or maintained within an enclosed garage. Standard size pickup trucks or sedans which are used both for business and personal use shall be permitted, provided that any signs or markings of a commercial nature on such vehicle shall be unobstructive and inoffensive as determined by the Board. No Owner shall repair or restore any motor vehicle, boat, trailer, aircraft, or similar vehicle upon any portion of any unit or upon the Common Area, except for emergency repairs thereto, and then only to the extent necessary to enable movement thereof to a proper repair facility or within an area specifically provided for the storage or repair thereof. No noisy or smoky vehicles shall be operated upon the Project. No unlicensed motor vehicles shall be operated upon the Project. The Association may cause the removal of any vehicle wrongfully parked on the Project, including a vehicle owned by an occupant, in any manner allowed by law. The Association shall not be liable for any damages incurred by the vehicle Owner, or any Member, tenant or guest because of the removal in compliance with this section or for any damage to the vehicle caused by the removal. Notwithstanding the foregoing, the Association may cause the removal, without notice, of any vehicle parked in a marked fire lane, within fifteen (15) feet of a fire hydrant, in a parking space designated for handicapped without proper authority or in a manner which interferes with any entrance to, or exit from, the Project or any Condominium, parking space or garage located thereon.

Garage or carport space shall not be converted into any use (such as a recreational room or storage) that would prevent its use as parking space for the number of vehicles the space was designed to contain. Owners are to use their assigned parking spaces for parking of their vehicles so that unassigned Common Area parking will be available for guest parking. The Association may establish rules and regulations from time to time for the parking of vehicles in the Common Areas.

8.4 Signs: No sign of any kind shall displayed to the public view on the Common Area without the prior written consent of the Board. No signs shall be displayed to the public view on any Condominiums, except such signs as are approved by the Board and also each Owner or tenant may display only one (1) "For Sale" or "For Rent" or "For Exchange" sign and may also display one (1) sign advertising directions to another Owners' Condominium which is for sale, rent or exchange, provided the design, dimensions and locations are reasonable.

8.5 Storage: Nothing shall be stored in the Common Area without the prior consent of the Board.

8.6 Animals: No animals of any kind shall be raised, bred, or kept in any Condominium, or on any portion of the Project, except pets kept in cages or aquariums and no more than two (2) usual and ordinary household pets such as dogs or cats provided they are not kept, bred, or maintained for any commercial purposes, and are kept under control at all times. Any animal that is an annoyance or nuisance to other residents of the Project as determined by the Board, shall be permanently removed by the Owner forthwith. No pets shall be allowed in the Common Area except as may be permitted by rules of the Association. No Owner shall allow his or her pet to enter the Common Area except on a leash. After making a reasonable attempt to notify the Owner, the Board or any Owner may cause any pet found within the Common Area or in violation of the rules or this Declaration, to be removed, whereupon the Owner may, upon payment of all expenses connected therewith, repossess the pet. Owners shall prevent their pets from soiling all portions of the Common Area and shall promptly clean up any mess left by their pets. Owners shall be fully responsible for any damage caused by their pets.

8.7 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, garbage cans, woodpiles, or storage piles shall be kept screened and concealed from view of other Units, streets and Common Areas. The Association shall be responsible for removal of garbage from the central pick-up point(s).

8.8 Radio and Television Antennas: No Owner may be permitted to construct and/or use and operate his own external radio and/or television antenna without the consent of the Board, except as required by law.

8.9 Artificial Pond: No boating or swimming shall be carried on upon or in the artificial pond, nor shall any activity be carried on in the pond in such a manner as to create safety hazards, excessive noise or pollution of the pond or its surroundings.

8.10 Leasing: Any Owner may lease his or her Condominium. As used in this Article "lease" shall mean any and all agreements, including, but not limited to leases, subleases, or rental agreements, for the occupancy of any Unit. Any Owner who wishes to lease his or her Condominium must meet each and every one of the following rules and regulations, and the lease will be subject to these rules and regulations whether they are included within the lease or not:



(a) All leases must be in writing and the lease must state that the tenancy is subject to the Condominium Documents;

(b) The lease must be for the entire Condominium and not merely parts thereof;

(c) No lease shall be for a period of less than 180 days;

(d) All leases shall be subject in all respects to provisions of the Condominium Documents; and a copy of the same must be given by the Owner to the tenant prior to the inception of the lease.

8.10.1 All Owners who lease their Condominiums shall promptly notify the secretary or Manager of the Association in writing of the names of all tenants and members of tenants' family occupying such Condominium, the address and telephone number where such Owner can be reached;

8.10.2 Any failure of the tenant to comply with the Condominium Documents shall be a default under the lease, regardless of whether the lease so provides. In the event of any such default, the Owner immediately shall take all actions to cure the default including, if necessary, eviction of the tenant. The Owner shall be liable for any and all damages or costs incurred by the Association due to the tenants, their guests or pets;

8.10.3 If any Owner acting as a landlord, or tenant is in violation of the provisions of the Condominium Documents, the Association may bring an action in its own name and/or in the name of the Owner to have the tenant evicted and/or to recover damages. If the court finds that the tenant is, or has violated any of the provisions of the Condominium Documents, the court may find the tenant guilty of unlawful detainer notwithstanding the fact that the Owner is not a plaintiff in the action and/or the tenant is not otherwise in violation of tenant's lease with the Owner/landlord. For purposes of granting a forceable detainer against the tenant, the court shall assume that the lease was made for the benefit of the Association. The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies which the Association has. The Association may recover all its costs, including court costs and reasonable attorneys' fees, and such costs and fees shall also be enforceable by a reimbursement assessment;

8.10.4 The Association will give the tenant and the Owner notice in writing of the nature of the violation of Condominium Documents, and 15 days from the mailing of the notice in which to cure the violation before the Association may file for eviction;

8.10.5 By becoming a tenant, each tenant agrees to be bound by the Condominium Documents, and recognizes and accepts the rights and power of the Association to evict a tenant for any violation by the tenant of the Condominium Documents.

8.11 Architectural Control: No building, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, patio storage shelves, closet or cabinet, (whether attached or freestanding) tent, awning, carport, carport cover, trellis, improvement, or structure of any kind shall be commenced, installed, erected, painted, repainted, or maintained on the Property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the Board, or by an Architectural Control Committee appointed by the Board. Notwithstanding the foregoing, Owners may improve or alter any improvements within the interior boundaries of the Owner's Unit provided such improvement or alteration does not impair the structural integrity of any Common Area, the utilities, or other systems servicing the Common Area or other Condominiums, and does not involve altering any Common Area, including bearing walls.

No landscaping or patios or yards visible from the street or from the Common Area shall be undertaken by any Owner until plans and specifications showing the nature, kind, shape and location of the materials shall have been submitted to and approved in writing by the Board or by an architectural control committee appointed by the Board.

Plans and specifications showing the nature, kind, shape, color, size, materials, and location of any proposed improvements or alterations shall be submitted to the Board or to the Architectural Control Committee for approval as to quality of workmanship and design and harmony of external design with existing structures; as to location in relation to surrounding structures, topography, and finish grade elevation; as to the possibility of any damage to the Common Area or any other Unit; as to the extent that the proposed alteration or improvement will increase maintenance costs to the Common Area or any other Unit, and as to its impact on other Units and their Owners. The Board or Committee may consult with designers, engineers or other licensed professionals for plan review purposes. The Board may adopt further Rules and policies for architectural review not inconsistent with this article.

The approval may contain such conditions as the Board or Committee deem reasonable under the circumstances. The Board or Committee shall require the applicant to pay all expenses incurred in reviewing the plans, including professional fees. The Association shall have the right to retain and use any and all plans, specifications or drawings submitted by any Owner. The Board or Committee may require the Owner to sign a recordable

covenant against his or her Condominium requiring the Owner or any future Owner to indemnify the Association or pay for increased maintenance costs or other reasonable requirements for the protection of the Association.

Before commencement of any alteration or improvements, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Board does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

All alterations or improvements shall be performed by a licensed contractor, except that work for which no license is required. Any contract for Common Area work shall state that the Association is entitled to enforce all warranties.

Approval of plans by the Board shall in no way make the Board or its Members responsible for or liable for the improvements built after approval of the plans and the Owner whose plans are approved shall defend, indemnify and hold the Board and the Members thereof, harmless from any and all liability arising out of such approval.

8.12 **Drapes:** All drapes, curtains, window coverings, shutters, or blinds visible from the street or Common Areas shall be beige, white or off-white in color or lined in beige, white or off-white, or as the case may be, of colors, materials and patterns which are approved by the Board or the Architectural Control Committee.

8.13 **Clothes Lines:** There shall be no outside laundering or drying of clothes, except inside fenced patios and then only if the clothes cannot be seen from the street, Common Area, or other units. No draping of towels, carpets or laundry over railings shall be allowed.

8.14 **Power Equipment and Car Maintenance:** No power equipment, hobby shops or car maintenance (other than emergency work) shall be permitted on the 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.

8.15 **Liability of Owners for Damages to Common Area:** There shall be no alteration or improvement to the Common Area by any Owner without the prior written consent of the Board. The Owner of each unit shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such Owner, or his or her family, tenants, guests, or pets, except for the portion of said damage, if any, fully covered by insurance.

Liability of an Owner shall be established only after notice to the Owner and hearing before the Board. Such liability may be enforced by a reimbursement assessment.

8.16 **Guests and Tenants:** Each Owner shall be responsible for compliance with the provisions hereof by his guests and tenants and shall pay the assessments or penalties imposed pursuant to the Condominium Documents for a violation by his tenant or guest.

8.17 **Owner's Right and Obligation to Maintain and Repair:** Except for those portions of the Project which the Association is required to maintain and repair, each Owner shall, at his sole cost and expense, maintain and repair his Unit and shall maintain the landscaping within the private patio areas appurtenant thereto which is part of the Restricted Common Area, keeping the same in good condition. Each Owner shall maintain the Restricted Common Area appurtenant to that Owner's unit in a neat and clean condition. Each Owner shall bear the cost of maintenance, repair and replacement of the following items within or serving such Owner's Unit: patio, interior surfaces of all perimeter and interior walls, ceilings and floors (including carpeting, tile, wall paper, paint or other covering); garbage disposals, ranges, refrigerators, dishwashers, washing machines, dryers, light fixtures, and any and all other appliances of any nature whatsoever; heating, ventilating and air-conditioning equipment servicing each Unit (although such equipment may be located in part outside such Unit); interior doors, including all hardware thereon; window panes and light bulbs; plumbing and other fixtures of any nature whatsoever; "built-in" features; decorative features, and any furniture and furnishings. All electric utilities serving individual Units shall be separately metered and shall be the expense of each individual Owner. Electric utilities serving the general common elements shall be a common expense of the Association. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Unit. In the event an Owner fails to maintain the interior of his Unit, the landscaping within his private patio area, or his Restricted Common Area in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify Owner of the work required and request it to be done within thirty (30) days from the giving of such notice. In the event Owner fails to carry out such maintenance within said period, the Board may, following notice and hearing, cause such work to be done and may levy a reimbursement assessment for the cost thereof to such Owner, and, if necessary, lien his Unit for the amount thereof.

8.18 **Maintenance Powers of Others:** The City of Redwood City shall have the right (but no duty) to perform any

required maintenance of the Common Area which the Association refused or fails to perform after thirty (30) days written notice from the City to the Board of the Association, provided that such right by the City shall be limited to maintenance which if not performed would become or constitute a violation of an Ordinance of Redwood City, or a violation of a condition of the Planned Development Permit issued by Redwood City to the Declarant. The cost of any such work performed by Redwood City shall be paid by the Association within a reasonable time, and if not so paid, Redwood City may include the cost thereof in the next real Property tax bill issued by the City to each Owner proportionately.

8.19 Boat Storage and Mooring: Boats may not be stored or moored on or against any portion of the Common Area without the prior written consent of the Board, and the Board shall have the authority to adopt Rules regulating boats, storage and mooring. Boat Owners must report to the Association a description and location of the stored boat. The Association assumes no responsibility or liability for loss or damage to boats in storage areas. Boat Owners shall be liable for any damage to the seawalls, boat docks, or storage areas after notice and hearing as determined by the Board.

ARTICLE IX  
RIGHTS OF FIRST LENDERS

9.1 Rights of First Lenders: All Owners who mortgage their Condominium shall promptly notify the Association in writing of the document recording date and number and the name and address of the Beneficiary of the Mortgage. No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any First Mortgage, (meaning a Mortgage with first priority over any other Mortgage) on any Condominium made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding on and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in the Condominium Documents to the contrary, First Lenders shall have the following rights:

9.2 Copies of Project Documents: The Association shall make available to Condominium Owners and First Lenders, and to holders, insurers or guarantors of any First Mortgage, current copies of the Declaration, Bylaws, Articles or other rules concerning the Project, and the books, records, and financial statements of the Association. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances. The Board may

impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

9.3 **Audited Statement:** Any holder, insurer or guarantor of a First Mortgage shall be entitled, on written request, to have an audited financial statement for the immediately preceding fiscal year, free of charge. Such statement shall be furnished within one hundred twenty (120) days of the Association's fiscal year-end.

9.4 **Notice of Action:** Upon written request to the Association, identifying the name and address of the Eligible Mortgage Holder, Insurer or Guarantor, and the Condominium number or address, such Eligible Mortgage Holder or Insurer or Guarantor will be entitled to timely written notice of:

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

(2) Any default in performance of obligations under the Declaration, Bylaws or Rules of the Association or 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, Insurer or Guarantor, which remains uncured for a period of sixty (60) days;

(3) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(4) Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified in Section 9.5.

The Association shall discharge its obligation to notify Eligible Mortgage Holders, Insurers or Guarantors by sending written notices required herein to such parties, at the address given on the current request for notice, in the manner prescribed by Section 10.5.

9.5 **Consent to Action:** Except as provided by statute or by other provision of the Project Documents in case of substantial destruction or condemnation of the Project,

A. The consent of sixty-seven percent (67%) of the Owners and the approval of Eligible Mortgage Holders holding Mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Holder Mortgages, shall be required to terminate the legal status of the

Project as a condominium project; provided however, that if termination is for reasons other than substantial destruction or condemnation, the agreement of Eligible Mortgage Holders representing at least sixty-seven percent (67%) of the votes of the mortgaged Units is required.

B. The consent of sixty-seven percent (67%) of the Owners and the approval of Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of the Condominiums subject to Eligible Mortgage holders, shall be required to add or amend any material provisions of the Declaration which establish, provide for, govern, or regulate any of the following: (i) voting rights; (ii) increases on assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens; (iii) reductions in reserves for maintenance, repair and replacement of the Common Areas; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the general or Restricted Common Areas, or rights to their use; (vi) convertibility of Units into Common Areas or vice versa; (vii) expansion or contraction of the project or the addition, annexation, or withdrawal of the Property to or from the Project; (viii) hazard or fidelity insurance requirements; (ix) imposition of any restrictions on the leasing of Condominiums; (x) imposition of any restrictions on an Owner's right to sell or transfer his or her Condominium; (xi) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration; or (xii) any provisions that expressly benefit Mortgage Holders, Insurers or Guarantors.

C. An Eligible Mortgage Holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days after the notice of the proposed addition or amendment, shall be deemed to have approved such request, provided the notice has been delivered to the Eligible Mortgage Holder by certified or registered mail, return receipt requested.

D. Except as provided by statute, in case of condemnation or substantial loss to the Condominiums and/or common elements of the Project, unless the holders of at least two-thirds (2/3) of the First Mortgages (based on one (1) vote for each First Mortgage owned), or Owners of the individual Condominiums have given their prior written approval, the Association and/or the Owners shall not be entitled to:

(1) By act or omission, seek to abandon or terminate the Condominium Project except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(2) Change the pro rata interest or obligations of any individual Condominium for the purposes of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium in the Common Area; provided that no Owner's undivided interest in the Common Area may be changed without the consent of that Owner.

(3) Partition or subdivide any Condominium;

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Condominium Property shall not be deemed a transfer within the meaning of this clause;

(5) Use hazard insurance proceeds for losses to any Condominium Property (whether to Condominiums or to Common Area) for other than the repair, replacement or reconstruction of such Condominium Property.

9.6 **Right to First Refusal:** The right of an Owner to sell, transfer, or otherwise convey his or her Condominium shall not be subject to any right of first refusal or similar restriction.

9.7 **Reserves:** Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs, and replacement of those improvements which the Association is obligated to maintain and that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments. The Association shall establish and maintain a reserve fund for replacements and a general operating reserve.

9.8 **Priority of Liens:** Each holder of a First Mortgage on a Condominium who comes into possession of the Condominium by virtue of foreclosure of the Mortgage, or any purchaser at a foreclosure sale under a first deed of trust, will take the Condominium free of any claims for unpaid assessments and fees, late charges, fines, or interest levied against the Condominium which accrue prior to the time such holder takes title to the Condominium, except for claims for a pro rata share of such Assessments or charges to all Condominiums including the mortgaged Condominium, and except for assessment liens recorded prior to the Mortgage.

9.9 **Distribution of Insurance or Condemnation Proceeds:** No provision of the Declaration gives an Owner, or any other party, priority over any rights of First Mortgagees in the



case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Condominiums and/or Common Area.

9.10 **Termination of Professional Management:** When professional management has been previously required by the Declaration or by any Eligible Mortgage Holder, Insurer or Guarantor, any decision to establish self management by the Association shall require the prior consent of Owners or Condominiums to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible Mortgage Holders holding Mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Holder Mortgages.

ARTICLE X  
GENERAL PROVISIONS

10.1 **Non Discrimination:** No Owner shall, either directly or indirectly forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of their Condominium to any person of a specified race, sex, adulthood, marital status, color, religion, ancestry, physical handicap, or national origin.

10.2 **Interpretation:** The provisions of these restrictions shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation as a Condominium Project. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision thereof.

10.3 **Gender, Number and Captions:** As used herein, the singular shall include the plural where appropriate and masculine pronouns shall include feminine pronouns, where appropriate. The titles and captions of each paragraph hereof are not a part hereof and shall not affect the construction or interpretation of any part hereof.

10.4 **Term:** The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this amended Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning

of each successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part, or to terminate the same.

10.5 **Notice:** Any notice permitted or required by the Declaration, Articles, or Bylaws may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board, or addressed to the Condominium of such person if no address has been given to the Secretary.

10.6 **Amendment:** This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing fifty one percent (51%) of the total voting power of the Association. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be certified in a writing executed and acknowledged by the President of Association and recorded in the Recorder's Office of the County of San Mateo. No amendment shall adversely affect the rights of the holder of any Mortgage of record prior to the recordation of such amendment.

10.7 **Enforcement and Nonwaiver:** The Association, or any Owner, shall have the right (but not the obligation) to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, the Articles, and Bylaws, and in such action shall be entitled to recover attorneys' fees and costs as ordered by the court. However, only the Association can use selfhelp. Failure by the Association or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.7.1 **Violation and Nuisance:** Every action or omission whereby a covenant, condition or restriction of the Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association, or any Owner or Owners. However, any other provision to this Declaration notwithstanding, only the Board of the Association, or their duly authorized agents may enforce by self help any covenant, condition or restriction herein set forth.

10.7.2 **Violation of Law:** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the



EXHIBIT "A"

<u>Parcel Number</u>	<u>Address</u>	<u>Percentage</u>
1	460 Barnegat Lane	.0097
2	462 Barnegat Lane	.0097
3	456 Barnegat Lane	.0058
4	458 Barnegat Lane	.0070
5	454 Barnegat Lane	.0081
6	452 Barnegat Lane	.0081
7	448 Barnegat Lane	.0058
8	450 Barnegat Lane	.0070
9	444 Barnegat Lane	.0097
10	446 Barnegat Lane	.0097
11	440 Barnegat Lane	.0097
12	442 Barnegat Lane	.0097
13	436 Barnegat Lane	.0058
14	438 Barnegat Lane	.0070
15	434 Barnegat Lane	.0081
16	432 Barnegat Lane	.0081
17	428 Barnegat Lane	.0058
18	430 Barnegat Lane	.0070
19	424 Barnegat Lane	.0097
20	426 Barnegat Lane	.0097
21	420 Barnegat Lane	.0097
22	422 Barnegat Lane	.0097
23	416 Barnegat Lane	.0058
24	418 Barnegat Lane	.0070
25	414 Barnegat Lane	.0081
26	412 Barnegat Lane	.0081
27	410 Barnegat Lane	.0081
28	408 Barnegat Lane	.0081
29	404 Barnegat Lane	.0058
30	406 Barnegat Lane	.0070
31	400 Barnegat Lane	.0097
32	402 Barnegat Lane	.0097
33	2 Cape Hatteras Court	.0097
34	4 Cape Hatteras Court	.0097
35	6 Cape Hatteras Court	.0058
36	8 Cape Hatteras Court	.0070
37	10 Cape Hatteras Court	.0081
38	12 Cape Hatteras Court	.0081
39	14 Cape Hatteras Court	.0081
40	16 Cape Hatteras Court	.0081
41	18 Cape Hatteras Court	.0081
42	20 Cape Hatteras Court	.0081
43	22 Cape Hatteras Court	.0081
44	24 Cape Hatteras Court	.0081
45	26 Cape Hatteras Court	.0058
46	28 Cape Hatteras Court	.0070
47	30 Cape Hatteras Court	.0097
48	32 Cape Hatteras Court	.0097
49	34 Cape Hatteras Court	.0097

<u>Parcel Number</u>	<u>Address</u>	<u>Percentage</u>
50	36 Cape Hatteras Court	.0097
51	38 Cape Hatteras Court	.0058
52	40 Cape Hatteras Court	.0070
53	42 Cape Hatteras Court	.0081
54	44 Cape Hatteras Court	.0081
55	46 Cape Hatteras Court	.0081
56	48 Cape Hatteras Court	.0081
57	50 Cape Hatteras Court	.0058
58	52 Cape Hatteras Court	.0070
59	54 Cape Hatteras Court	.0097
60	56 Cape Hatteras Court	.0097
61	58 Cape Hatteras Court	.0097
62	60 Cape Hatteras Court	.0097
63	62 Cape Hatteras Court	.0058
64	64 Cape Hatteras Court	.0070
65	66 Cape Hatteras Court	.0081
66	68 Cape Hatteras Court	.0081
67	70 Cape Hatteras Court	.0058
68	72 Cape Hatteras Court	.0070
69	74 Cape Hatteras Court	.0097
70	76 Cape Hatteras Court	.0097
71	58 Eddystone Court	.0097
72	60 Eddystone Court	.0097
73	54 Eddystone Court	.0058
74	56 Eddystone Court	.0070
75	52 Eddystone Court	.0081
76	50 Eddystone Court	.0081
77	48 Eddystone Court	.0081
78	46 Eddystone Court	.0081
79	42 Eddystone Court	.0058
80	44 Eddystone Court	.0070
81	38 Eddystone Court	.0097
82	40 Eddystone Court	.0097
83	62 Eddystone Court	.0097
84	64 Eddystone Court	.0097
85	66 Eddystone Court	.0058
86	68 Eddystone Court	.0070
87	70 Eddystone Court	.0081
88	72 Eddystone Court	.0081
89	74 Eddystone Court	.0058
90	76 Eddystone Court	.0070
91	78 Eddystone Court	.0097
92	80 Eddystone Court	.0097
93	88 Eddystone Court	.0081
94	86 Eddystone Court	.0081
95	84 Eddystone Court	.0081
96	82 Eddystone Court	.0081
97	749 Barnegat Lane	.0097
98	751 Barnegat Lane	.0097
99	753 Barnegat Lane	.0058
100	755 Barnegat Lane	.0070
101	757 Barnegat Lane	.0081

<u>Parcel Number</u>	<u>Address</u>	<u>Percentage</u>
102	759 Barnegat Lane	.0081
103	761 Barnegat Lane	.0058
104	763 Barnegat Lane	.0070
105	765 Barnegat Lane	.0097
106	767 Barnegat Lane	.0097
107	2 Eddystone Court	.0097
108	4 Eddystone Court	.0097
109	6 Eddystone Court	.0058
110	8 Eddystone Court	.0070
111	10 Eddystone Court	.0081
112	12 Eddystone Court	.0081
113	14 Eddystone Court	.0058
114	16 Eddystone Court	.0070
115	18 Eddystone Court	.0097
116	20 Eddystone Court	.0097
117	22 Eddystone Court	.0097
118	24 Eddystone Court	.0097
119	26 Eddystone Court	.0058
120	28 Eddystone Court	.0070
121	30 Eddystone Court	.0058
122	32 Eddystone Court	.0070
123	34 Eddystone Court	.0097
124	36 Eddystone Court	.0097

EXHIBIT "B"

1. Streets, street signs, traffic signs and marks, striping, and the storm drain facilities located within the approved PD plan including those landscaped areas located in the public right of way as shown on the PD plan.

2. The emergency access road from the northerly emergency access of Shell Parkway to the nearest paved public right-of-way until such time as the emergency access road is replaced by a dedicated public street or road.