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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP
FOR TRACT NO. 51968

00-1825307

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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP

RECITALS:

Declarant is the owner of real property located in Los Angeles County, California, described in Exhibit A ("real property"). Declarant has improved or intends to improve the real property in the manner described in Exhibit B. The development of the real property described in Exhibit B will be consistent with the overall development plan submitted to and approved by the U.S. Department of Veterans Affairs.

DECLARATION:

Declarant declares that the real property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in California Civil Code Sections 1350-1372 for the subdivision, improvement, protection, maintenance and sale of condominiums within the real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the real property. All of the limitations, restrictions, easements, covenants, conditions, liens, and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title, or interest in the real property, and shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that is the express intent that this Declaration satisfies the requirements of California Civil Code Section 1353.

1. DEFINITIONS

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

1.2 The "Association" means NEWLIN & HADLEY, INC., the condominium homeowner's association, a nonprofit mutual benefit corporation, its successors and assigns.

1.3 The "Board" means the Board of Directors of the Association.

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

1.5 The "City" means the City of Whittier, a municipal corporation.

1.6 The "Common Area" means the entire development except all units as defined in this Declaration or as shown on the condominium plan. "Exclusive Use Common Area" means a portion of the common area designated by this Declaration or the condominium plan for the exclusive use of the owners of particular units which is appurtenant to said units, if any.

1.7 A "condominium" means an estate in real property as defined in California Civil Code Section 1351(f) consisting of an undivided interest as a tenant-in-common in the Common Area of the development, together with a fee interest in a unit shown and described on the Condominium Plan.

1.8 The "Condominium Plan" means the condominium plan recorded pursuant to California Civil Code Section 1351(e) respecting the development and any amendments to the plan. A copy of the plan is attached as Exhibit C.

1.9 The "Declarant" means CLARENCE E. SMITH and JACQUELINE A. SMITH, and CLARENCE EUGENE SMITH and JACQUELINE AIELLO SMITH, TRUSTEES OF THE CLARENCE EUGENE SMITH AND JACQUELINE AIELLO SMITH INTER VIVOS TRUST AGREEMENT DATED SEPTEMBER 17, 1982, their successors and assigns, if such successors and assigns acquire or hold record title to any portion of the Development for development purposes.

1.10 The "Development" means the entire parcel of real property, divided or to be divided into condominiums, including all structures and improvements on it. The Development is a common interest development as defined in Civil Code section 1351(c) and a statutory condominium "project" as defined in California Civil Code Section 1351(f).

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

1.12 A "mortgage" means a mortgage or deed of trust encumbering a condominium or other portion of the Development. An "institutional mortgagee" is a mortgagee that is a bank, savings

and loan association, or established mortgage company or other entity chartered under Federal or State laws, any corporation or insurance company, or any Federal or State agency. A "mortgagee" shall include a beneficiary under a deed of trust.

1.13 An "owner" means each person or entity holding a fee simple estate of record in a condominium, including Declarant. "Owner" shall not include persons or entities who hold an interest in a condominium merely as security for the performance of an obligation but shall include a contract purchaser of record.

1.14 A "unit" means the elements of a condominium that are not owned in common with the other owners of condominiums in the Development; such units and their respective elements are more particularly described in Exhibit B. The boundaries of a unit are shown and described on the Condominium Plan. In interpreting deeds and plans and existing boundaries of a unit or of a unit reconstructed in substantial accordance with the original plan the actual building shall be conclusively presumed to create its boundaries rather than the description expressed in the deed or plans regardless of minor variance between boundaries as shown on the plans or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference is made in this Declaration, in the Condominium Plan, in any deed or elsewhere to a unit, it shall be assumed that such reference is made to the unit as a whole, including each of its component elements, and to the Exclusive Use Common Areas appurtenant to such unit, if any.

1.15 "VA" shall mean and refer to the U.S. Department of Veterans Affairs including the department or agency of the United States Government as shall succeed to the VA.

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

2.1 Ownership of Condominium; Easements. Ownership of each condominium within the Development shall include:

(a) a unit and the respective undivided interest in the Common Area (being one (1) equal share in the Common Area for each unit) as described in Exhibit B;

(b) a membership in the Association; and

(c) any Exclusive Use Common Area and non-exclusive easement appurtenant to such unit, as described herein or in the deed to the unit.

2.2 Owners' Non-Exclusive Easements of Enjoyment, Etc. Every owner of a condominium shall have a non-exclusive easement of use and enjoyment in, to, and throughout the Common Area of the

Development and for ingress, egress, and support over and through the Common Area. However, such non-exclusive easements shall be subordinate to, and shall not interfere with, the Exclusive Use Common Area appurtenant to units, if any. Each such easement shall be appurtenant to and pass with the title to every unit, subject to the following rights and restrictions:

2.2.1 The right of the Association to limit the number of guests, and to adopt the Association rules and regulations ("association Rules") regulating the use and enjoyment of the Common Area.

2.2.2 The right of the Association to borrow money to improve the Common Area.

2.2.3 The right of Declarant or its designees to enter on the Development, to construct the Development, and to make repairs and remedy construction defects, if such entry does not interfere with the use of any occupied unit unless authorized by the unit owner.

2.2.4 The right of the Association, or its agents, to enter any unit as necessary in connection with construction, maintenance, or emergency repair for the benefit of the Common Area or the owners in common. The right shall be immediate in case of an emergency originating in, or threatening, such unit; otherwise, entry shall be made only after reasonable notice is given to the unit's occupant.

2.3 Delegation of Use; Tenants. Any owner may delegate his right of use and enjoyment in the Development, including any recreational facilities, to the members of his family, his guests, invitees, and to such other persons as may be permitted by the provisions of the Declaration, the Bylaws, and the Association Rules. Each owner shall notify the Secretary of the Association of the names of any of his tenants. Each owner, or tenant, shall also notify the Secretary of the names of all persons to whom the owner or tenant has delegated any rights of use and enjoyment in the Development and the relationship that each such person bears to the owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of owners.

2.4 Minor Encroachments. If any portion of the Common Area encroaches on any unit or if any portion of a unit encroaches on the Common Area, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it so long as it remains, and all units and the Common Area are made subject to such easement. If any structure containing a unit is partially or totally destroyed and then rebuilt and any encroachment results, a valid easement exists for such encroachment and for its maintenance

so long as it remains, and all units and the Common Area are made subject to such easement.

2.5 Easements Granted by Association. The Association shall have the power to convey to any third party easements and rights-of-way in, on, over, or under the Common Area for purpose of installing, operating, or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, sewers, storm drains and pipes, water system, sprinkling systems, heating and gas lines or pipes and any similar public or quasi-public facilities, and each purchaser, in accepting a deed to a condominium, expressly consents to such easements. However, no such easement can be granted if it would interfere with the use, occupancy, or enjoyment by any owner of his unit, the Exclusive Use Common Area appurtenant to the unit, or the recreational facilities of the Development.

3. USE RESTRICTIONS

3.1 Residential Use. Units shall be used for residential purposes only. Nothing in this Declaration shall prevent an owner from leasing or renting his unit. However, any such arrangement shall be in writing and any tenant shall abide by and be subject to all provisions of the Declaration, Articles, Bylaws, and Association Rules; any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement.

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

3.3 Maintenance. Each owner shall be responsible for maintaining his unit, including the equipment and fixtures therein, its interior walls, ceilings, windows, and floors in a clean and sanitary, workable, and attractive condition. Each owner shall also be responsible for maintaining in good condition and repair the air conditioning and heating unit system servicing his unit, wherever located. Each owner has complete discretion as to the choice of furniture, furnishings, and interior decorating, but windows can be covered only by drapes, or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each owner shall be responsible for repair, replacement and cleaning of the windows and glass of his unit, both interior and exterior. Unless otherwise provided in this Declaration, each owner shall clean and maintain the Exclusive Use Common Area appurtenant to his unit, if any.

3.4 Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles,

boats, or other motorized vehicles, shall be carried on within the Development. Nothing shall be done within the Development which may become a nuisance to its residents, or that in any way interferes with the quiet enjoyment of condominium occupants.

3.5 Parking Restrictions; Use of Garage. Unless otherwise permitted by the Board, no automobile shall be parked or left on any property subject to this Declaration other than on or within a garage, carport, or assigned or appurtenant parking stall or space. No boat, trailer, recreational vehicle, camper truck, or commercial vehicle shall be parked or left on any part of the Development other than in an area designated by the Board for parking or storage of vehicles. Any garages or carports shall be used for parking vehicles only and shall not be converted for living or recreational activities.

3.6 Signs. No signs of any kind shall be displayed to the public view on or from any condominium or the Common Area without the approval of the Board. However, one (1) sign of customary and reasonable dimensions advertising a condominium for sale or for rent may be placed within each unit or within the Common Area immediately adjacent by the owner, the location and design of it to be subject to approval by the Board.

3.7 Fences, Etc. No fences, awning, ornamental screen doors, sunshades, or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Development or elsewhere within the Development except those that are installed in accordance with the original construction of the Development, and their replacements, or as are authorized and approved by the Board.

3.8 Animals. No animals, reptiles, rodents, birds, fish, livestock, or poultry shall be kept in any condominium or elsewhere within the Development, except that domestic dogs, cats, fish, and birds inside cages may be kept as household pets within any unit so long as they are not kept, bred, or raised for commercial purposes. The Board can prohibit maintenance of any animal that constitutes a nuisance to any other owner in the sole and exclusive opinion of the Board.

3.9 Restricted Use of Recreational Vehicles, Etc. No boat, truck, trailer, camper, recreational vehicle, or tent shall be used as a living area while located within the Development.

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

3.11 Structural Alterations. No owner shall at his expense or otherwise make any alterations or modifications to the exterior

portions of the buildings, fences, railings, or walls situated within the Development without the prior written consent of the Board. Notwithstanding the foregoing, if the boundaries of a unit are contained within a building, the owner of said unit may do the following:

(a) Make any improvements or alterations within the boundaries of his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the Development;

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

(1) the modifications shall be consistent with applicable building code requirements;

(2) the modifications shall be consistent with the intent of otherwise applicable rules of the Association pertaining to safety or aesthetics;

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

(4) any owner who intends to modify a unit pursuant to this paragraph shall submit his plans and specifications to the Association for review to determine whether the modifications will comply with the provisions of this paragraph. The Association shall not deny approval of the proposed modifications under this paragraph without good cause.

3.12 Compliance with Laws, Etc. Nothing shall be done or kept in any unit or in the Common Area that might increase the rate of, or cause the cancellation of, the Development's insurance without the Board's prior written consent. No owner shall permit anything to be done or kept in his unit that violates any law, ordinance, statute, rule, or regulation of any local, county, State or Federal body.

3.13 Owner's Obligations for Taxes. To the extent allowed by law, all units, including their pro rata undivided interest in the Common Area and the membership of an owner in the Association, shall be separately assessed and taxed so that all taxes,

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assessments, and charges which may become liens prior to first mortgages under local law shall relate only to the individual units and not to the condominium development as a whole. Each owner shall be obligated to pay any taxes or assessments assessed by the county assessor against his condominium and against his personal property.

3.14 Enforcement. The failure of any owner to comply with any provision of the Declaration, the Articles, Bylaws, resolutions of the Board, or Association Rules shall give rise to a cause of action in the Association and any aggrieved owner for the recovery of damages, injunctive relief, or both. However, before filing any action related to the enforcement of such governing documents, solely for declaratory or injunctive relief or for such relief in conjunction with a claim for monetary damages other than assessments not in excess of five thousand dollars (\$5,000), the involved parties shall comply with the provisions of Civil Code Section 1354, unless the applicable time limitation for commencing the action would run within one hundred twenty (120) days before the filing of the action. However, the exception for disputes relating to assessments shall not apply if, in a dispute between an owner and the Association regarding assessments imposed by the Association, the owner complies with the provisions of Civil Code Section 1366.3. The Association is further authorized, subject to compliance with Section 1354 of the Civil Code, to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to:

- (a) enforcement of the governing instruments;
- (b) damage to the common areas;
- (c) damage to the separate interests which the Association is obligated to maintain or repair, or
- (d) damage to the separate interest which arises out of, or is integrally related to, damage to the common areas or separate interests that the Association is obligated to maintain or repair.

4. THE ASSOCIATION

4.1 Formation. The Association is formed under the laws of California. On the close and recording of the first condominium sale to an owner, the Association shall be charged with the duties and invested powers set forth in the Articles, Bylaws, and Declaration, including, but not limited to, control and maintenance of the Common Area and any Common Area facilities.

4.2 Association Action; Board of Directors and Officers. Except as to matters requiring members' approval as set forth in the Declaration, Articles, or Bylaws, the Association's affairs

shall be conducted by the Board and such officers as it may elect or appoint. Such election or appointment shall be in compliance with the Declaration and the Bylaws. Meetings for the Board of Directors shall be held as provided in the Bylaws.

4.3 Powers and Duties of the Association.

4.3.1 Powers. The Association shall have the power to do any lawful thing that may be authorized under the Declaration, Articles, or Bylaws and to do any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation, the following:

4.3.1.1 Assessments. The Association shall have the power to establish, fix, levy assessments against the owners of condominiums and to enforce payment of such assessments in accordance with the provisions of this Declaration.

4.3.1.2 Right of Enforcement. The Association or any owner of a unit can commence and maintain an action for damages or to restrain or enjoin any actual or threatened breach of any provisions of the Declaration, Articles, or Bylaws, or of the Association Rules or any resolutions of the Board, and to enforce any of those provisions by mandatory injunction or otherwise. However, before filing any action related to the enforcement of such governing documents, solely for declaratory or injunctive relief or for such relief in conjunction with a claim for monetary damages other than assessments not in excess of five thousand dollars (\$5,000), the involved parties shall comply with the provisions of Civil Code Section 1354, unless the applicable time limitation for commencing the action would run within one hundred twenty (120) days before the filing of the action. However, the exception for disputes relating to assessments shall not apply if, in a dispute between an owner and the Association regarding assessments imposed by the Association, the owner complies with the provisions of Civil Code Section 1366.3. The Association is further authorized, subject to compliance with Section 1354 of the Civil Code, to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to:

(a) enforcement of the governing instruments;

(b) damage to the common areas;

(c) damage to the separate interests which the Association is obligated to maintain or repair, or

(d) damage to the separate interest which arises out of, or is integrally related to, damage to the common areas or separate interests that the Association is obligated to maintain or repair.

In addition, the Association, through its Board of Directors can suspend the voting rights, can suspend use privileges of the Common Area, or can assess monetary penalties against any owner or other person entitled to exercise such rights or privileges for any violation of the Declaration, Articles, Bylaws, Association's Rules, or Board resolutions. However, any such suspension of use privileges cannot exceed a period of thirty (30) days for any one (1) violation and cannot exceed twenty-five dollars (\$25.00) for any one (1) violation. No discipline may be imposed against an owner unless he is given fifteen (15) days' prior notice of the proposed discipline and the reasons therefor and he is given the opportunity to be heard (either orally or in writing) not less than five (5) days before the proposed discipline becomes effective. Such prior notice may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the owner, all according to the provisions of Section 17.5 of this Declaration. No discipline shall be imposed against the owner unless procedures for notice and hearing satisfying the minimum requirements of Corporations Code Section 7341 are followed with respect to the accused owner before a decision to impose discipline is reached. The Association is prohibited from causing a forfeiture or abridgement of an owner's right to the full use and enjoyment of his unit because of his failure to comply with the provisions of the Declaration, Bylaws, Articles, Association's Rules, or resolutions of the Board except by court judgment, arbitration award, or on account of a foreclosure or sale under a power of sale for his failure to pay assessments duly levied by the Association. Any monetary penalty imposed by the Association as a disciplinary measure for failure of a member to comply with provisions of the Declaration, Bylaws, Articles or said Rules or resolutions shall not give rise to a lien against the member's unit and shall not be enforceable under Section 7 of this Declaration. Notwithstanding the foregoing, the following charges shall give rise to lien rights under Section 7 of this Declaration and as provided in Civil Code Section 1367: reasonable late payments, interest, and costs and attorney's fees reasonably incurred by the Association in its efforts to collect delinquent assessments.

4.3.1.3 Delegation of Powers. The Association, acting by and through the Board, can delegate its powers, duties, and responsibilities (except with regard to imposing discipline, levying fines, or holding hearings) to committees or employees, including a professional managing agent. Any agreement for professional management of the condominium project shall be terminable by either party with or without cause and without payment of a termination fee on thirty (30) days' written notice. The term of any such agreement shall not exceed one (1) year, although it may be renewed by the Board from year to year.

4.3.1.4 Association Rules. The Association shall have the power to adopt, amend, and repeal its rules as it deems reasonable.

However, the Association rules shall not be inconsistent with or materially alter any other provisions of this Declaration, the Articles, or the Bylaws. A copy of the Association rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and a copy shall be posted in a conspicuous place within the Development. In case of conflict between the Association rules and any other provisions of this Declaration, the Articles, or Bylaws, the provisions of the Association rules shall be deemed superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

4.3.2 Duties of the Association. In addition to the powers delegated to it by its Articles or the Bylaws, and without limiting their generality, the Association, acting by and through the Board, or persons or entities described in Section 4.3.1.3, has the obligation to conduct all business affairs of common interest to all owners and to perform each of the following duties:

4.3.2.1 Operation and Maintenance of Common Area. To operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of the Common Area, and all its facilities, improvements, including the exteriors of all units, fences, walls, private driveways, lighting, walkways, landscaping, and any other property acquired by the Association, including personal property, in a first-class condition and in a good state of repair. Responsibility for repairs, replacement, or maintenance because of wood-destroying pests or organisms is delegated as provided by Civil Code Section 1364. In this connection the Association may enter into contracts for services or materials for the benefit of the Association or the Common Area, including contracts with Declarant. The duration and term of all such contracts shall comply with Section 15.1 herein and with Title 10 of the California Code of Regulations, Article 12, Section 2792.21.

4.3.2.2 Taxes and Assessments. To pay all real and personal property taxes and assessments and all other taxes levied against the Association or any of its property.

4.3.2.3 Water and Utilities. To acquire, provide and pay for water, sewer, garbage disposal, rubbish collection, electrical, telephone, gas and other necessary utility services for the Common Area and for condominiums when they are not separately billed. The term of any contract to supply any of the listed services shall not exceed one (1) year or, if the supplier is a regulated public utility, the shortest term for which the supplier will contract at the applicable regulated rate.

4.3.2.4 Insurance. To obtain from reputable insurance companies and maintain the insurance described in Section 8.

4.3.2.5 Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this

Declaration, that may be reasonably necessary to enforce any of the provisions of this Declaration, the Articles, Bylaws, and the Association's rules and Board resolutions.

4.3.3 Limitations on Authority of Board. Except with the assent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code Section 7513, of a simple majority of the members, other than the subdivider, constituting a quorum consisting of more than fifty percent (50%) of the voting power of the Association residing in members other than the subdivider, the Board, in addition to those limitations set forth in Bylaws Article VIII, Section 18, shall be prohibited from taking any of the following actions:

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

4.3.3.2 Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

4.3.3.3 Pay compensation to Directors or to officers of the Association for services performed in the conduct of the Association's business. However, the Board may reimburse such person for expenses incurred in carrying on Association business.

4.4 Regular Meeting and Notice. An organizational meeting shall be held as soon as practicable after creation of the Association, and the Directors elected then shall hold office until the first annual meeting. All offices of the Board of Directors shall be filled at the organizational meeting, and the Board shall hold meetings as provided in the Bylaws. The first annual meeting of members of the Association shall be held within forty-five (45) days after the closing of the sale of the condominium that represents the fifty-first (51st) percentile interest authorized for sale by the California Commissioner of Real Estate under the first Public Report for the Development, provided that Public Report authorizes the sale of fifty (50) units or more in the Development. However, but in no case later than six (6) months after the closing and recording of the sale of the first condominium within the Development without regard to the number of units authorized for sale in the first Public Report. Thereafter, regular meetings of members of the Association shall be held at least once in each calendar year at a time and place as prescribed in the Bylaws.

4.5 Special Meetings. Special meetings may be called as provided for in the Bylaws. Written notice of all members' meetings, regular or special, shall be given by regular mail,

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personal delivery, or telegram to all owners and to any mortgagee who has requested in writing that such notice be sent to it and, except in emergency situations, shall be given not less than ten (10) days nor more than sixty (60) days before the time of the meeting and shall set forth the place, date, and hour of the meeting, and the nature of the business to be undertaken. Any mortgagee, through its designated representative, shall be entitled to attend any such meeting but shall not be entitled to vote at the meeting. All such meetings shall be held within the Development or at a place as close thereto as possible. The presence at any meeting, in person or by proxy, of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the date that the original meeting was called, at which adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of the total votes. Any meeting of members at which a quorum is present may be adjourned for any reason to a time not less than five (5) days nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present in person or by proxy. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings.

4.6 Financial Statements of the Association. The Association shall prepare and distribute to all members and to any mortgagee requesting same, the financial data as specified herein, regardless of the number of its members or the amount of its assets.

4.6.1 A pro forma operating budget for the immediately ensuing fiscal year including, but not limited to, the following information shall be distributed not less than forty-five (45) days and not more than sixty (60) days before the beginning of each fiscal year:

4.6.1.1 The estimated revenue and expenses on an accrual basis.

4.6.1.2 A summary of the Association's reserves based upon the most recent review or study conducted pursuant to Civil Code Section 1365.5, which shall be printed in bold type and include all of the following:

(a) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component;

(b) As of the end of the fiscal year for which the study is prepared:

(i) the current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components and

(ii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components; and

(iii) if applicable, the amount of funds received from either a compensatory damage award or settlement to the Association from any person or entity for injuries to property, real or personal, arising out of any construction or design defects, and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to subsection (ii) above. In lieu of complying with the requirements set forth herein, if the Association is obligated to issue a review of its financial statement pursuant to Section 4.6.2 herein, the Association may include in the review a statement containing all of the information required by this subsection.

(c) The percentage that the amount determined for purposes of clause (ii) of subparagraph (b) is of the amount determined for purposes of clause (i) of subparagraph (b).

4.6.1.3 A statement as to whether the Board of Directors of the Association has determined or anticipates that the levy of one (1) or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor.

4.6.1.4 A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the Association is obligated to maintain.

4.6.1.5 The summary of the Association's reserves disclosed pursuant to paragraph 4.6.1.2 shall not be admissible in evidence to show improper financial management of an Association, provided that other relevant and competent evidence of the financial condition of the Association is not made inadmissible by this provision.

4.6.2 A balance sheet as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of an interest in the development and an operating statement for the period from the date of the

first closing of the said accounting date, shall be distributed within sixty (60) days after the accounting date. The operating statement shall include a schedule of assessments received and receivable identified by the unit number and the name of the entity assessed.

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

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

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

(c) For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

4.6.3.1 If the report referred to in 4.6.3 above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.

4.6.4 In lieu of the distribution of the pro forma operating budget provided for in Sections 4.6.1 through 4.6.1.4, the Board may elect to distribute a summary of the items described in Sections 4.6.1 through 4.6.2 to all members of the Association with a written notice that the budget is available at the business office of the Association or at another suitable location within the boundaries of the Development and that copies will be provided upon request and at the expense of the Association. If any member requests a copy of the pro forma operating budget including the items described in Sections 4.6.1 through 4.6.2 to be mailed to the member, the Association shall provide such copies to the member by first-class United States mail at the expense of the Association and mailed within five (5) days. The written notice that is distributed to each of the Association members shall be in at least 10-point bold type on the front page of the summary of the statements.

4.6.5 A statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the sixty (60) day period immediately preceding the beginning of the Association's fiscal year.

4.6.6 On at least a quarterly basis the Board shall perform all of the following duties as required by Civil Code Section 1365.5:

(a) create and review a current reconciliation of the Association's operating accounts and reserve accounts;

(b) review each year's actual revenues and expenses compared to each year's budget;

(c) review the latest account statements prepared by the financial institution(s) where the Association has its operating and reserve accounts;

(d) review an income and expense statement for the Association's operating and reserve accounts. The signatures of at least two (2) persons, who shall both be Directors, or one (1) officer who is not a Director and one (1) Director, shall be required for the withdrawal of money from the Association's reserve accounts.

4.6.7 Use of Reserve Funds and Conducting of Inspections and Reserve Studies. As provided in Civil Code Section 1365.5, the Board of Directors be responsible for the following:

4.6.7.1 The Board of Directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash-flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within one (1) year of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a delay would be in the best interests of the common interest development, delay the restoration until the time which the Board reasonably determines to be necessary. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is subject to the limitation imposed by Civil Code Section 1366. The Board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

4.6.7.2 When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for

litigation, the Board shall notify the members of the Association of that decision in the next available mailing to all members pursuant to Section 5016 of the Corporations code, and of the availability of an accounting of those expenses. The Board shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by members of the Association at the Association's office.

4.6.7.3 At least once every three (3) years the Board of Directors shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the Development if the current replacement value of the major components is equal to or greater than one-half (1/2) of the gross budget of the Association which excludes the Association's reserve account for that period. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The study required by this subdivision shall at a minimum include:

(a) Identification of the major components which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years;

(b) Identification of the probable remaining useful life of the components identified in paragraph (a) as of the date of the study;

(c) An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified in paragraph (a) during and at the end of its useful life;

(d) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

4.6.8 As used in this section the term "reserve accounts" means both of the following:

(a) Money that the Board has identified from its annual budget for use to defray the future repair or replacement of, or additions to, those major components which the Association is obligated to maintain.

(b) The funds received and not yet expended or disposed from either a compensatory damage award or settlement to the Association from any person or entity for injuries to property, real or

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personal, arising from any construction or design defects. These funds shall be separately itemized from funds described in subsection (a) above.

4.6.9 As used in this section the term "reserve account requirements" means the estimated funds which the Association's Board of Directors has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the Association is obligated to maintain.

4.7 Inspection of Association Books and Records.

4.7.1 Any membership register (including mailing addresses and telephone numbers), books of account, and minutes of meetings of members, the Board, and committees of the Board of the Association as well as the Declaration, Bylaws and Articles of the Association shall be made available for inspection and copying for a reasonable cost by any member of the Association or his duly appointed representative, or any mortgagee, at any reasonable time and for the purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the Development as the Board prescribes.

4.7.2 The Board shall establish by resolution reasonable rules with respect to:

4.7.2.1 Notice to be given to the custodian of the records of the Association by the member of the Association, representative, or mortgagee desiring to make an inspection.

4.7.2.2 Hours and days of the week when the inspection may be made.

4.7.2.3 Payment of the cost of reproducing copies of documents requested by a member of the Association or by a representative or mortgagee.

4.7.3 Every member of the Association shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a member of the Association includes the right to make extracts and copies of documents.

5. MEMBERSHIP AND VOTING RIGHTS

5.1 Membership

5.1.1 Qualification. Each owner of a condominium, including Declarant, shall be a member of the Association and shall hold one (1) membership interest in the Association for each condominium owned. If a condominium is owned by more than one (1) person, each

such person shall be a member of the Association, but there shall only be one (1) vote for each condominium. Ownership of a condominium or interest in it shall be the sole qualification for membership in the Association. Each owner shall remain a member of the Association until his ownership interest in all condominiums in the Development ceases, at which time his membership in the Association shall automatically cease.

5.1.2 Members' Rights and Duties. Each member shall have the rights, duties, and obligations set forth in this Declaration, the Articles, Bylaws, and the Association rules and all their amendments.

5.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one (1) or more condominiums shall be appurtenant to each such condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except on a transfer of title to each such condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a condominium or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new owner.

5.2 Voting.

5.2.1 Number of Votes. Each member shall be entitled to one (1) vote for each condominium in which such member owns an interest. However, when more than one (1) member owns an interest in a condominium, the vote shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one (1) condominium.

5.2.2 Joint Owner Votes. The voting rights for each condominium may not be cast on a fractional basis. If the joint owners of a condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any owner exercises the voting rights for a particular condominium, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other owners of the same condominium. If more than one (1) person or entity exercises the voting rights for a particular condominium, their votes shall not be counted and shall be deemed void.

5.2.3 Cumulative Voting. Election to and from the Board shall be by written secret ballot and shall be by cumulative voting, provided a member has placed a candidate's name in nomination prior to the voting and given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any member has given such notice, then all members shall have

the right to cumulate their votes for candidates in nomination. Under cumulative voting, each member, either in person or by proxy, may give a single candidate the number of votes equal to the number of Directors to be elected multiplied by the number of votes the member is entitled to exercise under this Declaration, or the member may distribute these cumulated votes among any two (2) or more candidates as the member desires. The candidates receiving the highest number of votes up to the number of Board members to be elected shall be elected. Unless the entire Board is removed from office by vote of the members, a Director shall not be removed before his term expires if the number of votes cast against removal would be sufficient to elect said Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Board were then being elected. A Director who has been elected to office solely by votes of members other than Declarant may be removed from office prior to the expiration of his term only by the vote of at least a simple majority of the voting power residing in members other than Declarant.

5.2.4 Special Election Procedure. From the first election of the Board of Directors and thereafter for so long as Declarant holds a majority of the Association's voting power, Declarant shall be allowed to vote for all but one (1) of the five (5) offices of the Board of Directors, to ensure the election of twenty percent (20%) of the Board members by the owners other than Declarant. This procedure shall be limited to the election of only one (1) Board member and subject to all other provisions of this Declaration.

5.2.5 Forms of Proxies. Any form of proxy or written ballot distributed to the members of the Association shall provide such members with the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the governing body be named in the proxy or written ballot. The proxy or written ballot shall provide that, where the member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the person who is authorized to exercise the proxy and the length of time it will be valid. Any proxy or written ballot that is distributed to ten (10) or more members shall satisfy the requirements of California Corporations Code Section 7514(a) if the Association has one hundred (100) or more members.

6. ASSESSMENTS

6.1 Agreement to Pay. The Declarant, for each condominium owned by the Declarant that is expressly made subject to assessment as set forth in this Declaration, and each purchaser of a condominium by his acceptance of a deed agrees, for each condominium owned, to pay to the Association regular assessments

and special assessments, such assessments to be established, made, and collected as provided herein.

6.2 Personal Obligation. Each assessment or installment, interest, collection costs, and reasonable attorney's fees, as stated in Sections 4.3.1.2 and 6.9 of this Declaration, shall be the personal obligation of the person or entity who was an owner at the time such assessment, or installment, was levied. If more than one (1) person or entity was the owner of a condominium, the personal obligation to pay such assessment, or installment, respecting such condominium shall be both joint and several. The personal obligation for delinquent assessments, or delinquent installments, and other such sums, shall not pass to an owner's successors in interest unless expressly assumed by them. No owner of a condominium may exempt himself from payment of assessments, or installments, by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use and enjoyment of, or by abandonment of, his condominium.

6.3 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the members of the Association, the improvement, replacement, repair, operation and maintenance of the Common Area and the performance of the duties of the Association as set forth in this Declaration. The Association shall not impose or collect an assessment, penalty, or fee that exceeds the amount necessary to defray the costs for which it is levied.

6.4 Regular Assessments. At least sixty (60) days before the beginning of each fiscal year the Board shall estimate the total amount of funds necessary to defray the common expenses of the Association for the next fiscal year. If the amount is approved by a majority vote of the Board, without a vote of the members of the Association, the estimate shall become the regular assessment for such year. However, the Board may not increase the amount of regular assessment for any fiscal year of the Association by more than twenty percent (20%) above the amount of the prior fiscal year's regular assessment without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section "quorum" means more than fifty percent (50%) of the owners of the Association. The assessments shall be uniform and shall be determined as provided in Section 6.7. The regular assessments shall be payable in regular installments as provided in this Declaration and shall include adequate reserve funds for contingencies, and for maintenance, repairs, and replacement of the Common Area improvements that must be replaced on a periodic basis sufficient to satisfy the requirements of any mortgagee.

6.5 Special Assessments. If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason (including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the Common Area) the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board, it shall become a special assessment. The Board may, in its discretion, prorate such assessment over the balance of the fiscal year or levy the assessment immediately against each unit. Any special assessment more than five percent (5%) of the budgeted gross expense of the Association for the fiscal year in which it is levied shall require the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section "quorum" means more than fifty percent (50%) of the owners of the Association.

6.6 Exemption from Limitation. Sections 6.4 and 6.5 herein do not limit assessment increases for emergency situations. For purposes of this Section, an emergency situation is any one (1) of the following:

- (a) an extraordinary expense required by an order of a court;
- (b) an extraordinary expense necessary to repair or maintain the Development or any part of it for which the Association is responsible where a threat to personal safety on the property is discovered;
- (c) an extraordinary expense necessary to repair or maintain the Development or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget. However, prior to the imposition or collection of an assessment under this Section, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment;
- (d) an extraordinary expense in making the first payment of an earthquake surcharge pursuant to Section 5003 of the California Insurance Code.

6.7 Uniform Rate of Assessment. Except as herein stated, regular and special assessments must be fixed on an equal basis and at a uniform rate for all condominiums and shall be determined by dividing the amount by the total number of condominiums within the Development and subjected to assessments. Notwithstanding the foregoing, a special assessment against owners to raise funds for the rebuilding or major repair of the structural Common Area

housing units of the Development shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed. The limitations herein shall not apply in the case where the special assessment against an owner is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the owner and his unit into compliance with provisions of the Declaration and Bylaws.

6.8 Assessment Period. The regular assessment period shall commence on January 1 and shall terminate on December 31 of each year, and regular assessments shall be payable in equal monthly installments unless the Board adopts some other basis for collection. However, the initial regular assessment period for all units, including those owned by Declarant, shall commence on the first day of the calendar month following the date on which the sale of the first condominium to a purchaser is closed and recorded (the "initiation date") and shall terminate on December 31 of the year in which the initial sale is closed and recorded. The first regular assessment and all special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other basis for collection.

6.9 Notice and Assessment Installment Due Dates. The Association shall provide notice by first-class mail to each owner of every condominium subject to assessment 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. The due dates for the payment of installments normally shall be the first day of each month unless some other due date is established by the Board. Each installment of regular assessments and special assessments shall become delinquent if not paid within fifteen (15) days after its due date. If an assessment is delinquent, the Association may recover all of the following:

(a) reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees;

(b) a late charge not exceeding ten percent (10%) of the delinquent assessment or ten dollars (\$10), whichever is greater;

(c) interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges at a twelve percent (12%) annual rate, commencing thirty (30) days after the assessment becomes due.

6.10 Capitalization of Association. Upon acquisition of record title to a condominium unit from Declarant, each owner shall contribute to the capital of the Association an amount equal to one-sixteenth (1/16) of the amount of the then annual assessment

for that condominium as determined by the Board (or if a conveyance occurs before said annual assessment is determined, one-sixteenth (1/16) of the amount of the budgeted annual assessment approved by the California Department of Real Estate). The amount shall be deposited into the purchase and sales escrow and be disbursed therefrom to the Association upon closing.

7. COLLECTION OF ASSESSMENTS; LIENS

7.1 Right to Enforce. The right to collect and enforce assessments is vested in the Board acting on behalf of the Association. The Board or its authorized representative, including any manager, can enforce the obligations of the owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.2 to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other amounts described in Sections 4.3.1.2 and 6.9 of this Declaration shall be maintainable without foreclosing or waiving the lien rights.

7.2 Notice of Delinquency. As provided in California Civil Code Section 1367(a), before the Association may place a lien upon a condominium as described in Section 7.3 for a delinquency in the payment of any assessment, or installment as described in Sections 4.3.1.2 and 6.9, the Association shall notify the owner of such condominium in writing by certified mail of the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the owner, including items on the statement which indicate the principal owed, any late charges and the method of calculation, any attorney's fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. In addition, any payments toward such a debt shall first be applied to the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses.

7.3 Creation of Lien. Subject to the notice requirements of Section 7.2 herein, if there is a delinquency in the payment of any assessment, or installment on a condominium, as described in Sections 4.3.1.2 and 6.9, any amounts that are delinquent together with late charges, interest, reasonable collection costs, and reasonable attorney's fees shall be a lien against such condominium on the recordation in the office of the county recorder where the Development is located a notice of delinquent assessment as provided in California Civil Code Section 1367. The notice of delinquent assessment shall state the amount of the assessment, a description of the owner's interest in the condominium against which the levy is being made, the name of the record owner of the owner's interest in the condominium against which the lien is being imposed, and in order for the lien to be enforced by nonjudicial

foreclosure, shall also include the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice of delinquent assessment shall be signed by a person designated by the Association for that purpose or, if no particular person is so designated, by the President and mailed in the manner set for in Civil Code Section 2924(b), to all record owners of the owner's interest in the Development no later than ten (10) calendar days after recordation. Upon payment of the sums specified in the notice of delinquent assessment, the Association shall record a further notice stating the satisfaction and release of the lien thereof.

7.4 Enforcement of Lien. As provided in California Civil Code Section 1367(e), after the expiration of thirty (30) days following the recording of a lien created under Section 7.3 herein, said 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 2934a. Any sale by the trustee shall be conducted in accordance with the provisions of California Civil Code Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust.

7.5 Waiver of Exemptions. Each owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to Section 7, the benefit of any homestead or exemption law of California in effect at the time any assessment, or installment becomes delinquent or any lien is imposed.

8. INSURANCE

8.1 Liability Insurance. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any manager, the Declarant, and the owners and occupants of condominiums, and their respective family members, guests, invitees, and the agents and employees of each, against any liability incident to the ownership or use of the Common Area and including, if obtainable, a crossliability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than two million dollars (\$2,000,000) per occurrence covering all claims of death, personal injury and property damage. Such insurance shall include coverage against any liability or risk customarily covered with respect to projects similar in construction, location, and use.

8.2 Fire and Extended Coverage Insurance. The Association also shall obtain and maintain a master or blanket policy of fire insurance for the full insurable value of all of the improvements within the Development. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to all institutional mortgagees. If more than one (1)

institutional mortgagee has a loan of record against the Development, or any part of it, the policy and endorsement shall meet the maximum standard of the various institutional mortgagees represented in the Development. The policy shall contain an agreed amount endorsement or a contingent liability from operation of building laws endorsement or their equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage, a special form endorsement and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall be in the amounts as shall be determined by the Board. The policy shall name as insured the Association, the owners, and Declarant, as long as Declarant is the owner of any condominium, and all institutional mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee described in this Declaration.

8.3 Trustee. All fire and casualty insurance proceeds payable under Section 8.2 for losses to real property and improvements may be paid to a trustee, to be held and expended for the benefit of the Owners, Mortgagees, and others, as their respective interest shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the County in which the Development is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Association shall have the duty to contract for such work as provided for in this Declaration.

8.4 Individual Fire Insurance Limited. Except as provided in this section no owner can separately insure his unit or any part of it against loss of fire or other casualty covered by any insurance carrier under paragraph 8.2. If any owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 8.2 that results from the existence of such other insurance will be chargeable to the owner who acquired other insurance, and the owner will be liable to the Association to the extent of any such diminution. An owner can insure his personal property against loss. In addition, any improvements made by an owner to the real property within his 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 tenant's improvements. All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to the owners, the Association, and Declarant.

8.5 Owner's Insurance. An owner may carry whatever personal liability and property damage liability insurance with respect to his condominium that he desires. However, any such policy shall include a waiver of subrogation clause acceptable to the Board and to any mortgagee.

8.6 Fidelity Coverage. The Association shall also obtain and maintain fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible for handling the funds of the Association. Such fidelity bond shall name the Association as obligee, shall be written in an amount not less than a sum equal to three (3) months aggregate assessments on all units plus reserve funds, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation or from any definition of "employee" or similar expression.

8.7 Earthquake Coverage. Earthquake coverage shall be optional; however, the Association shall not carry earthquake coverage without the approval of a majority of the total voting power of the members. If the members elect to require the Association to obtain earthquake coverage, the coverage may be subsequently cancelled on vote of a majority of the total voting power of the members. If cancelled, the Association shall notify the members as provided in Section 8.9.2 herein.

8.8 Distribution to Mortgagees. Subject to the provisions of Section 8.3, any mortgagee shall have the option to apply insurance proceeds payable on account of a unit to such mortgagee in reduction of the obligation secured by the mortgage of such mortgagee.

8.9 Notices to Members Relating to Insurance Policies. The following information shall be distributed not less than forty-five (45) days and not more than sixty (60) days before the beginning of each fiscal year relating to the Association's insurance policies:

8.9.1 A summary of the Association's property and general liability policies and earthquake and flood insurance policies, if any, that states all of the following:

- (a) The name of the insurer.
- (b) The type of insurance.
- (c) The policy limits of the insurance.
- (d) The amount of deductibles, if any.

8.9.2 The Association shall, as soon as reasonably practical, notify the members by first-class mail if any of the policies described in Section 8.9.1 have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described in Section 8.8.1, the Association shall immediately notify its

members if replacement coverage will not be in effect by the date the existing coverage will lapse.

8.9.3 To the extent that any of the information to be disclosed pursuant to Sections 8.9.1 and 8.9.2 is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all of its members.

8.9.4 The summary distributed pursuant to Section 8.9.1 shall contain, in at least 10-point boldface type, the following statement: "This summary of the association's policies of insurance provides only certain information, as required by subdivision (e) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

9. DESTRUCTION OF IMPROVEMENTS

9.1 Destruction; Proceeds Over Eighty-Five Percent (85%). If there is a total or partial destruction of the improvements in the Development, and if the available proceeds of the insurance carried pursuant to Section 8 are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, members then holding at least seventy-five percent (75%) of the total voting power of members present and entitled to vote, in person or by proxy, at a duly constituted meeting, shall determine that such repair and reconstruction shall not take place. If repair and reconstruction is to take place, the Board shall be required to execute, acknowledge and record in the office of the county recorder where the Development is located, not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the members to rebuild.

9.2 Destruction; Proceeds Less Than Eighty-Five Percent (85%). If the proceeds of the insurance are less than eighty-five percent (85%) of the costs of repair and reconstruction, repair and

reconstruction may nevertheless take place if, within ninety (90) days from the date of destruction, members then holding at least fifty-one percent (51%) of the total voting power of members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall take place. If repair and reconstruction are to take place, the Board shall be required to execute, acknowledge and record in the office of the county recorder where the Development is located, not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the members to rebuild.

9.3 Rebuilding Procedures. If the members determine to rebuild, pursuant to paragraphs 9.1 or 9.2, the owner of each unit located within a structure that has been totally or partially destroyed shall be obligated to contribute his proportionate share of the cost of reconstruction or restoration of the structure containing his unit, over and above the available insurance proceeds. All owners shall contribute their proportionate share of the cost of reconstruction and restoration of any portion of the Common Area not comprising the structure within which a unit is located, and the proportionate share of each owner shall be equal to a fraction, the numerator of which is one (1) and the denominator of which is the number of condominiums then comprising that part of the Development. If any owner fails or refuses to pay his proportionate share, the Board may levy a special assessment against the condominium of such owner which may be enforced under the lien provisions contained in Section 7 or in any other manner provided in this Declaration. If any owner disputes the amount of his proportionate liability under this section, such owner may contest the amount of liability by submitting to the Board within ten (10) days after notice to the owner of his share of the liability, written objections supported by cost estimates or other information that the owner deems to be material and may request a hearing before the Board where he may be represented by counsel. Following such hearing, the board shall give written notice of its decision to all owners. If such adjustments are recommended, the notice shall schedule a special meeting of members for the purpose of acting on the Board's recommendation, including making further adjustments, if deemed by the members to be necessary or appropriate. All adjustments shall be affirmed or modified by a majority of the total voting power of members. If no adjustments are recommended by the Board, the decision of the Board shall be final and binding on all owners, including any owner filing objections.

9.4 Rebuilding Contract. If the members determine to rebuild, the Board or its authorized representative shall obtain bids from at least two (2) reputable contractors and shall award the repair and reconstruction work to the lowest bidder. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the insurance

proceeds held by the trustee shall be disbursed to the contractor according to the terms of the agreement. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

9.5 Rebuilding Not Authorized. If the members determine not to rebuild, any insurance proceeds then available for such rebuilding shall be distributed to the owner of each condominium and their respective mortgagees proportionately according to the respective fair market values of the units at the time of destruction as determined by an independent appraisal in accordance with the procedure specified in Section 10.4 herein. The Board shall have the duty within one hundred and twenty (120) days from the date of such destruction, to execute, acknowledge and record in the Office of the county recorder where the Development is located, a certificate declaring the intention of the members not to rebuild.

9.6 Minor Repair and Reconstruction. The Board shall have the duty to repair and reconstruct improvements, without the consent of members and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed twenty thousand dollars (\$20,000). The Board is expressly empowered to levy a special assessment for the cost of repair and reconstruction of improvements to the extent insurance proceeds are unavailable, such assessment to be levied as described in Section 9.3 (but without the consent or approval of members despite any contrary provisions) in this Declaration.

10. CONDEMNATION

10.1 Sale by Unanimous Consent. If an action for condemnation of all or a portion of the Development is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the owners and after written notice to all mortgagees, the Development or a portion of it may be sold.

10.2 Distribution of Proceeds of Sale. On a sale occurring under Section 10.1, the proceeds shall be distributed to the owner and the mortgagees of each condominium as their respective interests may appear according to the unanimous consent of the owners affected or, if said consent is not forthcoming, according to the relative values of the affected units as determined by Section 10.4 herein.

10.3 Distribution of Condemnation Award. If the Development, or a portion of it, is not sold but is instead taken, the judgment of condemnation shall by its terms apportion the award among the owners and their respective mortgagees, according to the relative

values of the units affected by the condemnation as determined by Section 10.4 herein.

10.4 Procedure for Independent Appraisal. The Board shall obtain an independent appraisal of the affected condominium units by selecting two (2) appraisers who shall select a third appraiser. In the event the two (2) appraisers selected shall fail, within ten (10) days after their selection, to agree upon the third, then the Presiding Judge of the Superior Court of the county in which the Development is located shall, upon the Board's request, appoint within ten (10) days after such request, a third appraiser. The appraisers so selected or appointed shall promptly proceed to determine the fair market value of the affected units; any valuation agreed upon by a majority of such appraisers shall be accepted as final and conclusive by the Association and by any court of competent jurisdiction and shall ipso facto become the fair market value of the units. All appraiser shall be members of the American Institute of Real Estate Appraisers.

11. PARTITION

11.1 Partition. Except as provided in this section, the Common Area in this Development shall remain undivided, and there shall be no judicial partition thereof. Nothing in this section shall prohibit partition of a cotenancy in a condominium. The owner of a separate interest in a condominium may maintain a partition action as to the Development as if the owners of all of the condominiums were tenants in common in the entire Development in the same proportion as their interests in the Common Area. The court shall order partition under this section only by sale of the entire Development and only upon a showing of one (1) of the following:

(a) more than three (3) years before the filing of the action, the Development was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the Development has not been rebuilt or repaired substantially to its state prior to the damage or destruction;

(b) seventy-five percent (75%) or more of the Development is destroyed or substantially damaged, and owners of separate interests holding in the aggregate more than a fifty percent (50%) interest in the Common Area oppose repair or restoration of the Development;

(c) the Development has been in existence more than fifty (50) years, is obsolete and uneconomic, and owners of separate interests holding in the aggregate more than a fifty percent (50%) interest in the Common Area oppose repair or restoration of the Development.

12. NONSEVERABILITY OF COMPONENT INTERESTS IN A CONDOMINIUM

12.1 Prohibition against Severability. An owner shall not be entitled to sever his unit in and his membership from his undivided interest in the Common Area for any purpose. None of the component interests can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void. Similarly, no owner can sever the Exclusive Use Common Area from his condominium, and any attempt to do so shall be void. The suspension of his right of severability will not extend beyond the period set forth in Section 11 respecting the prohibition of partition.

12.2 Conveyance. After the initial sale of the condominiums, any conveyance of a unit, or of a component interest in the Common Area, by the owner of any condominium, shall be presumed to convey the entire condominium, however, nothing contained in this section shall preclude the owner of any condominium from creating a cotenancy with any other person or persons.

13. TERM OF DECLARATION

13.1 Term. This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from the date on which this Declaration is executed. After that time this Declaration and all covenants, conditions, restriction and other provisions shall be automatically extended for successive periods of ten (10) years each, unless extinguished by a written instrument executed by at least seventy-five percent (75%) of the owners of the condominiums and recorded in the office of the county recorder where the Development is located within one (1) year prior to the expiration of said fifty (50) year period or the expiration of said ten (10) year period as the case may be.

14. PROTECTION OF MORTGAGEES

14.1 Mortgage Permitted. Any owner may encumber his condominium with a mortgage.

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

14.3 Control of Amendment or Revocation of Development Documents. Restrictions in favor of first mortgagees relating to the amendment or revocation of the Development documents are specifically provided for in Section 16 of this Declaration.

Notwithstanding the foregoing, no amendment to this Declaration, the Articles, or the Bylaws shall affect the rights of any mortgagee under any mortgage made in good faith and for value and recorded before the recordation of any such amendment unless the mortgagee either joins in the execution of the amendment or approves it in writing as a part of such amendment.

14.4 Foreclosure. If any condominium is encumbered by a first mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments shall not operate to affect or impair the lien of the mortgage. On foreclosure of the mortgage, the lien of assessments or of installments that have been accrued up to the time of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure purchaser taking title to the condominium free of the lien. On taking title to the condominium the foreclosure purchaser shall only be obligated to pay the assessments or other charges levied or assessed by the Association after the foreclosure purchaser acquired title to the condominium. The term "foreclosure" as used herein shall include the exercise of a power of sale involving a default under said mortgage.

14.5 Right to Examine Books and Records. First mortgagees can examine the books and records of the Association or the Development and can require the submission of financial data concerning the Association or the Development, including annual audit reports and operating statement as furnished to the owners.

14.6 Distribution of Insurance and Condemnation Proceeds. No unit owner, or any other party, shall have priority over any right of first mortgagees of any units pursuant to their mortgages in case of a distribution to unit owners of insurance proceeds or condemnation awards for losses to or a taking of units or Common Area. Any provision to the contrary in this Declaration, the Bylaws, or other documents relating to the Development is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies (except those relating to personal property owned by unit owners) shall contain loss payable clauses acceptable to the affected mortgagees naming the mortgagees, as their interests may appear.

14.7 Notices to Mortgagees of Record. On any loss to any unit covered by a mortgage, if such loss exceeds one thousand dollars (\$1,000), or on any loss to the Common Area, if such loss exceeds ten thousand dollars (\$10,000), or on the taking of the Common Area, notice in writing of such loss or taking shall be given to each mortgagee of record. If any owner of a unit is in default under any provision of this Declaration, the Bylaws, or the Association's rules and regulations, which default is not cured within sixty (60) days after written notice to such owner, the Association shall give to the mortgagee of record of such owner

written notice of such default and of the fact that said sixty (60) day period has expired.

14.8 Effect of Breach. No breach of any provisions of this Declaration shall invalidate the lien of any mortgage in good faith and for value; this Declaration shall be binding on any owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

14.9 Non-Curable Breach. Any mortgagee who acquires title to a condominium by foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practicable or feasible to cure.

14.10 Loan to Facilitate. Any mortgage given to secure a loan to facilitate the resale of a condominium after acquisition by foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of Section 14.

14.11 Appearance at Meetings. Because of its financial interest in the Development, any mortgagee may appear at meetings of the members and the Board to draw attention to violations of this Declaration that have not been corrected or made the subject of remedial proceedings or assessments.

15. CONTRACTS WITH DECLARANT

15.1 Contracts. Any agreement between the Association and Declarant pursuant to which Declarant agrees to provide services shall provide for termination by either party without cause or payment of a termination fee on thirty (30) days' written notice and shall have a maximum contract term of one (1) year, provided that the Board can renew any such contract on a year-to-year basis.

16. AMENDMENTS

16.1 Amendment Before Close of First Sale. Subject to the written approval of the City, before the close of the first sale in the Development to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and all mortgagees of record of an instrument amending or revoking the Declaration. However, any amendment or revocation which would materially affect the owners' rights to ownership, possession or use of their interests in the Development shall also require the prior written consent of the Commissioner of the California Department of Real Estate.

16.2 Control of Amendment or Revocation of Development Documents by First Mortgagees After Close of First Sale. Subject to the written approval of the City, after the close of the first

sale of the condominium in the Development to a purchaser other than Declarant, approval by owners who represent at least seventy-five percent (75%) of the total voting power and fifty-one percent (51%) of the voting power other than Declarant, and by at least sixty-seven percent (67%) of all first mortgage holders, must be obtained prior to adoption of any amendment of a material nature affecting any of the following matters:

(a) Voting rights.

(b) Increases in assessments that raise the previously assessed amount by more than twenty-five (25%) except in cases of emergency as defined in Section 6.6 herein; assessment liens, or the priority of assessment liens.

(c) Reductions in reserves for maintenance, repair, or replacement of the Common Area improvements.

(d) Responsibility for maintenance and repairs.

(e) Reallocation of interests, rights of use, or obligations of any individual unit relating to the Common Area or for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(f) Redefinition of any unit boundary by partition or subdivision.

(g) Convertibility of units into Common Area or Common Area into units including by act or omission to seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area. The granting of easements for public utilities or for other public purpose consistent with the intended use of Common Area by the Association or the owner shall not be deemed a transfer within the meaning of this clause.

(h) Expansion or contraction of the Development or the addition, annexation, or withdrawal of property to or from the Development.

(i) Hazard or fidelity insurance requirements or the use of hazard insurance proceeds for losses to units or the Common Area for other than the repair, replacement, or reconstruction of such property, except as provided by the statute in case of substantial loss to the units or Common Area.

(j) Imposition of any restrictions on the leasing of units.

(k) Imposition of any restrictions on a unit owner's right to sell or transfer his or her unit.

(l) Restoration or repair of the development (after damage or partial condemnation) in a manner other than that specified in this Declaration.

(m) Any provisions that expressly benefit mortgage holders, insurers, or guarantors.

(n) A decision by the Association of a Development of 50 or more units, to establish self-management when professional management had been required previously by the Governing Documents or by an eligible mortgage holder.

(o) Any action to terminate or seek to abandon the legal status of the Development.

If any provision of this Declaration requires a greater or lesser percentage of the voting rights of members in order to take affirmative or negative action under such provision, the same percentage of such members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, mortgagee, or other person, firm, agency, or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly-authorized officer of the Association, shall make appropriate reference to this Declaration, shall comply with California Civil Code Section 1355.

16.3 Amendment by Owners after Close of First Sale. Subject to the provisions of Section 16.2 herein, this Declaration may be amended or revoked in any other respect allowed by law by the vote or written consent of the holders of not less than seventy-five percent (75%) of the total voting power of the Association and fifty-one percent (51%) of the votes other than Declarant.

16.4 Approval of the Commissioner of the California Department of Real Estate. Notwithstanding the foregoing, any amendment or revocation of this Declaration which would materially affect the owners' rights to ownership, possession or use of their interests in the Development shall also require the prior written consent of the Commissioner of the California Department of Real Estate so long as Declarant or his successor in interest holds or directly controls as many as one-fourth (1/4) of the votes that may be cast to effect such change.

16.5 Approval by the City. Notwithstanding any other provisions of this Section, no amendment of a provision affecting the rights of the City and no action by Declarant or the Association terminating this Declaration shall be effective without

the prior written consent of the City. The Declarant or the Association shall forward, or cause to be forwarded, to the City a written notice of any such amendment or termination. If no notice of disapproval is received by the Association within thirty (30) days following the receipt of such notice, such amendment or termination shall be deemed to be approved.

16.6 Approval by the U.S. Department of Veterans Affairs. Notwithstanding the foregoing, so long as Declarant retains a majority ownership interest in the Development, the following shall require the prior approval of the VA: Annexation of additional property other than described herein, mergers and consolidations, any special assessments, and any amendment of this Declaration. A draft of any amendment to this Declaration should be submitted to the VA for its approval prior to its approval by the membership of the Association.

17. GENERAL PROVISIONS

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

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

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

17.4 Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and may be enjoined or abated whether or not the relief sought is negative or affirmative action by Declarant, the Association, or any owners.

17.5 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made 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, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the unit of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

17.6 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the

contrary, and the masculine, feminine, and the neuter, shall include masculine, feminine, or neuter as the context requires.

17.7 Exhibits. All exhibits referred to are attached to this Declaration and incorporated by reference.

17.8 Easements reserved and Granted. Any easement referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any condominium.

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

17.10 Attorney's Fees. If any owner defaults in making a payment of assessments or in the performance of any provision in this Declaration, and the Association has obtained the services of any attorney with respect to the defaults involved, the owner covenants and agrees to pay the Association all costs and fees incurred, including reasonable attorney's fees, regardless of whether legal proceedings are instituted.

18. COVENANTS AND CONDITIONS IN FAVOR OF THE CITY OF WHITTIER

18.1 Enforcement. In addition to the general rights of enforcement contained in this Declaration, the City and any other government entity with appropriate jurisdiction shall have the right, through its agents and employees, to enter upon any part of the Development for the purpose of enforcing all applicable codes and/or local ordinances, including, but not limited to State and Federal laws, and is hereby granted an easement over the Development for such purpose.

18.1.1 Rights of the City to Compel Performance. The rights of the City to compel performance shall include the following:

(a) The Declarant, the Association, and owners grant to the City, its employees, agents and contractors the right and power to enforce the Common Area maintenance covenants of the Association and the owners with respect to the maintenance thereof as contained in this Declaration; provided, however, that no duty on the part of the City to exercise this power and to enforce said use and maintenance covenants shall be deemed to arise by virtue of this Declaration or any other action of the City. Notwithstanding any provision of this Declaration that appears to the contrary, the City may, by action at law or in equity, enforce all provisions of this Declaration relating to the proper maintenance, repair and use of the Common Area.

(b) In the event of default of any owner or the Association in performing their obligations to maintain the Common Area as set forth in this Declaration, the City shall have the same right as that of the Association to enter the Common Area for the purpose of discharging the obligations of the Association. The City shall

(i) provide reasonable notice to the owners and Association of its intention to enter the Common Area, specifying the manner in which any Owner or the Association has defaulted in performing their obligation to maintain the Common Area, and

(ii) afford the Owner and/or the Association a reasonable opportunity to remedy such default. The Association and Owners, jointly and severally, shall reimburse the City for all costs, expenses, and losses incurred relating to the curing of the default, including but not limited to, all costs involved in maintaining, repairing, replacing, or otherwise performing work upon, or providing materials for, the Common Area, whether the work or materials are furnished by the City or by private contractors designated by the City. If the City is not paid for all costs, expenses or losses incurred within thirty (30) days after giving the Association written notice of the amount thereof, the amount shall become a lien on both the Common Area and on each Owner's Lot, and the City shall have the right to enforce its lien in the same manner as provided in Section 7 hereof relating to non-payment of Assessments.


(c) No approval by an owner, the Association or the Board shall be necessary to establish and foreclose any lien of the City for non-payment of amounts expended by the City to enforce any default pertaining to the use and maintenance of the Common Area. No failure by the City to enforce a default pertaining to the use and maintenance of the Common Area shall be deemed to be a waiver of the right or power of the City to enforce any subsequent default thereof. In the event the City is the prevailing party in an enforcement action under this Section, the City shall have the right to collect its reasonable attorney's fees, costs, and expenses associated with any action or proceeding to enforce its rights hereunder.


(d) Notwithstanding any provision in this Declaration that appears to the contrary, approval of this Declaration by the City shall not be deemed a waiver or release of any applicable Conditions contained in Conditional User Permit No. C94-13 for the Development as previously approved by the City or as they may be amended from time to time, or of any other applicable ordinance or


law or the general police power of the City. In the event of any conflict between any provision hereof and any ordinance, law or the general police power of the City, the latter shall prevail.

Declarant has executed this instrument as of August 28, 2000.


CLARENCE E. SMITH


JACQUELINE A. SMITH


CLARENCE EUGENE SMITH, TRUSTEE
OF THE CLARENCE EUGENE SMITH
AND JACQUELINE AIELLO SMITH
INTER VIVOS AGREEMENT DATED
SEPTEMBER 17, 1982


JACQUELINE AIELLO SMITH, TRUSTEE
OF THE CLARENCE EUGENE SMITH
AND JACQUELINE AIELLO SMITH
INTER VIVOS AGREEMENT DATED
SEPTEMBER 17,



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

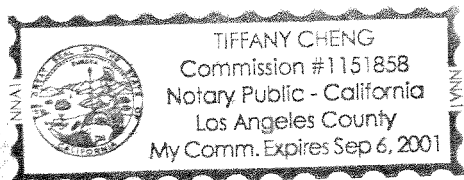
00-1825307

County of LOS ANGELES

On SEPTEMBER 15, 2000 before me, TIFFANY CHENG, NOTARY PUBLIC

personally appeared CLARENCE EUGENE SMITH & JACQUELINE AIELLO SMITH*****

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Tiffany Cheng
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

(Attached document bears embossment)

Description of Attached Document

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

Title or Type of Document: ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP FOR TRACT NO. 51968

Document Date: AUGUST 28, 2000 Number of Pages: 40

Signer(s) Other Than Named Above: NO OTHER SIGNER

Capacity(ies) Claimed by Signer(s)

Signer's Name: CLARENCE EUGENE SMITH

- ☒ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☒ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

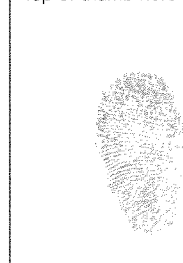


Signer Is Representing:

Signer's Name: JACQUELINE AIELLO SMITH

- ☒ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☒ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



Signer Is Representing:

EXHIBIT A

That real property located in the City of Whittier, County of Los Angeles, State of California, and more specifically described as follows:

Lot 1 of Tract No. 51968 as per map recorded in Book 1235, Pages 23 and 24 of Maps, Official Records of the County Recorder of said County.

EXHIBIT B

1. Declarant proposes to improve the real property by constructing on it improvements containing sixteen (16) dwelling units.

2. The Common Area consists of Lot 1 of Tract No. 51968 excepting the sixteen (16) units of the Development, which sixteen (16) units are more specifically defined in the Condominium Plan.

3. The respective interest in the Common Area to be conveyed with each unit comprises an undivided one-sixteenth (1/16th) interest.

4. Each unit shall consist of all those component elements bearing an identical number designation which number designation follows the designation of the component element as defined and described in the Condominium Plan. Should the definition of "unit" contained in the Condominium Plan differ from that stated in this subparagraph, the Condominium Plan definition shall prevail. Each owner shall be entitled to the exclusive use and enjoyment of his unit for all purposes not inconsistent with the provisions, restrictions, and limitations contained in this Declaration and in the Bylaws. An owner shall not interfere with the Association's right to service, maintain, landscape, and otherwise care for the Common Area. The term "unit" means and includes, for the purpose of this Declaration, all of the above described ownership interests except where the context clearly indicates to the contrary. Each unit includes both the portions of the building and the airspace so encompassed, excepting therefrom any central services, pipes, ducts, chutes, conduits, and wires wherever located within the unit (excluding from this exception outlets within the unit).

BYLAWS
OF
NEWLIN & HADLEY, INC.

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NEWLIN & HADLEY, INC.

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BYLAWS
OF
NEWLIN & HADLEY, INC.

ARTICLE I
NAME AND LOCATION

The name of the Association is NEWLIN & HADLEY, INC., hereinafter referred to as the "Association." The principal office of the Association shall be located within Tract 51968 in the City of Whittier, County of Los Angeles, California, or at a meeting place as close thereto as possible.

ARTICLE II
DEFINITIONS

Section 1. "Association" shall mean and refer to NEWLIN & HADLEY, INC., a nonprofit mutual benefit corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property managed and controlled by the Association for the common use and enjoyment of the owners.

Section 3. "Declarant" shall mean and refer to CLARENCE E. SMITH and JACQUELINE A. SMITH, and CLARENCE EUGENE SMITH and JACQUELINE AIELLO SMITH, TRUSTEES OF THE CLARENCE EUGENE SMITH AND JACQUELINE AIELLO SMITH INTER VIVOS TRUST AGREEMENT DATED SEPTEMBER 17, 1982, their successors and assigns if such successors or assigns should acquire more than one (1) undeveloped unit from the Declarant for the purpose of development.

Section 4. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions applicable to the Development recorded in the office of the county recorder where the Development is located.

Section 5. "Development" shall mean and refer to that real property described in the Declaration of Covenants, Conditions, and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 6. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons, or entities, of fee simple title to any unit which is a part of the Development; "Owner" includes contract purchasers of record, but not those having an interest merely as security for the performance of an obligation.

Section 8. "Unit" shall mean and refer to the elements of a condominium that are not owned in common with the owners of condominiums in the Development.

Section 9. "VA" shall mean and refer to the U. S. Department of Veterans Affairs including the department or agency of the United States Government as shall succeed to the VA.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Qualifications. Each owner of a unit, including Declarant, shall be a member of the Association and be entitled to one (1) vote for each unit owned. If a given unit is owned by more than one (1) owner, all such owners shall be members of the Association; provided, however, that for the purpose of representation of such unit with regard to the affairs of the Association and the voting of the members of the Association, such unit shall be represented by and entitled to only one (1) vote which shall be exercised and cast in accordance with the provisions of these Bylaws. Ownership of a unit within the Development shall be the sole qualification for membership in the Association.

Section 2. Transfer of Membership. The Association membership of each owner shall be appurtenant to the unit giving rise to such membership and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon the transfer of title of said unit and then only to the transferee of title to said unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a unit shall operate automatically to transfer the membership in the Association appurtenant thereto to the new owner thereof.

Section 3. Voting Rights. Each unit, regardless of the number of owners thereof, shall be represented in the Association by only one (1) vote which may be cast only as a unit by the owner or owners thereof. Whenever these Bylaws or the Declaration require the vote, assent, or presence of a stated number of owners or members entitled to vote on a matter or at a meeting with regard to the taking of any action or any other matter whatsoever, the provisions of this Article III and Section 2 of Article V shall govern as to the total number of available votes, the number of votes an owner is entitled to cast at the meeting, and the manner in which the vote attributable to a unit having more than one (1) owner shall be cast.

Section 4. Joint Owner Disputes. The vote for each such unit may be cast only as a unit, and fractional votes shall not be allowed. In the event that joint owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any owner or owners cast a vote representing a certain unit, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other owners of the same unit. In the event more than one (1) vote is cast for a particular unit, none of said votes shall be counted and all shall be deemed void.

Section 5. Members' Rights and Duties. Each member shall have the rights, duties, and obligations set forth in these Bylaws and the Declaration, as the same may be amended from time to time.

Section 6. Cumulative Voting. Election to and from the Board shall be by written secret ballot and shall be by cumulative voting, provided a member has placed a candidate's name in nomination prior to the voting and given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any member has given such notice, then all members shall have the right to cumulate their votes for candidates in nomination. Under cumulative voting, each member, either in person or by proxy, may give a single candidate the number of votes equal to the number of Directors to be elected multiplied by the number of votes the member is entitled to exercise under this Declaration, or the member may distribute these cumulated votes among any two (2) or more candidates as the member desires. The candidates receiving the highest number of votes up to the number of Board members to be elected shall be elected. Unless the entire Board is removed from office by vote of the members, a Director shall not be removed before his term expires if the number of votes cast against removal would be sufficient to elect said Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Board were then being elected. A Director who has been elected to office solely by votes of members other than Declarant may be removed from office prior to the expiration of his term only by the vote of at least a simple majority of the voting power residing in members other than Declarant.

ARTICLE IV

MEMBERSHIP ASSESSMENTS AND LIEN RIGHTS

Section 1. Membership Assessments. All assessments of the members provided for in the Declaration shall be paid by the members at the times, in the manner, and subject to the conditions and limitations set forth in the Declaration, and the Board shall

fix, levy, collect, and enforce such assessments at the time, manner, and subject to the limitations in the Declaration.

Section 2. Enforcement, Lien Rights. In order to enforce and collect assessments, the Association shall have the lien rights set forth in the Declaration, which shall be enforceable in the manner set forth in the Declaration, and shall be entitled to exercise all other rights and remedies set forth in the Declaration or otherwise provided for at law or in equity.

ARTICLE V

MEMBERSHIP RIGHTS AND PRIVILEGES

Section 1. Rights and Privileges of Members. No member shall have the right, without the prior approval of the Board to exercise any of the powers or to perform any of the acts by these Bylaws or the Declaration delegated to the Board or the Association, but shall have all of the rights and privileges including, but not limited to, property rights and rights of access to and over, and use and enjoyment of the Common Area granted to the members or owners by these Bylaws or the Declaration subject to such limitations as may be imposed in accordance therewith.

Section 2. Suspension of Voting Rights. The Board shall have the right to suspend the voting rights of any member or members of the Association for the period during which any assessment against the unit owned by such member or members and giving rise to such membership remains unpaid and delinquent. The Board shall also have the right to suspend such voting rights for a period not to exceed thirty (30) days for any infraction of the rules and regulations of the Association adopted by the Board committed by any owner of the particular unit giving rise to the voting rights being suspended, his guests, tenants, invitees, or the members of his family. No suspension of voting rights shall be imposed unless the procedures for notice and hearing satisfying the minimum requirements of Corporations Code Section 7341 are followed with respect to the accused member or members before a decision to suspend voting rights is reached.

ARTICLE VI

MEETINGS OF MEMBERS

Section 1. Place of Meetings. All meetings of the members shall be held within the Development or at a place as close thereto as possible. Unless unusual conditions exist, members' meetings shall not be held outside of the county where the Development is located.

Section 2. Annual Meetings of Members. The annual meeting of members shall be held on the second Monday of January of each year

commencing with the year immediately following the year during which the organizational meeting as hereinafter provided for is held, provided, however, that should said day fall upon a legal holiday, then any such annual meeting of members shall be held at the same time and place on the following day which is not a legal holiday. The first meeting shall be held within forty-five (45) days after the closing of the sale of the condominium that represents the fifty-first (51st) percentile interest authorized for sale by the California Commissioner of Real Estate under the first Public Report for the Development, provided that Public Report authorizes the sale of fifty (50) units or more in the Development. However, but in no case later than six (6) months after the closing and recording of the sale of the first condominium within the Development without regard to the number of units authorized for sale in the first Public Report. At the organizational meeting and at all following annual meetings, the Board of Directors shall be elected, by secret written ballot, in accordance with these Bylaws.

Section 3. Notice of Meetings. Written notice of both the organizational meeting and each annual meeting shall be given to each member by the Secretary or, in the case of the organizational meeting only, by the Declarant, either personally or by sending a copy of the notice by mail or telegraph, charges prepaid, to the address of any unit in the Development owned by him, in whole or in part, or to any other address last furnished by him in writing to the Board, and shall be deemed received seventy-two (72) hours after being so telegraphed or mailed. All such notices of any organizational or annual meeting shall be sent to each member not less than ten (10) days nor more than sixty (60) days before such meeting and shall specify the place, date, and hour of such meeting and shall further specify those matters the Board intends to present for action by the members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action.

Section 4. Special Meetings. Special meetings of members, for any purpose or purposes whatsoever, shall be called at any time by the President or by the Board of Directors, or by the vote for such a meeting by a majority of a quorum of the Board of Directors; or by receipt of a written request therefor signed by members representing not less than five percent (5%) of the total voting power of the Association; provided that no special meetings may be held or called prior to the organizational meeting. Except in special cases where other express provision is made by statute, these Bylaws, or the Declaration, notice of such special meetings shall be given in the same manner as for annual meetings of members and may be given by any person or persons entitled to call such meetings. Notices of any special meeting shall specify in addition to place, day, and hour of such meeting, the general nature of the business to be transacted.

Section 5. Adjourned Meetings and Notice Thereof. Any membership meeting, organizational, annual, or special, whether or not a quorum is present, may be adjourned from time to time by the affirmative vote of a majority of the votes entitled to be cast and represented at such meeting in person or by proxy, but in the absence of a quorum, no other business may be transacted at any such meeting unless these Bylaws or the Declaration otherwise provides.

If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the reconvening of the adjourned meeting shall be given as in the case of the original meeting so adjourned.

Section 6. Quorum. The presence whether in person or by proxy at a meeting of members representing and entitled to cast at least fifty percent (50%) of the total votes, i.e., the number of unit owners in the project minus the number of unit owners as to which voting rights are suspended in accordance with these Bylaws at the time of the subject meeting (the "total votes") shall constitute a quorum for any action by the members, unless a different requirement is imposed by these Bylaws or the Declaration, and a majority of the total votes present at a meeting at which a quorum is present shall prevail at such meeting unless a different percentage is required by these Bylaws or the Declaration. Subject to the provisions of Section 4 of this Article VI and unless otherwise expressly authorized by the Bylaws or the Declaration, all action required or permitted to be taken by the members of the Association may be taken only at a duly called and properly noticed organizational, annual, or special meeting at which a quorum is present. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members so that less than a quorum is present, and the members then remaining and entitled to cast votes at such meeting shall constitute a quorum in connection with the conducting of such business prior to adjournment. If any meeting cannot be held because a quorum is not present, a majority of members present either in person or by proxy and entitled to vote, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called at which meeting the quorum requirement shall be twenty-five percent (25%) of the total votes. If at such adjourned meeting a quorum is not present, a majority of the members present, either in person or by proxy, entitled to vote at such meeting, may adjourn the meeting to a time not greater than seventy-two (72) hours from the time of the adjourned meeting, at which meeting the quorum requirement shall be twenty-five percent (25%) of the total votes. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and

place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings.

Section 7. Consent of Absentees. The transactions of any meeting of members, either organizational, annual, or special, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the members entitled to vote and not present in person or by proxy, signed a written waiver of notice, or a consent of the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the meeting.

Section 8. Proxies. Every person entitled to vote or execute consents shall have the right to so do either in person or by an agent or agents authorized by a written proxy signed by such person or his duly authorized agent and filed with the Secretary of the Association before the commencement of the meeting at which the proxy is to be exercised. A proxy shall be deemed signed if the member's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by a member or the member's attorney in fact. Each proxy shall be revocable by the person granting it by announcing its revocation to the Secretary of the meeting at which it would otherwise be exercised before the exercise thereof and shall automatically cease upon sale or conveyance of his interest in this unit by the person granting the proxy. The form of proxy shall comply with Section 5.2.5 of the Declaration.

Section 9. Parliamentary Procedure. Meetings of Association members shall be conducted in accordance with Roberts Rules of Order or other parliamentary procedures as may be adopted by the Board. The Board shall permit any member of the Association to speak at any meeting of the Association. A reasonable time limit for all members of the Association to speak before a meeting of the Association shall be established by the Board.

Section 10. Action Without Meeting. Any action which may be taken by the vote of members at a regular or special meeting, except the election of Board members where cumulative voting is a requirement, may be taken without a meeting if done in compliance with the provisions of Section 7513 of the California Corporations Code (approval by written ballot).

Section 11. Action by Written Ballot. Any action that may be taken at any meeting of the members, except the election of directors, may be taken by written ballot if the following requirements are satisfied:

(a) The Association distributes a written ballot to each member entitled to vote on the matter. The ballot shall be given

personally, or by first-class, registered, or certified mail addressed to the member at the address of such member appearing on the books of the Association or given by the member to the Association for purpose of notice. The ballot shall provide a reasonable time within which to be returned. If ballots are distributed to ten (10) or more members and the Association has a one hundred (100) or more members, the requirements of California Corporations Code Section 7154 shall be satisfied.

(b) Each ballot shall state: (i) the proposed action, (ii) an opportunity to specify approval or disapproval of any proposal, (iii) confirmation that, if the member specifies a choice, the vote shall be cast in accordance with that member's choice, (iv) the time by which the ballot must be received by the Association in order to be counted, (v) the number of responses needed to meet the quorum requirement, and (vi) the percentage of approvals necessary to approve the proposed action.

(c) The proposed action shall be considered approved by written ballot if (i) within the time period specified the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and (ii) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) A written ballot may not be revoked.

ARTICLE VII

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor of the annual meeting. The Nomination Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. ~~At~~ ^{*}At such election the members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes

shall be elected. Cumulative voting is required as specified in Section 5.2.3 of the Declaration.

Section 3. Special Election Procedure. At any election in which a majority of the voting power of the Association resides with Declarant, the Declarant shall be allowed to vote for all but one (1) office of the Board of Directors to insure the election of one (1) Board member by the owners, other than the Declarant. This procedure shall be limited to the election of only one (1) Board member and shall be subject to all other provisions of these Bylaws and the Declaration.

ARTICLE VIII

DIRECTORS

Section 1. Number, Qualifications, Term of Office. The affairs of the Association shall be managed by a Board of five (5) Directors who need not be members of the Association. At the organizational meeting and at each annual meeting of the members thereafter, the members shall elect five (5) Directors who shall serve concurrent one (1) year terms.

Section 2. Removal and Vacancies. The entire Board may be removed from office, with or without cause, at any duly called, noticed, and held annual or special meeting of the members at which a quorum is present by a majority of the members present at such meeting either in person or by proxy, and entitled to vote. Unless the entire Board is removed from office by the vote of Association members, no individual Director shall be removed before the expiration of his term of office if the votes cast against removal would be sufficient to elect the Director if voted cumulatively at an election at which the same total number of votes were cast, and the entire number of Directors authorized at the time of the most recent election of the Board were then being elected. A Board member of the Association who has been elected to office under Article VII, Section 3 of these Bylaws (by the votes of members of the Association other than the Declarant) may be removed from office before the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in members other than the Declarant. The vacancy created when a Board member is so removed may only be filled by the Board with the vote or written assent of (a) a majority of the total voting power of the membership and (b) a majority of members other than Declarant. Other vacancies in the Board of Directors may be filled by a majority of the remaining Directors, or by the members at a duly-called special meeting, and each Director so elected shall hold office until his successor is elected at an annual meeting of members or at a special meeting duly called for that purpose. A vacancy or vacancies shall be deemed to exist in case of death, resignation, or removal of any Director, or if the members shall increase the authorized number of Directors but shall fail at a

meeting at which such increase is authorized or at any adjournment thereof to elect the additional Director so provided for, or in the case the members fail at any time to elect the full number of authorized Directors. If the Board of Directors accepts the resignation of a Director tendered to take effect at a future time, the Board shall have the power to elect a successor to take office when the resignation becomes effective.

Section 3. Time and Place of Meetings. All meetings of the Board of Directors shall be held at a time and at a place within the Development, fixed by the Board of Directors from time to time by resolution or by written consent of all the members of the Board. Members shall be given notice of the time and place of such meeting, except for an emergency meeting, at least four (4) days prior to the meeting. Notice may be given by posting the notice in a prominent place or places within the Common Area if suitable for posting, by mail or delivery of the notice to each unit in the Development, or by newsletter or other similar means of communication. An emergency meeting of the Board may be called by the President of the Association, or by any two (2) members of the Board other than the President, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board, and which of necessity make it impracticable to provide notice as required by this Section.

Section 4. Organizational Meeting of the Board. Immediately following the organizational meeting and each annual meeting of members, the Board of Directors shall hold a regular meeting at the same place for the purpose of organization, election of officers, and the transaction of other business. Notice of meeting is hereby dispensed with.

Section 5. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly at such time and place within the Development as may be fixed from time to time by resolution of the Board, provided that if the business to be transacted by the Board does not require monthly meetings, regular meetings may be held less frequently but no less than one (1) regular meeting quarterly. If a regular meeting should fall upon a legal holiday, then said meeting shall be held at the same time on the next Wednesday thereafter which is not a legal holiday. Notice of a regular meeting need not be given to any Board member who has signed a waiver of notice or a written consent to the holding of the meeting.

Section 6. Special Meetings. Special meetings of the Board of Directors for any purpose or purposes shall be called at any time by written notice signed by the President, or if he is absent or unable or refuses to act, by any Vice-President or by any two (2) Directors. Written notice of the time and place of the meeting and the nature of any special business to be considered shall be

posted or communicated in a manner prescribed for notice of regular meetings at least seventy-two (72) hours before the date of such meeting and shall be delivered personally to the Directors or sent to each Director by letter or by telegram, charges prepaid, addressed to him either at his address as it is shown in the records of the Association or if not otherwise readily ascertainable, at the place at which the meetings of the Board are regularly held. In case such notice is mailed or telegraphed, it shall be deemed given and received seventy-two (72) hours after being so deposited in the United States mail or so delivered to the telegraph company in the county where the Development is located. Notice of the meeting need not be given to any Director who has signed a waiver of notice or a written consent to the holding of the meeting.

Section 7. Open Meetings. Under the Common Interest Development Open Meeting Act contained in Civil Code Section 1363.05, regular and special meetings of the Board of Directors shall be open to all members of the Association except when the Board may, with the approval of a majority of its members present at a meeting in which a quorum for the transaction of business has been established, adjourn a meeting to reconvene in executive session to consider litigation in which the Association is or may become involved, matters relating to the formation of contracts with third parties, member discipline, personnel matters, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session and any matter discussed in executive session shall be generally noted in the minutes of the Board of Directors. The Board of Directors shall meet in executive session, if requested by a member of the Association who may be subject to a fine, penalty, or other form of discipline, and the member shall be entitled to attend the executive session. Members of the Association who are not on the Board however, may not participate in any deliberation of the Board of Directors unless expressly so authorized by the vote of a majority of a quorum of the Board. The Board shall permit any member of the Association to speak at any meeting of the Board of Directors, except for meetings of the Board held in executive session. A reasonable time limit for all members of the Association to speak to the Board shall be established by the Board.

Section 8. Quorum Requirement, Waiver of Notice. The transaction of any business at any meeting of the Board of Directors required by law, or according to these Bylaws or the Declaration may occur without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as a unanimous vote of such Directors, provided that if the Board resolves by unanimous written consent to take action, an explanation of such action shall be posted at a prominent place or places within the Common Area within three (3)

days after the written consents of all Directors have been obtained. If the Common Area consists only of an easement or is otherwise unsuitable for posting the explanation of the action taken, the Board shall communicate said explanation by any means it deems appropriate.

Section 9. Quorum. A majority of the Board of Directors shall constitute a quorum thereof. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present, shall be regarded as the act of the Board of Directors, unless the Bylaws or the Declaration shall require or permit the particular action involved to be taken by the Board under other circumstances.

Section 10. Notice of Adjournment. Notice of adjournment of any Director's meeting, either regular or special, need not be given to absent Directors, if the time and place are fixed at the meeting adjourned.

Section 11. Adjournment. A quorum of the Directors may adjourn any Directors' meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Directors present at the Directors' meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board.

Section 12. Entry of Notice. Whenever any Director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be made.

Section 13. Minutes of Meetings. The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes of any meeting of the Board, other than an executive session, shall be available to members within thirty (30) days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any member of the Association upon request and on reimbursement of the Association's costs in making that distribution. The members shall be notified in writing at the time that the pro forma budget required in Civil Code Section 1365 is distributed or at the time of any general mailing to the entire membership of the Association of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained and the cost of obtaining such copies.

Section 14. Compensation. No Director of the Association shall receive any salary or compensation for services rendered as a Director or officer of the Association except as provided in Section 4.3.3.3 of the Declaration. Nothing herein shall preclude any Director from serving the Association in any capacity other than as an officer or a Director and receiving compensation therefore as authorized and approved by the Board. Any Director receiving any special compensation for services in such other

capacity shall be excluded from deliberations and voting by the Board relative to the authorization thereof and fixing compensation with regard thereto.

Section 15. Executive Committee. The Board of Directors shall have the power to appoint an Executive Committee and to delegate to such Committee any of the powers and authority of the Board in the management of the business and affairs of the Association except the power to adopt, amend, or repeal the Bylaws and the power to impose discipline, levy fines, or hold disciplinary hearings. The Executive Committee shall be composed of three (3) or more Directors, one (1) of whom shall also be the President.

Section 16. Powers. Subject to the limitations of the Bylaws and the Declaration as to action required to be taken, authorized, or approved by members of the Association, or a portion or percentage thereof, all Association powers and duties including those set forth in the Declaration shall be exercised by, or under the authority of, the Board of Directors, and the business and affairs of the Association shall be controlled by the Board. Without limiting the generality of the foregoing, the Board shall:

(a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and establish penalties for the infraction thereof.

(b) Suspend the voting rights and right to the use of the Common Area facilities of a member during any period in which said member shall be in default in the payment of any assessment levied by the Association, as provided in Section 4.3.1.2 of the Declaration and Article V, Section 2, of the Bylaws.

(c) Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Bylaws or the Declaration.

(d) Employ a manager, an independent contractor, or such other employees as it deems necessary and to prescribe their duties.

Section 17. Duties. The Board shall have the responsibility to carry out the following obligations:

(a) Cause to be kept a complete record of all of its acts and affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting when such statement is requested in writing.

(b) Elect the Association's officers; fill vacancies on the Board except for a vacancy created by a Director's removal;

supervise all officers, agents, and employees of the Association, and insure that their duties are properly performed.

(c) As more fully provided in the Declaration to:

1. Fix the amount of the annual assessment against each unit at least thirty (30) days in advance of each annual assessment period;

2. Send written notice of each assessment to every owner subject thereto at least ten (10) days in advance of the annual assessment period, and

3. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay same.

(d) Issue, or to cause an appropriate officer to issue, upon demand of any interested person, a certificate setting forth whether or not any assessment has been paid. The Board may impose a reasonable charge for the issuance of any such certificate. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) Procure and maintain adequate liability and hazard insurance on property owned by the Association.

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as may be deemed appropriate.

(g) Cause the Common Area to be maintained.

(h) Cause the exterior of the structures within the Development to be maintained as required by the Declaration.

(i) Pay taxes and assessments which are or could become, a lien on the Common Area or a portion thereof.

(j) Contract for goods and/or services for the Common Area or the Association subject to the limitations set forth in Section 18 of these Bylaws.

Section 18. Limitations. The Board of Directors of the Association shall be prohibited from taking any of the following actions, except with the assent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code Section 7513, of a simple majority of the members, other than the subdivider, constituting a quorum consisting of more than fifty percent (50%) of the voting power of the Association residing in members other than the subdivider, the Board shall not take any of the following actions:

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

1. A management contract, the terms of which have been approved by the Federal Housing Administration or U.S. Department of Veterans Affairs. However, professional management of the Development, or any other contract providing for service of the Developer may not exceed three years. Any such agreement must provide for termination by either party without cause, penalty or other obligation upon ninety (90) days written notice of termination to the other party. Notwithstanding the foregoing, approval of at least sixty-seven percent (67%) of the total voting power of the owners and at least fifty-one percent (51%) of the eligible mortgage holders are required if the Association desires to establish self-management when professional management has been previously required by an eligible mortgage holder.

2. A contract with a public utility company if the rates charged for materials or services are regulated by the Public Utilities Commission, provided however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

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

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

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

6. Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five (5) years' duration, provided that the supplier(s) is/are not entities in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

7. A contract for a term not to exceed three years that is terminable by the Association after no longer than one (1) year without cause, penalty or other obligation upon ninety (90) days written notice of termination to the other party.

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

(c) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year.

(d) Pay compensation to Directors or to officers of the Association for services performed in the conduct of the Association's business. However, the Board may reimburse such person for expenses incurred in carrying on Association business.

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

Section 19. Budgets, Financial Statements and Notices Concerning Insurance Policies. The Secretary and/or the Treasurer, as determined by the President, shall prepare and distribute financial statements for the Association and notices relating to the Association's insurance policies to each member of the Association as specified in Sections 4.6 through 4.6.9 and 8.9 through 8.9.4 of the Declaration.

ARTICLE IX

OFFICERS

Section 1. Enumeration of Officers. The officers of the Association shall be a President, Vice-President, Secretary, and Treasurer and such other officers as the Board of Directors may deem necessary. The President, Vice-President, and Secretary shall be members of the Board of Directors. No officer need be a member of the Association.

Section 2. Election. The officers shall be chosen by a majority vote of the Directors. The Treasurer may be, but need not be, a member of the Board.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any

officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any time later specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Officers. The offices of Secretary and Treasurer may be held by one (1) person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of specified offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President: The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments.

Vice-President: The Vice-President shall act in the place and stead of the President in the event of his absence, his inability, or refusal to act and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as are required by the Board.

Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such funds as directed by resolution of the Board of Directors; and keep and distribute proper books of account, all according to Sections 4.6 through 4.6.7 of the Declaration.

ARTICLE X

COMMITTEES

The members of the Association shall appoint a Nominating Committee as provided in the Bylaws. The Board of Directors shall appoint other committees as it deems appropriate in exercising its powers.

ARTICLE XI

BOOKS AND RECORDS

Any membership register (including mailing addresses and telephone numbers), books of account, and minutes of meetings of members, the Board, and committees of the Board of the Association as well as the Declaration, Bylaws and Articles of the Association shall be made available for inspection and copies purchased for a reasonable cost by any member of the Association or his duly appointed representative, or any mortgagee, at any reasonable time and for the purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the Development as the Board prescribes.

ARTICLE XII

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is levied. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the date of delinquency all according to Section 6.9 of the Declaration. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his unit.

ARTICLE XIII

AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by a vote of both a majority of a quorum of members present in person or by proxy and a majority of the votes of members other than the Declarant, provided that any provision herein which requires a greater percentage of voting power for action thereunder may be amended only by the same percentage of voting power.

Section 2. So long as Declarant retains a majority ownership interest in the Development, the following shall require the prior approval of the VA: Annexation of additional property other than described in the Declaration, mergers and consolidations, any special assessments, and any amendment of this Declaration. A draft of any amendment to this Declaration should be submitted to the VA for its approval prior to its approval by the membership of the Association.

Section 3. In the case of any conflict between the Declaration and the Bylaws, the Declaration shall control.

ARTICLE XIV

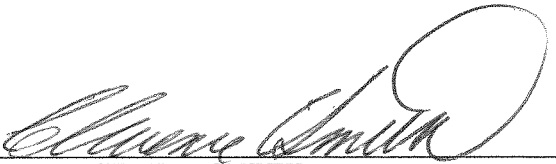
MISCELLANEOUS

Section 1. The fiscal year of the Association shall be the calendar year.

Section 2. Checks, Drafts, Etc. All checks, drafts, or other order for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association shall be signed or endorsed by such persons and in such manner as decreed by the Board of Directors, subject to any restrictions in the Declaration.

Section 3. Contracts, Etc. How Executed. The Board of Directors, except as in the Bylaws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent or employee shall have the power or authority to bind the Association by a contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

IN WITNESS WHEREOF, I, being the organizing director of NEWLIN & HADLEY, INC. have hereunto set my hand this 21st day of July, 1999.


CLARENCE E. SMITH