

Cover Page for Homeowners Associations' Governing Documents

“If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates State and Federal Fair Housing Laws and is void. Any person holding an interest in this property may request that the County Recorder remove the restrictive covenant language pursuant to subdivision (c) of Section 12956.1 of the Government Code.”

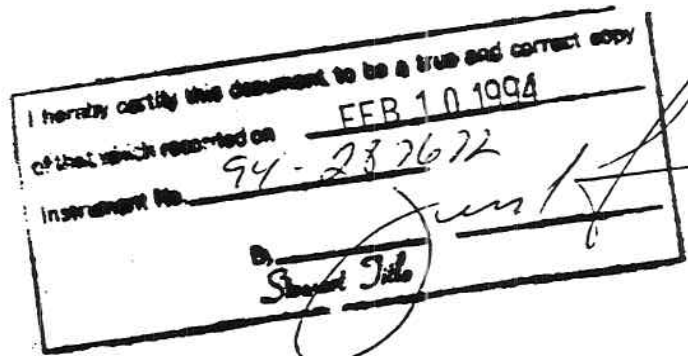
Section 1352.5 of the Civil Code, effective January 1, 2000 requires community associations to put this cover page on the front of the Declaration (CC&Rs).

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**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
HILLTOP COLONY - Tract No. 50665
(A Condominium Project)**

[CCR.CS - 7/22/93]
[This Set: 8/16/93]

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**DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS AND EASEMENTS FOR
HILLTOP COLONY**

THIS DECLARATION is made this 7th day of September,
19 93, by AVIV REALTY AND DEVELOPMENT CORP., a California corporation,
("Declarant").

RECITALS:

- A. Declarant is the owner of that certain real property ("Property") in the City of Los Angeles, County of Los Angeles, State of California, described in attached Exhibit "A".
- B. Declarant intends to develop the Property into a Condominium project under the provisions of California Civil Code Section 1350, et seq. The Property will be divided into six (6) "Marketing Phases", each of which will contain residential units ("Units"). Each Phase shall be a sales sequence of the Project. The Department of Real Estate will issue a Final Subdivision Public Report for each Phase.
- C. The entire Property shall consist of each of the following: Community Common Area, Phase One Common Area, Phase Two Common Area, Phase Three Common Area, 153 Units, and various Exclusive Use Common Areas. The precise definitions and physical depictions of each of the above terms are contained in the Condominium Plans which will be recorded for the Project. Concurrently with the recording with this Declaration, a Condominium Plan covering all the Property except the Phase Three Common Area and the Units surrounded by the Phase Three Common Area, will be recorded. A separate Condominium Plan will be recorded for the Phase Three Common Area and Units contained therein.
- D. Each Phase Common Area will consist of two (2) Increments. An Increment consists of those Condominium Units within a Phase Common Area, for which a separate Department of Real Estate Public Report will be issued.

The following is a breakdown of the Project in terms of Phase Common Areas, Increments and Units:

<u>Phase Common Area</u>	<u>Increment</u>	<u>Number of Units</u>
One	1	31
	2	15
Two	1	29
	2	20
Three	1	30
	2	<u>28</u>
		153

E. Each Owner of a Condominium shall receive title to:

- (1) A separate interest in space called a Unit;
- (2) An appurtenant undivided fractional interest in the Phase Common Area in which the Unit is located;
- (3) A non-exclusive easement for ingress, egress and recreational use, on, over and under the Phase Common Area of the Phase in which the Unit is not located, excepting therefrom any residential buildings located thereon.
- (4) Membership in the **Hilltop Colony Homeowners Association, Inc.** ("Association").

Each Owner's fractional interest in their respective Phase Common Area shall not change nor be affected by virtue of the conveyance of Units in other Phases. The Owners of Units in each Phase shall have no fee title or fractional interest in the Phase Common Area of other Phases.

F. The Association shall hold fee title to the Community Common Area.

G. This development will be consistent with the overall development plan submitted to and approved by the Department of Veterans Affairs ("VA") and Federal Housing Administration ("FHA").

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, conveyed, Mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, liens, charges and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and every part thereof, in accordance with the plan for the improvement of the Property and division thereof into Condominiums. All of the limitations, covenants, conditions, restrictions, and easements shall constitute equitable servitudes in accordance with Civil Code Section 1354 and shall be binding upon Declarant and its successors and assignees, and all parties having or acquiring any right, title or interest in or to any part of the Property.

ARTICLE I

DEFINITIONS

The following definitions apply unless otherwise required by the context:

"Approval" - Prior written approval.

"Articles" - The Articles of the Association, including any amendments.

"Assessments" - All types of Association charges and Assessments levied against the Owners.

"Association" - The California nonprofit mutual benefit entity formed (or to be formed) to govern the Project, its successors and assignees, including its agents, the Board or any committee as applicable.

"Board" or "Board of Directors" - The Board of Directors of the Association.

"Bylaws" - The Bylaws of the Association, including any amendments.

"Code Section" - Any reference to "Code Section" (e.g. "Civil Code", "Vehicle Code") refers to Codes as set forth by the State of California. Reference to any specific Code Section shall include any future successor sections.

"Common Area(s)" - The entire Property (including structures, land and improvements) other than the separate interest in space called Units described in this Declaration and the Condominium Plan, and shall consist of two types, each defined as follows:

- (a) **"Community Common Area"** - That real Property described in Exhibit "A" and in the Condominium Plan and the improvements now or hereafter situated thereon or therein, with the exception therefrom of those three (3) interests in space as shown and described in the Condominium Plan as "Phases" and the Unit separate interests therein.

- (b) **"Phase Common Area"** - An interest consisting of an "airspace envelope" shown and defined in the Condominium Plan. Phase Common Area shall include all of the real property, air and earth located within the Phase boundaries, excepting therefrom all Units. Phase Common Area shall be owned by the Owners of Units located in each respective Phase in equal undivided fractional interests as tenants-in-common. Phase Common Area includes, without limitation, land, Condominium Buildings, a portion of the private roads and driveways, parking spaces, walkways, lighting, landscaped areas and open space, sprinklers and sprinkler pipes, conduits, pipes, plumbing, wire and other utility installations and a central services (except such services which exclusively serve a Unit) required to provide common power, light, telephone, gas, cable television, water and sewage located solely within the respective Phase boundaries. The undivided fractional common interest shall be appurtenant to each Unit and cannot be altered without the consent of all of the Owners affected. Such undivided common interest cannot be separated from the Unit to which it is appurtenant, and any conveyance or transfer of the Unit includes the undivided common interest in the Phase Common Area.

"Common Expenses" - The actual and estimated expenses of the Association in performing its duties as set forth in the Governing Documents.

"Condominium" - An estate in real property (defined in Sections 783 and 1351(f) of the California Civil Code) consisting of both:

- (a) A separate interest in space called a "Unit"; and
- (b) An undivided interest in the Common Area appurtenant to each Unit.

"Condominium Building" - A building or structure containing any portion of any Condominium Unit(s).

"Condominium Plan" - The recorded diagrammatic floor plan of the Units built or to be built on the Property which identifies each Unit and shows its dimensions pursuant to California Civil Code Section 1351(e).

"Declarant" - The person(s) or entity identified in the introductory paragraph of this Declaration; also, Declarant's successors and assignees.

"Declaration" - This instrument and any amendments.

"DRE" - The California Department of Real Estate and any successors thereto.

"Eligible First Mortgagees" - Holders of First Mortgages who have requested the Association to notify them of specified proposals and changes to the Governing Documents and other Association matters.

"Exclusive Use Common Area" - Those portions of a Common Area designated by the Declaration, and/or Condominium Plan or by law for the exclusive or restricted use of the Owners of particular designated Units.

"FHA" - The Federal Housing Administration of the United States Department of Housing and Urban Development and any department or agency of the United States government which succeeds to the FHA's function of insuring notes secured by Mortgages on residential real estate.

"FHLMC" - The Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporation.

"FNMA" - The Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

"First Mortgage"/"First Mortgagee" - A Mortgage or Mortgagee that has priority over all other mortgages or mortgagees encumbering the same unit or any other portion of the Project, including a first mortgagee's blanket mortgage recorded prior to recording of this Declaration.

"Governing Documents" - All documents governing the Property, including this Declaration, the Articles, Bylaws, Condominium Plan and any Rules and Regulations.

"GNMA" - The Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successors to such association.

"Increment" - A Marketing Phase within the Phases designated and described on the Condominium Plan. There are two (2) Increments within each Phase shown on the Condominium Plan.

"Institutional Lender" - Any bank, savings and loan association, insurance company, real estate investment trust, retirement fund trust, or other financial institution holding a recorded First Mortgage on any Condominium.

"Manager" or "Managing Agent" - The person(s), firm or corporation contractually engaged by the Association or Declarant and charged with the management of the Common Area(s) and the performance of other duties of the Association as provided for in this Declaration.

*

"Marketing Phase" - One of the two Increments comprising each of the three (3) Phases shown and described on the Condominium Plan. Each Marketing Phase will receive a separate Final Subdivision Public Report issued by the California Department of Real Estate for the Units and Phase Common Area located within that Marketing Phase.

"Member" - Any person who is an Owner based upon the provisions of the Governing Documents.

"Mortgage" - A mortgage or deed of trust.

"Mortgagee" - A mortgagee, beneficiary or holder of a deed of trust.

"Mortgagor" - A mortgagor or trustor of a deed of trust.

"Notice and a Hearing" - A notice of time and an opportunity for a hearing as provided for in the Governing Documents.

"Occupant" - An Owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession.

"Owner" or "Owners" - The person(s) or legal entity holding a fee simple interest in a Unit, or the purchaser(s) of a Unit under an executory contract of sale. "Owner" does not include any person or entity having an interest in a Unit merely as security for the performance of an obligation.

"Person" - A person, partnership, corporation, trustee or other legal entity.

"Phase" - A portion of the Property shown and described in the Condominium Plan as an interest in space. Each Phase is an envelope of airspace which is shown and described in the Condominium Plan. Each Phase includes all air, earth, Condominium Buildings and all other improvements located within its boundaries, excepting therefrom all Unit separate interests located therein. Prior to the conveyance of the first Unit in a Phase to a buyer, the interest in each Phase shall be held by Declarant in fee simple title. Upon the conveyance of the first Unit in a Phase, all of the Units located in such Phase shall become separate interests in the space and change from a single fee simple interest into undivided fractional interests in common owned by all of the Owners of Units therein in equal number as the number of Units contained in such Phase.

The Property is divided into three (3) Phases, shown on the Condominium Plans as Phase 1, Phase 2 and Phase 3. Each Phase in the Project shall be subject to this Declaration. Each Phase shall also consist of two Increments for which a separate Final Subdivision Public Report has been or will be issued by the California Department of Real Estate for the Units and Phase Common Area located within that Increment. The sale of Units in each Phase and the sequence thereof shall be at the sole discretion of Declarant.

"Project" or "Property" - The real property described in Paragraph "A" of the Recitals to this Declaration, which is divided or to be divided into Condominiums, including the Common Area and the Units therein. The Project is a "Condominium Project" as defined in Section 1351(f) of the California Civil Code. The Property is a "Common Interest Development" as defined in Section 1351(c) of the California Civil Code.

"Regular Assessments" - Assessments used to meet the Association's normal operating expenses and to establish necessary reserves.

"Rules and Regulations" - The rules as established and adopted from time to time by the Board as provided for in this Declaration.

"Separate Interest" - A separate interest in space as defined in Civil Code Section 1351(1). There are two types of separate interests within the Condominium Project: a "Phase" separate interest and a "Unit" separate interest, both defined herein.

"Special Assessments" - Assessments levied on an as-needed basis to meet expenses of an extraordinary or capital nature, or imposed against a particular Owner in order to reimburse the Association for any costs incurred in connection with that Owner's violation of the Governing Documents, or a monetary penalty imposed by the Association as a disciplinary measure for failure to comply with the Governing Documents.

"Un-Annexed Phase" - A Phase in the Project in which no Condominium Units have been conveyed by Declarant to buyers under the authority of a Public Report.

"Unit" - The elements of a Condominium not owned in common with other Owners as defined in California Civil Code Section 1351(f). Each Unit is designated as a Unit in the Condominium Plan for the Property and is separately identified.

"VA" - The Department of Veterans Affairs of the United States and any department or agency of the federal government which succeeds to VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

ARTICLE II

DESCRIPTION OF PROPERTY.

DIVISION OF PROPERTY

The Condominium Property consists of Units and Common Area(s) (including Exclusive Use Common Areas, if any).

2.01 Units.

- (a) Each Unit consists of all elements and areas identified as such on the Condominium Plan.
- (b) Existing physical Unit boundaries (re)constructed in substantial accordance with the original plans will be the presumed boundaries (rather than the figures in the deed or Condominium Plan) regardless of a building's settling, lateral movement or other minor variance.

2.02 Common Area(s).

- (a) The Property not constituting the Units is the Common Area.
- (b) The Association shall hold fee title to the Community Common Area.
- (c) Each Unit Owner will receive an equal undivided fractional interest in the Phased Common Area, as follows: **Phase 1 - one/forty-sixth (1/46); Phase 2 - one/forty-ninth (1/49); Phase 3 - one/fifty-eighth (1/58).**

2.03 Exclusive Use Common Area(s).

- (a) Declarant hereby allocates and reserves Exclusive Use Common Areas, if any, as shown on the Condominium Plan for the exclusive use of the appurtenant Unit.
- (b) Use of the Exclusive Use Common Area(s), if any, are subject to reasonable restrictions contained in any Governing Documents.
- (c) Any Exclusive Use Common Area(s) and its boundaries are as shown on the Condominium Plan.

- (b) Except as otherwise provided herein, each Owner has the exclusive right to paint, wallpaper or otherwise furnish and decorate the interior surfaces of the walls, partitions, ceilings, and doors within the Unit (including furniture and furnishings), without prior approval of the Board.
- (c) An Owner may not do anything that unreasonably increases the level of noise without obtaining the approval of the Board. If an Owner does anything within the Unit that may increase the level of noise or sound that can be heard outside the Unit during normal use and occupancy of the Unit (for example, replacing carpeting with tile or other hard surface), the Owner must first obtain approval from the Board, and upon approval, take all reasonable measures (at own expense) to deaden, insulate or otherwise decrease the level of such noise to the minimum level reasonably possible.
- (d) If a patio, balcony or deck adjoins a Unit, the Owner's rights and responsibilities are as follows:
 - (1) Owner must maintain the patio, balcony or deck in a clean and sanitary condition;
 - (2) Owner may furnish the patio, balcony or deck with outdoor furniture for reasonable family use and in keeping with the aesthetics of the Property, with the prior consent of the Board;
 - (3) Owner may not paint, alter, remodel or enclose any patio, balcony or deck without prior approval of the Board; and
 - (4) Owner may not place or store unsightly objects on a patio, balcony or deck that can be seen by the public or other Owners from their Units, patios, balconies, or Common Area.
- (e) Any change to the exterior appearance of a Unit must be approved by the Board in accordance with the Governing Documents and applicable laws.
- (f) An Owner may not make any improvement which impairs the structural integrity or mechanical systems, or lessens the structural support of any portion of the Property.
- (g) Subject to this Declaration and California Civil Code Section 1360, an Owner may do the following:
 - (1) Make any improvement or alteration within the Unit and its Exclusive Use Common Area (if any) that does not impair the structural integrity or mechanical systems, or lessen the support of any portion of the Property.
 - (2) Modify a Unit and its Exclusive Use Common Area (if any) to eliminate hazards and facilitate access for disabled persons (including the route from the public way to the Unit door) subject to the following conditions:

- (A) The modifications must be consistent with applicable building code requirements.
- (B) The modifications must be consistent with applicable provisions of the Governing Documents regarding safety and aesthetics.
- (C) External modifications to the Unit or its Exclusive Use Common Area may not prevent reasonable passage by other Owners, and must be removed by the Owner when the Unit is no longer occupied by the person(s) requiring the modifications.
- (D) Plans and specifications must be submitted to the Board for review to determine compliance with the provisions of this paragraph.
- (E) The Board may not deny approval of the proposed modifications without good cause.

3.10 **Rights Reserved by Declarant.**

While any Unit remains unsold and for no longer than three (3) years from the date of the first conveyance after issuance of the original DRE public report (and without unreasonably interfering with other Owners), Declarant has authority to do the following:

- (a) Complete excavation, grading and construction of improvements on the Property, or to alter the foregoing or its construction plans and designs on any Common Areas, or on any portion of the Property owned solely or partially by Declarant. Any such alteration by Declarant shall require prior approval of VA and FHA if such alteration is inconsistent with the general plan of development of the Property previously submitted to and approved by the VA and FHA;
- (b) Use any unsold Unit or Model Unit as a construction, real estate sales, leasing or decoration office;
- (c) Use the Common Area(s) as reasonably needed for ingress, egress, development, sales and construction purposes; and
- (d) Construct additional improvements Declarant deems advisable in the cause of development of the Property.

- (B) A contract with a public utility company if the Public Utilities Commission regulates rates charged for materials or services, provided that the contract term does not exceed the shortest term for which the supplier will contract at the regulated rate;
 - (C) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years' duration, provided that the policy permits short-rate cancellation by the insured;
 - (D) Lease agreements for laundry room fixtures and equipment not to exceed five years duration, provided that Declarant's ownership interest in the lessor under the agreement does not exceed ten percent (10%);
 - (E) Agreements for satellite dishes or cable television services and equipment, not to exceed five (5) years duration, provided that the Declarant's ownership interest in the entity does not exceed ten percent (10%); and
 - (F) Agreements for sale, lease, installation or services of burglar and fire alarm equipment, not to exceed five (5) years duration, provided that Declarant's ownership interest in any entity involved does not exceed ten percent (10%).
- (2) 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.
 - (3) 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.
 - (4) Pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

5.04 **Insurance.**

- (a) The Board must maintain the following specified (or equivalent) insurance coverages subject to the Section entitled, "Government Financing Programs:
 - (1) Fire insurance for one hundred percent (100%) of the full value of all improvements on the Property, including the Condominiums and Common Area(s), without deduction for depreciation or coinsurance naming as insureds the Owners, their Mortgagees, the Association.

- (2) Extended coverage for replacement costs of damage to the Common Area(s) that arises out of vandalism or malicious mischief.
 - (3) At least ONE MILLION DOLLARS (\$1,000,000) in comprehensive public liability insurance that covers the Association, Board, Managing Agent, Owners, Occupants and any other agents or employees incident to the ownership or use of Common Area(s) against physical injury, death and property damage arising out of a single occurrence.
 - (4) If available, an extended coverage endorsement clause known as "special form", and a clause that permits a cash settlement to cover the full value of improvements in case of destruction and a subsequent decision not to rebuild.
 - (5) There shall be a deductible of no more than Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the face amount of the policy, provided it is acceptable to the First Mortgagees named as insured.
 - (6) Each hazard insurance policy must be written by a carrier who meets FNMA requirements for a "Best Rating".
 - (7) If the Secretary of Housing and Urban Development identifies the Property as having special flood hazards and if required by a lender:
 - (A) A "blanket" flood insurance policy must be maintained to the maximum coverage available under the appropriate National Flood Insurance Administration program, or 100% of the insurable value of the facilities, whichever is less; and
 - (B) The maximum deductible for the policy is FIVE THOUSAND DOLLARS (\$5,000) or one percent (1%) of the policy's face amount, whichever is less.
 - (8) A fidelity bond that insures the Association for the estimated maximum amount (or at least three (3) months aggregate Assessments on all Units and reserve funds) that could be affected by the dishonest act of any person who handles funds for the Owners' benefit. (Mandatory for the Property, regardless of the number of Units, with loans by the Department of Veterans Affairs and/or FHA.)
 - (9) Workers' compensation insurance, in compliance with all applicable laws (if there are any employees).
- (b) Association insurance policies shall contain the following provisions, ("Special Condominium Endorsements") as appropriate:

- (1) Statements that the policies are primary and non-contributing, even if an Owner has other insurance;
 - (2) Statements that an Owner's conduct will not constitute grounds for avoiding liability;
 - (3) A waiver of the carrier's right of subrogation against any Owner or family member, the Association, the Board, the Manager, the Board, and any of their agents or employees;
 - (4) Inflation Guard Endorsement, if obtainable at a reasonable cost;
 - (5) If a construction code requires changes to undamaged portions of a building when any part of the building is destroyed by an insured hazard, then a Construction Code Endorsement, typically including endorsements for demolition cost, increased cost of construction, and contingent liability from building operation laws;
 - (6) If the property has central heating or cooling, Steamed Boiler and Machinery Coverage Endorsement should provide a minimum liability per accident of \$2,000,000, or the insurable value of the building housing the boiler or machinery, whichever is less;
 - (7) Standard mortgage clause and name as mortgagee either FNMA or servicers (if applicable).
- (c) Insurance and fidelity bonds must provide for a ten (10) day written notice of modification or termination to any insurance trustee, and to each FNMA servicer who has filed a written request with the carrier for such notice.
 - (d) At least annually, the Board must review the Association's insurance policies.
 - (e) If economically feasible, prior to each annual review the Board shall obtain a current appraisal of the full replacement value of Improvements on the Property (except for foundations and footings) without deduction for depreciation.
 - (f) The **insurance** policies must be satisfactory to all institutional mortgagees (i.e. banks, savings **and** loans, federal or state agencies) holding loans on any condominiums.
 - (g) It is each Owner's responsibility, if desired, to obtain:
 - (1) Insurance for the personal property or for potential liability within a Unit;
 - (2) Loss assessment coverage for certain future special assessments;

- (3) Any other available insurance.
- (h) An Owner shall not obtain any insurance that potentially may cause a reduction in the Association's insurance proceeds.

5.05 **Budget, Financial Statements and Governing Documents.**

- (a) The Board of Directors of the Association must comply with all current requirements of California Civil Code Sections 1365 and 1365.5 (current Sections set forth in Exhibit "C") or successor statutes pertaining to financial records, governing documents, etc.
- (b) The Association shall make the following documents available for inspection and copying by a Member or his duly appointed representative at the office of the Association upon request during normal business hours or under other reasonable circumstances:
 - (1) The Membership register, mailing addresses, telephone numbers, books of account and minutes of meetings of the Board for any purpose reasonably related to a Member's interest.
 - (2) For Owners, lenders, holders, insurers and guarantors of a First Mortgage on any Unit, current copies of all Governing Documents, books, records, and financial statements of the Association;
 - (3) The Association may charge a fee to the requesting party for this service which may not exceed the reasonable cost to prepare and reproduce the requested items.
 - (4) Copies of relevant California Code Sections referenced on any Governing Documents.
- (c) Association Members shall annually be provided a summary of the provisions of Section 1354, as set forth therein (current Section set forth in Exhibit "B"), which must include the following language: "Failure by any member of the association to comply with the prefiling requirements of Section 1354 of the Civil Code may result in the loss of your rights to sue the association or another member of the association regarding enforcement of the governing documents." This summary shall be provided either at the time to pro forma budget required by Section 1365 is distributed, or in the manner specified in Section 5016 of the Corporations Code.

5.06 Association Performance of an Owner's Obligations.

If an Owner fails to accomplish any maintenance or repair required by this Declaration, the Association has the right (but not the obligation) to cause such maintenance or repair to be accomplished according to the following regulations:

- (a) The Board must give the Owner a Notice of Deficiency that outlines the problem and set a date for a hearing before the Board or its appointed Committee ("Board").
- (b) A hearing must be held from fifteen (15) to thirty (30) days after the Notice of Deficiency's delivery date and must be conducted as follows:
 - (1) According to reasonable rules and procedures adopted by the Board;
 - (2) The Owner may present evidence and cross-examine any person offering evidence against the Owner;
 - (3) A decision rendered against the Owner must set a date by which the Owner is to correct the deficiency; and
 - (4) A committee decision may be appealed to the Board, but a decision by the Board is final.
- (c) If the deficiency continues after the time limit imposed by the Board, such maintenance or repair may be accomplished according to the following regulations:
 - (1) After a written Notice of Action by the Board, the Owner has no more than ten (10) days to select a day(s) when such maintenance or repair may be accomplished;
 - (2) The Owner must select a date between fifteen (15) and forty-five (45) days from the final day of the ten (10) day Notice of Action period;
 - (3) If the Owner does not select a day(s), the Board may select dates to accomplish the work, between twenty-five (25) and fifty-five (55) days from the last day of the ten (10) day Notice of Action period; and
 - (4) Unless the Owner and Board otherwise agree, such maintenance or repair must take place during daylight hours Monday through Saturday, excluding national holidays.
- (d) Any Association payments for such maintenance or repair must be reimbursed by the Owner within thirty (30) days.

5.07 Penalties for Non-Compliance.

- (a) In recognition of the need for a reasonable means of encouraging and insisting upon compliance with the provisions of the Governing Documents without resorting to suits for injunctive relief, the Board is authorized to do the following:
 - (1) Establish a reasonable policy of reasonable penalties, including monetary penalties (which specifies the amounts of potential monetary penalties);
 - (2) Assess such penalties against any Owner found to be in violation of any provision of the Governing Documents; and
 - (3) Temporarily suspend an Owner's voting rights as a Member of the Association for as long as the violation continues.
- (b) Notice and Hearing relating to the imposition of any penalties in this Section must be made in the following manner and at a minimum:
 - (1) Notice must be given to the relevant Owner's most recent address in the Association's records at least fifteen (15) days before the proposed effective date of the penalty;
 - (2) Notice must set forth details of the violation itself, the proposed penalty, and the date, time and place of the Hearing;
 - (3) The penalized Owner may be heard (either orally or in writing) at a Hearing held at least five (5) days before the effective date of the proposed penalty;
 - (4) Hearing will be held by the Board of Directors, and their decision is final and binding upon the Owner;
 - (5) The Board shall meet in executive session if requested by the member being disciplined, and the member shall be entitled to attend the executive session.
 - (6) Following the Hearing, the Board must decide whether or not the Owner should in fact be penalized, and the nature of the penalty.
- (c) If the Association adopts a policy imposing any monetary penalty, including any fee on any member for a violation of the Governing Documents or rules of the Association, including any monetary penalty relating to the activities of a guest or invitee of a member, the Board shall adopt and distribute to each member by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the Governing Documents. (The Board shall not be required to distribute any additional schedules of monetary penalties unless there are changes from the schedule that was adopted and distributed to the members.)

- (d) If an Owner fails to comply with a penalty imposed pursuant to the provisions of this Section, the Board may seek judicial enforcement of the penalty in any court of competent jurisdiction, with the Owner liable for all costs (collection costs, court costs, attorney's fees, etc.). However, such penalties and costs shall not be treated as an assessment that may become a prejudgment lien enforceable by Civil Code Section 2924.
- (e) Notwithstanding the foregoing, the Owner shall be given, at a minimum, the rights set forth in Corporations Code Section 7341 or any successor statute.

5.08 Right of Entry.

- (a) The Board has the right to enter any Unit or Common Area(s) to determine compliance with the Governing Documents.
- (b) In case of emergency, a Unit may be entered immediately. Otherwise, a Unit may only be entered at reasonable hours after the Owner has received three (3) days notice, and if the Occupant does not physically attempt to stop the entry.
- (c) Entry must be made with as little inconvenience as possible to the Owner.

5.09 Repair and Maintenance by the Association.

Subject to Owner's maintenance and repair obligations set forth in this Declaration, the Association (not individual Owners) is solely responsible for maintaining Common Areas in a first-class condition, making necessary repairs, modifications and improvements, including (but not limited to) an adequate walkway lighting system.

5.10 Wood-Destroying Pests.

If maintenance and repair necessitated by wood-destroying pests or organisms is required by the Association, the procedure must be in compliance with Civil Code Section 1364.

5.11 Unsegregated Real Property Taxes.

- (a) The Association shall pay all real and personal property taxes and assessments levied upon any portion of the Property that are not assessed to or paid by the Owners.
- (b) If all the Condominiums are taxed under a blanket tax bill covering the entire Project, each Owner shall pay their proportionate share of any installment to the Association at least ten (10) days prior to the delinquency date.

- (c) The proportionate share of the taxes for a particular Condominium shall be determined by dividing the sales price or projected initial sales price (if the Condominium is unsold and still owned by Declarant) for that Condominium by the sum total of all of the sales prices of sold Condominiums and initial projected sales prices of unsold Condominiums. This formula shall be applied to each Condominium in the Project and the resulting percentage is the amount due from the blanket tax bill for that particular Condominium.
- (d) The Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date.
- (e) The Association shall deliver the following to each Owner at least forty-five (45) days prior to the delinquency date of any blanket tax installment:
 - (1) A copy of the tax bill; and
 - (2) A written notice setting forth the Owner's obligation to pay their proportionate share of the tax installment and the potential additional charges to the Owner for failure to comply.
- (f) The Association shall pay the taxes on behalf of any Owner who does not pay their proportionate share.

EXHIBIT "C"

CALIFORNIA CIVIL CODE SECTIONS 1365, 1365.5, and 1366

Current as of 9/9/93

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(3) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget under Section 1365. However, prior to the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(4) An extraordinary expense in making the first payment of the earthquake insurance surcharge pursuant to Section 5003 of the Insurance Code.

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

(d) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due. If an assessment is delinquent the association may recover all of the following:

(1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.

(2) A late charge not exceeding 10 percent of the delinquent assessment or ten dollars (\$10), whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.

(3) Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the assessment becomes due.

(e) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

ARTICLE VI

COVENANTS FOR ASSESSMENT

6.01 Assessments.

- (a) Assessments may be levied by the Association for improvement and maintenance of the Common Area(s), administration of the Property, and to promote the recreation, safety, and welfare for the common good of all the Owners.
- (b) Each Owner, by acceptance of a deed to a Condominium, whether or not it shall be so expressed in any deed, covenants and agrees to pay all Assessments to the Association.
- (c) Assessments and related interest, collection costs, and reasonable attorneys' fees are the personal obligations of the Owner and binds heirs, devisees, representatives, successors and assignees, but does not pass to successors in title unless expressly assumed by them. The Condominium does remain subject to any Assessment liens of record, except upon foreclosure of a First Mortgage as stated in the Article entitled "Mortgagee Protection".
- (d) The Association may not collect an Assessment fee in excess of the amount needed for the purpose levied.

6.02 Commencement; Due Dates of Assessments.

Regular Assessments commence on all Condominiums within a Phase on the first of the month immediately after either of the following occurs:

- (a) Conveyance of the first Unit within such Phase under the authority of a Public Report; or
- (b) Recordation of a Notice of Completion for the building within a Phase.

6.03 Assessment Rate.

All Assessments, both Regular and Special, shall be charged to and divided among the condominiums as set forth in attached Exhibit B.

6.04 Assessment Duties of the Board of Directors.

The Board must levy Regular and Special Assessments in compliance with Civil Code Section 1366 (current Section set forth in Exhibit "C").

6.05 **Effect of Nonpayment of Assessments:**
Delinquency and Remedies of the Association.

- (a) An Assessment is delinquent ("Delinquent Assessment") if not paid within fifteen (15) days after the due date. A Delinquent Assessment includes:
 - (1) A late charge imposed by the Board to the maximum amount in accordance with California Civil Code Section 1366 (or any successor statutes);
 - (2) Reasonable collection costs and attorney's fees; and
 - (3) Interest on all costs and charges at the maximum permissible rate, commencing thirty (30) days after the Assessment is due.
- (b) Delinquent Assessments and related costs will be a continuing lien on the relevant Condominium when a "Notice of Delinquent Assessment" is recorded against an Owner's fee interest in a Condominium.

This lien is prior and superior to all other monetary liens on the Owner's fee interest except:

- (1) Taxes, bonds, Assessments and other levies that are superior by law; and
 - (2) The lien or charge of any First Mortgage of record made for value in good faith.
 - (3) The lien for Assessments which were due and payable prior to the transfer of an Owner's interest in a Condominium shall be deemed extinguished upon the transfer of said interest as the result of the exercise of a power of sale or a judicial foreclosure involving a default under the First Mortgage.
 - (4) Notwithstanding the foregoing, any Special Assessments imposed against a particular Owner in order to reimburse the Association for any costs incurred in connection with that Owner's violation of the Governing Documents, or a monetary penalty imposed by the Association as a disciplinary measure for failure to comply with the Governing Documents, may not become a lien against the Owner's interest. However, this does not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest or for costs reasonably incurred including attorney's fees in its efforts to collect other delinquent assessments.
- (c) In addition to all other legal rights and remedies, the Association may:
 - (1) Bring legal action against an Owner who is personally obligated to pay the Assessment and charges (without foreclosing or waiving any lien security);

- (2) Judicially foreclose the lien against the Condominium, including the Assessment, interest, collection costs and late charges;
 - (3) Foreclose the lien by power of sale in accordance with California Civil Code Sections 2924-2924h, or any other lawful manner;
 - (4) Bid on the Condominium through authorized agents at the foreclosure sale, to acquire and thereafter to hold, lease, Mortgage or convey; or
 - (5) Temporarily suspend the voting rights of the Owner in accordance with the provisions of this Declaration.
- (d) Foreclosure action may not proceed until thirty (30) days after a Notice of Claim of Delinquent Assessment is duly recorded with the relevant County Recorder that meets the requirements of Civil Code Section 1367.
- (e) A copy of the Notice of Claim of Delinquent Assessment must be sent by certified or registered prepaid United States mail, addressed to the Owner or his designated agent previously given in writing to the Association at the Condominium (or an address that the Owner has previously given in writing to the Association which address must be within the United States).
- (f) Upon an Owner's timely payment of a default and all related fees, Association officers may prepare and record (at the Owner's cost) a release of the Notice of Delinquent Assessment.
- (g) No transfer of an Owner's interest in a Condominium as a result of a foreclosure or exercise of a power of sale shall relieve the new Owner whether it be the former beneficiary of the First Mortgage or another person, from liability for any assessment thereafter becoming due or from the lien thereof.

6.06 **Nonuse and Abandonment.**

An Owner does not waive or otherwise escape liability for Assessments by nonuse of the Common Area(s) or abandonment of a Unit.

6.07 **Waiver of Exemptions.**

With respect to Assessment liens, each Owner waives (to the extent permitted by law) the benefit of any California homestead or exemption laws in effect when any Assessment or installment becomes delinquent or a lien is imposed.

6.08 Capitalization of the Association.

- (a) Upon acquisition of record title to a Unit from Declarant, each Owner (in Phase One only) must contribute to the capital of the Association an amount equal to one-sixth (1/6) of the amount of the then annual assessment for the Unit as determined by the Board.
- (b) This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed from the escrow to the account of the Association.
- (c) This amount does not represent a prepayment of two (2) months maintenance Assessments, but is the sum in addition to the estimated initial maintenance charge.

ARTICLE VII

ARCHITECTURAL CONTROL

7.01 Approval by the Committee.

- (a) An Architectural Committee composed of three Members for the control of structural, and landscaping architecture, and design within the Property is hereby established as set forth below.
 - (1) The Declarant shall appoint all of the original members of the Architectural Committee and all replacements until the first anniversary of the first conveyance after issuance of the original DRE public report for the Project. The Declarant reserves to himself the power to appoint a majority of the members of the Committee until 90% of all the Condominiums in the Project have been sold or until the fifth anniversary of the first conveyance after issuance of the original DRE public report for the Project, whichever first occurs.
 - (2) After one year from the date of the first conveyance after issuance of the original DRE public report for the Project, the Board shall have the power to appoint one member to the Architectural Committee until 90% of all of the Condominiums in the Project have been sold or until the fifth anniversary date of the first conveyance after issuance of the original DRE public report for the Project, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Committee.
 - (3) Members appointed to the Architectural Committee by the Board shall be from the membership of the Association and may be members of the Board.
- (b) Any exterior alteration or improvement or change to the exterior of a Unit anywhere on the Property (and any Common Area) or any interior alteration or improvement which affects the structural integrity must first be approved in writing by the Architectural Committee.
- (c) Complete plans and specifications must be submitted in writing showing plot layout, materials, sizes, color, design and landscaping, and with the signature of the Owner.
- (d) The Association may charge an Owner for reasonable costs incurred for review of any proposals submitted (e.g., an Architect's fee).

7.02 Certain Procedures for the Committee.

- (a) The Committee shall meet from time to time as necessary.

- (b) If any Member is unable (or unwilling) to serve on the Committee, the remaining Member(s) will have authority to approve or reject any proposed construction or alteration.
- (c) If the Committee fails to rule on a proposal within thirty (30) days after complete plans and specifications have been submitted as outlined below, the plans will be considered automatically approved.
- (d) Complete plans and specifications must be either:
 - (1) Personally delivered to a Committee Member; or
 - (2) Mailed postage prepaid, certified mail, return receipt requested to the Committee at its current address.

7.03 **Review Standards.**

- (a) The Committee must approve or reject plans and specifications submitted for proposed construction or alteration based on:
 - (1) Aesthetic aspects of design, placement, landscaping, color, finish, materials, and harmony with existing structures; and
 - (2) Overall benefit or detriment to the Property and the area immediately surrounding the Unit involved.
- (b) The Committee is not responsible for approval of plans from the standpoint of structural safety or conformance with building codes.

7.04 **Appeal.**

- (a) After the Declarant has lost the right to appoint a majority of Members of the Committee, all decisions of the Committee are subject to review by the Board.
- (b) Unless the composition of the Membership of the Committee is identical to the Board, the Board must review and decide upon the proposal within forty-five (45) days after the decision by the Committee, otherwise the proposal will be deemed approved.

7.05 **Architectural Committee Meetings.**

Meetings of the Architectural Committee shall be held from time to time as necessitated by action to be taken. Notice, hearing and conduct of the meetings must be in accordance with the Bylaws of the Association and general corporation laws regarding committee meetings.

ARTICLE VIII

MORTGAGEE PROTECTION

8.01 Subordination of Lien and Foreclosure.

- (a) Any lien for Regular or Special Assessments created or claimed in this Declaration:
 - (1) Is subject and subordinate to the rights of any First Mortgage that encumbers any part of the Property made for value in good faith; and
 - (2) May not in any way impair or invalidate the obligation or priority of a First Mortgage unless expressly subordinated in writing by the Mortgagee.
- (b) Foreclosure of any Assessment lien created by any provision of this Declaration shall not operate to impair any lien encumbered by a First Mortgage made for value in good faith.
- (c) Upon foreclosure of a First Mortgage, the purchaser:
 - (1) Will take the Condominium title free of any Assessment lien accrued up to the time of the foreclosure sale (provided that nothing herein is intended to impair the rights of the Association to receive payment on any Assessment lien in the event the net sale proceeds are in excess of what is owed on all encumbrances prior to the Assessment lien);
 - (2) Is only obligated to pay Assessments or other Association charges accruing after the Unit title is acquired; and
 - (3) If the Mortgagee obtains title with a deed in lieu of foreclosure, any Assessment lien will not be extinguished.

8.02 Mortgagees Are Not Required to Cure Certain Breaches.

A First Mortgagee who acquires title by foreclosure or by a deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure an existing breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

8.03 Effect of Breach of Declaration.

- (a) Breach of this Declaration may not:

- (1) Cause any forfeiture or reversion of title; or
 - (2) Bestow any right of reentry.
- (b) Breach of this Declaration may be enjoined or abated by court action by the Association, or any Unit Owner, and damages may also be awarded provided that:
- (1) The violation does not impair or invalidate the Mortgage lien or deed of trust made for value in good faith; and
 - (2) This Declaration binds any Owner whose title is derived through foreclosure, trustee's sale or otherwise.

8.04 Exemption From Right of First Refusal.

- (a) No right of first refusal or similar restriction may be placed on an Owner's right to sell, transfer, or otherwise convey a Unit, unless a Mortgagee of the Property grants written consent to the Association.
- (b) Any right of first refusal or option to purchase a Unit that may be granted to the Association (or other party) may not impair the rights of a First Mortgagee to do any of the following:
 - (1) Foreclose or take title to a Unit, pursuant to the remedies provided in the Mortgage;
 - (2) Accept a deed (or assignment) in lieu of foreclosure in the event of default under the Mortgage; or
 - (3) Sell or lease a Unit acquired by the Mortgagee.

8.05 Restrictions on Certain Changes.

- (a) Eligible First Mortgagees are holders of First Mortgages who have requested the Association to notify them of specified proposals and changes to the Governing Documents.
- (b) At least sixty-seven (67%) percent of Owners and at least fifty-one percent (51%) of the votes of Eligible First Mortgagees must give written approval before the Association may, by act or omission, do any of the following:
 - (1) Abandon, partition, subdivide, encumber, sell or transfer any portion of a Common Area (other than granting easements as specified in this Declaration);

- (2) Alter the method of determining Assessments or other charges levied against an Owner;
- (3) Partition or subdivide any Condominium;
- (4) Seek to abandon or terminate the Condominium Property (except as provided by statute in case of substantial loss to the Units or Common Areas);
- (5) Use hazard insurance proceeds for losses to the Property (Unit or Common Area) for other than repair, replacement or reconstruction of the relevant Property (except as provided by statute in case of substantial loss to the Units or Common Areas);
- (6) Change, waive or abandon any regulations or enforcement pertaining to the architectural design, the exterior appearance or the maintenance of the Units or the Common Area(s).
- (7) Fail to maintain Fire and Extended Coverage on insurable Common Area(s) as specified in this Declaration.
- (8) Amend the Governing Documents concerning any material provision (which includes, but is not limited to, the following):
 - (A) Voting rights;
 - (B) Rights to use the Common Area(s), and reallocation of interests in the Common Area (including Exclusive Use Common Areas);
 - (C) Reserves and responsibility for maintenance, repair and replacement of the Common Property;
 - (D) Unit boundaries;
 - (E) Owners' interests in the Common Area;
 - (F) Convertibility of Common Area into Units or Units into Common Area;
 - (G) Unit leasing;
 - (H) Establishment of self-management by the Association where professional management has been required by any beneficiary, insurer or guarantor of a First Mortgage;
 - (I) Annexation or deannexation of real property;

- (J) Assessments, Assessment liens, or the subordination of such liens;
 - (K) Casualty and liability insurance (or other insurance or fidelity bonds);
 - (L) Imposition of a right of first refusal or similar restriction of an Owner's right to sell, transfer or otherwise convey the Unit;
 - (M) Restoration or repair of the Property after hazard damage or partial condemnation;
 - (N) Action to terminate the legal status of the Property after substantial destruction or condemnation; and
 - (O) Any provisions that are for the express benefit of First Mortgagees, insurers or governmental guarantors of First Mortgages.
- (c) Change, waive or abandon the provisions of this Declaration (and their enforcement) pertaining to architectural design and control of the exterior appearance of structures, maintenance of the Common Area(s), walks, fences, driveways, lawns and plantings on the Property.
 - (d) When Unit Owners are considering termination of the legal status of the Project for reasons other than substantial destruction or condemnation of the Property, written approval of sixty-seven percent (67%) of Eligible First Mortgagees must be given.
 - (e) An Eligible First Mortgagee's approval will be considered granted if a negative response is not delivered to the Board within thirty (30) days after it receives notice of the proposed amendment, provided notice was delivered personally or by certified or registered mail, return receipt requested.

8.06 Inspection of Association Books and Records.

Any First Mortgage holder has the right to examine the books and records of the Association.

8.07 Condemnation Awards and Insurance Proceeds.

- (a) First Mortgagees have priority over any other party (including the Owner) pursuant to their Mortgage in a case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Units or Common Areas. Any provision to the contrary in this Declaration, the Bylaws, or other Governing Documents is to such extent void.

- (b) All applicable fire, physical loss or extended coverage insurance policy must contain loss payable clauses acceptable to the affected First Mortgagee, naming the Mortgagees as their interests may appear.

8.08 **Mortgagee's Right to Attend Meetings.**

Any Mortgagee may appear at Association and Board meetings, but is not eligible to vote.

8.09 **Payments by Mortgagees.**

- (a) First Mortgagees may pay the following jointly or severally:
 - (1) Taxes or other charges in default which may be a charge against any part of the Common Area(s); and
 - (2) Overdue premiums on hazard insurance policies, or to secure new hazard insurance coverage on the lapse of a policy for the Common Area(s).
- (b) Upon making such payments, the Association:
 - (1) Owes immediate reimbursement to First Mortgagees making such payments; and
 - (2) Must, upon Mortgagee's request, execute an agreement that reflects the First Mortgagees' entitlement to such reimbursement.

8.10 **Loss Payable Endorsement.**

All applicable fire, physical loss or extended coverage insurance policies must contain loss payable clauses naming the Mortgagees who encumber the Condominiums.

8.11 **Notices to Mortgagees.**

- (a) The holder, insurer or guarantor of the mortgage on any Unit is entitled to timely written notice of:
 - (1) Any condemnation or casualty loss that affects a material portion of the Project or the Unit securing its mortgage;

- (2) Any sixty-day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds the mortgage;
 - (3) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
 - (4) Any proposed action that requires the consent of a specified percentage of Eligible First Mortgage Holders.
- (b) To obtain the information above, the mortgage holder, insurer or guarantor must send a written request to the Association, stating both its name and address and the unit number or address of the unit it has the mortgage on.

8.12 Governmental Financing Programs.

- (a) It is the intent that the Governing Documents and the Project in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any Mortgage of a Condominium in the Project by the Federal Home Loan Mortgage Corporation, and Federal National Mortgage Association. The Association and each Owner shall promptly take any action and/or shall adopt any resolutions required by the Association or any Mortgagee to conform this Declaration or the Project to the requirements of any of these entities or agencies. Each Owner of a Condominium in the Project, by accepting a deed to a Condominium, shall be deemed to have constituted and irrevocably appointed the Association as its Attorney-in-Fact, for itself and each of its Mortgagees, heirs, legal representatives, successors and assignees, whether voluntary or involuntary, and thereby to have conveyed a Power of Attorney coupled with an interest to the Association as its Attorney-in-Fact for the purpose of amending the Governing Documents to conform with any new requirements. This Power of Attorney shall expire two years after the recording of this Declaration.
- (b) These steps include the requirement that, when available, the Association must maintain certain types of insurance coverage issued by carriers who meet the requirements of the relevant governmental financing program.
- (c) Hazard insurance policies required by this Section must contain (or attach) the standard Mortgagee clause commonly accepted by private institutional Mortgage investors for similar properties in the locale (except when a separate policy covering the Common Area(s) is maintained).
- (d) If there are any such loans, the Association will give written notice to FHLMC (or its designated representative) of the following:

ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

9.01 Restoration of the Property.

If there is damage or destruction of improvements to the Common Area:

- (a) If insurance proceeds cover at least eighty-five percent (85%) of restoration costs, the Association shall cause Common Area damage to be repaired unless seventy-five percent (75%) of the total voting power elect not to reinvestment or repair.
- (b) If insurance proceeds cover less than eighty-five percent (85%) of restoration costs, then the vote (or written assent) of seventy-five percent (75%) of the Owners and First Mortgagees must approve proceeding with restoration and a Special Assessment to be levied by the Board.
- (c) If the estimated cost of repair does not exceed ten thousand dollars (\$10,000.00), the Board must cause the repair to occur without the consent of Members irrespective of the available amount of insurance proceeds. The Board is empowered to levy a Special Assessment if necessary as described herein.
- (d) If the Owners decide to rebuild, then within six (6) months from the date of destruction, the Board shall record with the County Recorder a certificate of resolution authorizing such construction, or it shall be presumed that the Owners have determined not to rebuild.
- (e) If the Owners (and Mortgagees, if applicable) decide to rebuild the Board shall levy a Special Assessment against all Owners to raise the remaining funds required for repair of such damage. Said Special Assessment 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.
- (f) If the Owners and Mortgagees determine that restoration costs would be substantial and reconstruction would not be in their best interests, the Owners may proceed as provided below.

9.02 Sale of Property and Right to Partition.

- (a) If the Association elects not to rebuild, an independent M.A.I. (Member Appraisal Institute) appraiser (or an appraiser of comparable experience) shall determine the relative fair market values of all condominiums as of a date immediately prior to any damage or destruction and the proceeds of insurance shall be apportioned among all Owners, and their respective Mortgagees, in proportion to such values.

- (1) Any loss to the Common Area in excess of Ten Thousand Dollars (\$10,000.00); or
- (2) Damage to a Condominium covered by a First Mortgage purchased (in whole or in part) by the FHLMC in excess of One Thousand Dollars (\$1,000.00).

- (b) An Owner may not partition his or her interest in the Condominium, and there may be no judicial partition of the Property, except:
 - (1) If a certificate of a resolution to rebuild has not been recorded within six (6) months of the destruction; or
 - (2) If restoration has not begun within six (6) months, then conditions for partition as set forth in Subdivision (4) of California Civil Code Section 1359(b) will be deemed satisfied.
- (c) In case of partition, the Association (acting through a Board majority) must promptly record a certificate that states:
 - (1) That a Board majority has irrevocable power of attorney to sell the Property for the Owners' benefit (except the VA) and for whatever documents are necessary for the Association to sell the Property for the best price, either in its damaged condition, or after damaged structures have been razed; and
 - (2) That the certificate is conclusive evidence of authority for any person relying upon it in good faith.
- (d) Net proceeds from sale, condemnation award (affecting all or a part of the Structural Common Area which is not apportioned among Owners by court judgment or by agreement between condemning authorities and each of the Owners) and/or Association insurance must be divided proportionately among the Owners according to an appraised fair market value of the Condominiums (as of a date immediately prior to destruction or condemnation), computed by dividing the value of each Condominium by the total value of all Condominiums. Appraiser(s) hired by the Board for this purpose will be paid as an Association Common Expense.
- (e) The balance due on any valid encumbrance of record will be paid in order of priority before the distribution of any proceeds to the relevant Owner.

9.03 **Interior Damage.**

Restoration and repair of any interior damage to a Unit is the individual expense of the Unit's Owner, except any casualty or damage insured against by the Association.

9.04 **Notice to Owners and Listed Mortgagees.**

Immediately upon learning of any material damage or destruction to the Common Property or any Unit, the Board must notify all Owners, and Beneficiary, insurer or guarantor of any relevant Mortgage who have filed a written request for Board notice (see "Mortgagee Protection" Article).

ARTICLE X

CONDEMNATION

10.01 Representation by the Board in Condemnation Proceedings.

In case any Condominium is taken by condemnation or sale by eminent domain:

- (a) The Board will be the sole representative of all Members in any action to recover awards and all aspects of condemnation proceedings (subject to Mortgagees who have requested to join the Board in the proceedings); and
- (b) Members may not challenge the Board's good faith in fulfilling these duties.

10.02 Distribution of Award.

- (a) In case of condemnation or sale by eminent domain, the Board must distribute any award according to these provisions (after deducting fees and expenses related to the condemnation proceedings).
- (b) Any award must first be applied toward payment of any balance due on any Mortgages of record, in order of priority.
- (c) If condemnation judgment apportions the award among the Owners and Mortgagees, the Board will distribute the remaining amount (after deductions above) according to the terms of the judgment allocation.
- (d) If by sale under threat of condemnation (or if the judgment of condemnation fails to apportion the award), the Board will distribute the award based upon relative values of the affected Condominiums as determined by an independent M.A.I. appraiser(s) hired by the Board.
- (e) The determination of the appraiser(s) of each Condominium's value and degree of affect by the proceedings will be final and binding on all Owners and Mortgagees.
- (f) An Owner does not have priority over a Mortgagee for the condemnation award allocated to the Condominium.
- (g) An award may not be distributed to an Owner or Mortgagee in excess of the allocated amount.

10.03 Inverse Condemnation.

The Board may bring an inverse condemnation action, in which case these provisions apply with equal force.

10.04 Revival of the Right to Partition.

- (a) If condemnation or sale by eminent domain renders more than twenty percent (20%) of the Units incapable of substantial restoration to prior condition (of at least ninety-five percent (95%) of the floor area):
 - (1) The Board must call an Owners' meeting within sixty (60) days by mailing notice to each Owner at the address in the Association records; and
 - (2) The Owners may permit sale and partition of the entire Property (by a sixty-seven percent (67%) vote or written consent of the Owners, based on one (1) vote per Unit), in which case an Owner's right to partition through legal action is revived.
- (b) The Board will determine whether Condominiums partially taken are capable of being restored, and their decision is final and binding.

10.05 Awards for Members' Personal Property and Relocation Allowances.

- (a) In case of condemnation or sale by eminent domain, each Owner has exclusive right to claim:
 - (1) All of the award made for the Member's personal Property: and
 - (2) Relocation and moving expenses.
- (b) The Board shall represent each Member in an action to recover awards regarding the Members' personal property, and must allocate the proportional amount of any award attributable to the appropriate portion of each Members' personal property.

10.06 Notice to Members.

As soon as the Board learns of any potential condemnation or sale by eminent domain, it must notify all Members and First Mortgagees who have filed a written request for notice (see "Mortgagee Protection" Article).

10.07 **Change of Condominium Interest.**

- (a) In case of condemnation or sale by eminent domain, the Board may amend the Condominium Plan to reflect changes (subject to this Declaration).
- (b) If the Board records such an amendment, all relevant Owners and security interest holders must:
 - (1) Execute and acknowledge the amendment in compliance with California Civil Code Section 1351 (or any similar statute in effect); and
 - (2) Execute other documents and take other actions required to make the amendment effective.
- (c) The Board must send a notice of Condominium Plan change to each Owner and Mortgagee within ten (10) days after the amendment is filed in the relevant County Recorder's Office.

ARTICLE XI

COVENANT AGAINST PARTITION AND RESTRICTION

ON SEVERABILITY OF CONDOMINIUM COMPONENT INTEREST

11.01 No Partition; Exceptions; Power of Attorney.

- (a) The right of partition is hereby suspended (except that the right to partition revives and the Property may be sold as a whole when the provisions of this Declaration concerning Destruction and Eminent Domain are met).
- (b) Upon prior written approval of the First Mortgagee, an Owner may bring an action for partition by sale as provided in California Civil Code Section 1359 (or any similar statute in effect at the time).
- (c) These provisions do not prevent a judicial partition between co-tenants of a Unit.
- (d) The Association (through its Board) has irrevocable power of attorney not applicable to the VA for the following circumstances:
 - (1) To sell the Property for the benefit of Owners and Mortgagees when partition takes place under California Civil Code Section 1359;
 - (2) Only after a certificate executed by a majority of Board Members is recorded which states that power of attorney is duly exercisable under the circumstances.
- (e) Said power of attorney shall not apply to the VA and/or FHA.

11.02 Proceeds of Partition Sale.

- (a) Whenever an action is brought for partition by sale, the Owners will share the proceeds in the same proportion as the relative values of each Condominium, **determined** by comparing its fair market value on partition date (established by an M.A.I. Appraiser selected by the Association) to the total assessed value of all Units in the Property on that date.
- (b) Distribution of partition sale proceeds must be adjusted to reflect prior condemnation awards or insurance proceeds paid to Owners and Mortgagees.
- (c) In case of partition and sale, provisions of all Mortgages and Assessment liens extend to each Owner's interest in the resultant proceeds.

- (d) An Owner's interest may only be distributed upon prior payment of any Mortgage or Assessment encumbering the proceeds.

11.03 **No Separate Conveyance of Condominium Components.**

- (a) An Owner may not sever, sell, convey or encumber a Unit's component interests (such as the undivided interest in the Common Area from the Unit).
- (b) The provisions of this Section terminate when a partition is decreed (either judicial or in accordance with this Article).

ARTICLE XII

EASEMENTS

12.01 Certain Rights and Easements Reserved to Declarant.

As long as any Unit remains unsold, and for no longer than three (3) years from the date of the first conveyance after issuance of the original DRE public report, the Declarant and its representatives reserve easements and rights for the following purposes without the need to seek or obtain Board or Architectural Committee approval:

- (a) To complete excavation, alteration, grading and construction of improvements;
- (b) To construct, alter or make additional improvements Declarant deems advisable in the course of Property development;
- (c) To use any Unit owned by Declarant as an office for construction, decoration, real estate sales and leasing; and
- (d) To make reasonable use of any Common Areas for ingress, egress, development, sales and construction purposes.

12.02 Certain Easements for Owners.

Declarant grants nonexclusive easements for enjoyment, ingress, egress, pedestrian walkway and general recreation purposes over and upon the Common Area (except Exclusive Use Common Areas, if any) to all Owners, subject to Governing Documents.

12.03 Certain Easements for Association.

Declarant grants to the Association nonexclusive easements over the Common Areas and Units to the Association to discharge its obligations as described in this Declaration.

12.04 Encroachment.

Declarant, the Association and Owners of contiguous Units have a reciprocal easement appurtenant to each of the Units and Common Areas for the following purposes:

- (a) Accommodating any existing encroachment of a wall or structure; and
- (b) Maintaining any structure and accommodating authorized construction, reconstruction, repair, shifting, movement or natural settling.

12.05 Creation of Easements.

- (a) Easements referred to herein are established upon the recordation of the first deed conveying a condominium in the Project, and the provisions hereof with respect to such easements shall be covenants running with the land for the use and benefit of Units and Property superior to all other encumbrances.
- (b) Individual grant deeds to Units shall state that the grant is made subject to the provisions of this Declaration, and may set forth reference to these easements, but are not required to do so.

12.06 Utility Easements.

The Association may grant easements and rights of way through the Common Area(s) and units for water, sewer, telephone and cable lines, storm drains, underground conduits, sprinkler systems, and other purposes intended to maintain the health, safety, convenience and enjoyment of the Units and Common Area(s).

ARTICLE XIII

SPECIAL PROVISIONS RELATING TO ENFORCEMENT OF DECLARANT'S OBLIGATION TO COMPLETE COMMON AREA IMPROVEMENTS

13.01 Special Provisions Relating to Enforcement of Declarant's Obligation to Complete Common Area Improvements.

- (a) The Board must consider and vote on Association action to enforce bond obligations regarding any Common Area improvement if the following factors apply:
 - (1) Declarant has not completed Common Area improvements before the first Unit closes escrow;
 - (2) The Association is the obligee under a bond or other arrangement securing completion; and
 - (3) A Notice of Completion has not been filed within sixty (60) days of the completion date specified in the planned construction statement appended to the bond.
- (b) The Association may grant a written extension for a Common Area completion.
- (c) If a notice of completion has not been filed within thirty (30) days after the extension expires, the Board will meet and vote on enforcement options.
- (d) Association Members may submit a petition signed by at least five percent (5%) of Association voting power calling for a Special Meeting to be held between thirty-five (35) and forty-five (45) days after the Board receives the petition.
- (e) At the Special Meeting, a majority vote of Association Members (other than Declarant) overrides the Board's decision and causes the Board to enforce bond obligations through appropriate action in the name of the Association.

ARTICLE XIV

AMENDMENT

14.01 Amendment.

- (a) Before the first Unit is sold, and subject to the consent of the First Mortgagee, if any, Declarant may unilaterally amend this Declaration (subject to the Article entitled "Mortgagee Protection") by recording an instrument of amendment in the relevant County Recorder's Office.
- (b) After the first Unit is sold, this Declaration may only be amended in the following ways (and subject to the Article entitled "Mortgagee Protection"):
 - (1) If there is only one Membership Class:
 - (A) A signed, written instrument from sixty-seven percent (67%) of Association Members (other than Declarant); or
 - (B) A signed, written instrument by two Association officers certifying that the relevant amendment has been approved by at least sixty-seven percent (67%) of Association Members (other than Declarant).
 - (2) If Class B Membership exists:
 - (A) A signed, written instrument from sixty-seven percent (67%) of the voting power of each class of membership; or
 - (B) A signed, written instrument by two Association officers certifying that the amendment has been approved by at least sixty-seven percent (67%) of each class of membership.
- (c) Any amendment must be properly recorded in the County Recorder's Office.
- (d) The percentage of Association Members needed to amend this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under the relevant provision.
- (e) An Owner or the Association may petition the Superior Court for an order reducing the percentage of affirmative votes needed to amend this Declaration (pursuant to Civil Code Section 1356, or any successor statutes).

- (f) Notwithstanding the foregoing provisions, the Association or any owner of a separate interest may, pursuant to Civil Code Section 1356 (or any successor statutes) petition the Superior Court for an order reducing the percentage of the affirmative votes necessary to amend this Declaration. A copy of the petition and all other documents filed with the Court shall also be served on the Veterans Administration.
- (g) Notwithstanding the foregoing provisions of this Article, so long as there is a Class B membership, any Amendment to this Declaration shall require the prior approval of the United States Department of Veterans Affairs. A draft of any Amendment must be submitted to the VA for its approval prior to recordation.

ARTICLE XV

MISCELLANEOUS PROVISIONS

15.01 Enforcement.

- (a) An Owner or the Association may enforce by legal action all restrictions, conditions, covenants, reservations, liens, Assessments, fees and penalties imposed by this Declaration for violations committed by any offending party.
- (b) Failure to take action does not constitute a waiver of the right to take action.

15.02 Term of Declaration.

- (a) This Declaration is binding upon all parties for sixty (60) years after the recording date.
- (b) After sixty (60) years, the Declaration will automatically be extended for successive ten (10) year periods, unless the Owners (heirs, successors, representatives) of a majority of subject Units record a signed, written instrument:
 - (1) At least one (1) year before the beginning of any ten (10) year period; and
 - (2) Agreeing to change or terminate this Declaration.

15.03 Notices.

Any required notice must be given by:

- (a) Personal delivery to the location of the address of the recipient of the Notice; or
- (b) Mailing by first-class, registered or certified pre-paid U.S. mail (deemed given five (5) days after deposit in the mail);
- (c) Delivery by a reputable overnight courier service such as Federal Express, United Parcel Service, etc. (deemed given upon delivery to the location of the address of the recipient of the Notice); or
- (d) Facsimile transmission (deemed given upon date of transmission upon confirmation of receipt).

15.04 **Partial Invalidity.**

If any of this Declaration is declared invalid or in conflict with any relevant law, the validity of the remainder of this Declaration will remain in full force and effect.

15.05 **Number.**

As required by the context of this Declaration, a singular grammatical reference includes the plural application.

15.06 **Attorneys' Fees.**

In any legal action by an Owner(s) or the Association to enforce any provision of the Governing Documents, the prevailing party shall be awarded reasonable costs (including attorney's fees).

15.07 **City of Los Angeles Covenants and Agreements.**

All provisions of the following Covenant(s) and/or Agreement(s) with the City are incorporated herein by reference thereto with the same force and effect as though fully set forth herein at length: recorded October 8, 1992, as Instrument No. 92-1876401, Official Records.

ARTICLE XVI

REDESIGN OF PROJECT

16.01 Right of Declarant to Redesign Project.

Subject to the restrictions and limitations set forth in this Article, Declarant reserves the right, in its sole discretion, from time to time, to redesign the Project or any portion or aspect thereof, including, but not limited to, any Improvement constructed or proposed to be constructed in the Project in connection with such redesign, to effect the following changes in the Project:

- (a) Alter the vertical or horizontal boundaries, or both, of any Improvement;
- (b) Adjust the location or configuration, or both, of the boundary lines between the Common Areas and the Units, or the boundary lines of any parking areas or Exclusive Use Common Areas;
- (c) Effect nominal deviations or errors from the Condominium Plan which may result during the actual construction of the Improvements;
- (d) Reconfiguration of the number of Phases in the Project;
- (e) Reallocation of the number of Units within any one Un-Annexed Phase to another Un-Annexed Phase; and
- (f) Adjust the configuration of any Phase Airspace Envelope boundary line and the boundary lines of the Common Areas or Exclusive Use Common Areas.

16.02 General Restrictions on Redesign.

The rights of Declarant set forth in Section 17.1 above shall and are hereby made subject to the following additional restrictions and limitations:

- (a) In no event shall the number of Condominiums in the Project be changed;
- (b) In no event shall Declarant redesign any portion of the Project in a manner which reduces the size of any Unit to less than ninety percent (90%) of the area of the Unit with the smallest area in the Project prior to such redesign;
- (c) The redesign of any portion of the Project shall in no event physically modify, affect or change any Units which, as of the date of such redesign, are the subject of an agreement of sale or are not owned by Declarant, unless the purchaser or Owner of such a Unit shall consent to such redesign in writing; and

- (d) Subject to the consent of the U.S. Department of Veterans Affairs.

16.03 Amendment to Condominium Plan.

- (a) If a redesign of all or any portion of the Project in accordance with the provisions of the Article affects any Unit in the Project in a manner which requires amendment of the Condominium Plan for such Unit, including, without limitation, an amendment necessary to cause the Condominium Plan to comply with the Condominium Building as actually built, Declarant shall prepare, execute, acknowledge and record such amendment to the Condominium Plan.
- (b) An amendment of the Condominium Plan by Declarant pursuant to this Section shall, when recorded, have the effect of:
- (1) Relocating the Common Area and Exclusive Use Common Area therein and each Unit to the extent set forth on the amendment;
 - (2) Vesting in each Owner (including Declarant with respect to any unsold Units) and undivided interest (to the extent of each Owner's prorata interest in the Common Area) in the Common Area as depicted on the amendment;
 - (3) Divesting each Owner (except Declarant) of all right, title and interest to any Unit, other than such Owner's Unit, depicted on the amendment;
 - (4) Vesting in each Mortgagee an undivided interest (to the extent of the interest in the Common Area of the Owner of the Unit which is the subject of such Mortgage) in the Common Area as depicted on the amendment; and
 - (5) Divesting each Mortgagee of all right, title and interest to each Condominium (other than the Owner's Condominium which is the subject of such Mortgage or other encumbrance) depicted on the amendment.
- (c) The adjustment of any Mortgage in accordance with the provisions of this Section shall not affect the priority of an such Mortgage with respect to any other matters affecting title to the Unit which is the subject of such Mortgage.

16.04 Power of Attorney.

Each Owner of a Condominium in the Project, with the exception of the Secretary, United States Department of Veterans Affairs, an Officer of the United States of America, by accepting a deed to a Condominium, shall be deemed to have constituted and irrevocably appointed Declarant as his Attorney-in-Fact, for himself and each of his Mortgagees, optionees, grantees, licensees, trustees, receivers, lessees, tenants, judgement creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and thereby to have conveyed a Power of Attorney coupled with an interest to Declarant as his Attorney in Fact to effect the redesign of all or any portion of the Project in accordance with the limitations and requirements set forth in this Article and further:

- (a) To prepare, execute, acknowledge and record any map or record of survey required or permitted by the provisions of the Subdivision Map Act of the State of California in effect on the date of the recording of this Declaration and as thereafter enacted or amended, and any ordinances, rules and regulations of the City and any other governmental entities and authorities having jurisdiction over the Project as in effect on the date of the recording of this Declaration and as thereafter enacted or amended, or which may be required or permitted by any title insurer, and in connection therewith, to perform all conditions, undertake any obligations and execute all agreements and documentation required or permitted by any federal, state and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute, acknowledge and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;
- (b) To prepare, execute, acknowledge and record any amendment to the Condominium Plans for the Project, including, without limitation, any amendments necessary to cause the Condominium Plans to conform with the Condominium Building as actually built, which may be required or permitted by the laws of the State of California as in effect on the date of the recording of this Declaration as thereafter enacted or amended, and any ordinances, rules and regulations of the City and any other governmental entities and authorities having jurisdiction over the Project as in effect of the date of the recording of this Declaration and as thereafter enacted or amended, or which may be required or permitted by any title insurer, and in connection therewith, to perform all conditions, undertake any obligations and execute all agreements and documentation required or permitted by an federal, state and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;

- (c) To prepare, execute, acknowledge and file for approval, any application for zoning of set back changes or variance or special use permits or any other permits or reports required or permitted by the laws of the State of California as in effect on the date of the recording of this Declaration and as thereafter enacted or amended, and any ordinances, rules and regulations of the City and any other governmental entities and authorities having jurisdiction over the Project as in effect on the date of the recording of this Declaration and as thereafter enacted or amended and, in connection therewith, to perform all conditions, undertake any obligations and execute all agreements and documentation required or permitted by any federal, state and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;
- (d) To make applications for any property reports or public reports or amendments thereto or exemption from the requirements therefor required or permitted by federal and state statutes, rules and regulations relating to the sale, lease, transfer or other disposition of subdivided lands and, in connection therewith, to perform all conditions, undertake any obligations and execute all agreements and documentation required or permitted by any federal, state and local governmental entities and authorities; to appear before any such governmental entities and authorities; and to execute and deliver any improvement agreements and bonds and post deposits securing the performance of any such conditions and obligations;
- (e) To deliver any public reports or property reports, or amendments thereto, obtain receipts and offer and administer rescission rights required by law;
- (f) To prepare, execute, acknowledge and file for approval, any registration or application for any permit, approval, exemption, ruling or entitlement, which registration or application is required or permitted pursuant to any law or regulation in effect as of the date of the recording of this Declaration and as hereafter enacted or amended by any federal, state and local governmental entities and authorities, and in connection therewith to perform all conditions, undertake any obligations and execute all agreements and documentation required or permitted by such governmental body and by any such laws and regulations; to appear before any such governmental bodies and to execute and deliver any improvement agreement and bonds and post deposits securing the performance of any such conditions and obligations; and do all other things now or hereafter permitted or required by any such governmental body and any such laws and regulations;
- (g) To prepare, execute, acknowledge and record any deeds, waivers, releases, reconveyances or other documentation which may be permitted or required to clear title to any constructed or unconstructed Units in the Project; and
- (h) To do any and all things necessary or desirable under the circumstances to effect and accomplish the purposes of this Article.

16.05 Indemnification of Owners on Exercise of Power of Attorney.

Declarant shall indemnify and hold each Owner free and harmless from all liabilities, including attorneys' fees, which are incurred as a direct result of the execution by Declarant of any improvement agreements or bonds, or both, in connection with the exercise by Declarant of the Power of Attorney set forth in Section 17.04 hereof.

**16.06 Mortgage Interests and Other Encumbrances
to Take Subject to Power of Attorney.**

The acceptance or creation of any Mortgage or other encumbrance whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in Section 17.04 hereof.

16.07 Effect on Assessment Liens.

Any lien to enforce the collection of assessments levied prior to the recording of an amendment to any Condominium Plan pursuant to this Article shall be reconveyed and released with respect to each Condominium depicted on such amendment other than the Condominium which was originally the subject of such lien.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has executed this Declaration for Tract No. 50665 on the day and year first written above.

DECLARANT:

AVIV REALTY AND DEVELOPMENT CORP.,
a California corporation

x Nurit Bitensky
by: NURIT BITENSKY
its: PRESIDENT

x Shlomo Bitensky
by: SHLOMO BITENSKY
its: SECT.

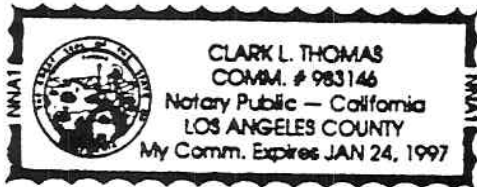
STATE OF CALIFORNIA)
COUNTY OF) ss.

On 9-7, 1993, before me, Clark L. Thomas "Notary Public", a
Notary Public in and for said State, personally appeared Nurit Bitensky And Shlomo
Bitensky

☒ Personally known to me - OR - ☐ 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 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.

(SEAL)

Clark L. Thomas
Notary Public




SUBORDINATION BY LIENHOLDER

WELLS FARGO BANK, National Association, as Beneficiary under the following Deed(s) of Trust which cover(s) the real property described in the Declaration of Covenants, Conditions, Restrictions and Easements for Tract No. 50665 to which this instrument is attached, hereby approves and consents to the recording of this Declaration of Covenants, Conditions, Restrictions and Easements, and agrees that the lien(s) of said Deed(s) of Trust shall be subordinated to and subject to each and every provision of the Declaration and any future amendments not affecting the beneficial interest.

Deed of Trust recorded on October 22, 1992 as Instrument No. 92-1953764
of the Official Records of the Los Angeles County Recorder.

WELLS FARGO BANK,
National Association

x 
by: Gretchen Schaffner
its: Vice President

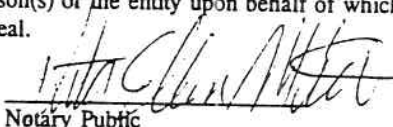
x 
by: Dennis S. Pierachini
its: Assistant Vice President

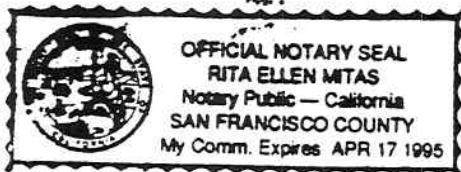
STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) ss.

On January 28, 1994, before me, Rita Ellen Mitas, a
Notary Public in and for said State, personally appeared Gretchen Schaffner and
Dennis S. Pierachini

[] Personally known to me - OR - ☒ 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 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.

(SEAL)


Notary Public



SUBORDINATION BY LIENHOLDER

THE CITY OF LOS ANGELES, as Beneficiary under the following Deed(s) of Trust which cover(s) the real property described in the Declaration of Covenants, Conditions, Restrictions and Easements for Tract No. 50665 to which this instrument is attached, hereby approves and consents to the recording of this Declaration of Covenants, Conditions, Restrictions and Easements, and agrees that the lien(s) of said Deed(s) of Trust shall be subordinated to and subject to each and every provision of the Declaration and any future amendments not affecting the beneficial interest.

Deed of Trust recorded on August 7, 1992 as Instrument No. 92-1456743 of the Official Records of the Los Angeles County Recorder.

THE CITY OF LOS ANGELES

x *Robert T. Moncrief*
by: **ROBERT T. MONCRIEF**
its: **DIRECTOR OF HOUSING**

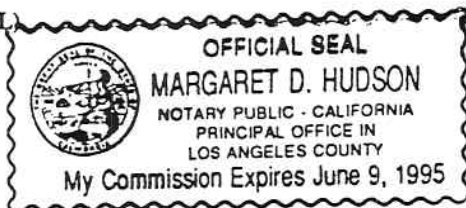
x _____
by: _____
its: _____

STATE OF CALIFORNIA)
COUNTY OF _____) ss.

On FEBRUARY 08, #, 1994, before me, MARGARET D. HUDSON, a
Notary Public in and for said State, personally appeared ROBERT T. MONCRIEF

☒ Personally known to me - ~~OR~~ ☐ 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~~ 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.

(SEAL)



Margaret D. Hudson
Notary Public

EXHIBIT "A"

**Lot 1 of Tract 50665, in the City of Los Angeles, as
per Map filed in Book 1200, Pages 59 and 60,
inclusive of Maps, in the Office of the County
Recorder of Los Angeles County.**

EXHIBIT "B"

ASSESSMENT ALLOCATION

[Page 1 of 4]

All Assessments shall be charged to each Condominium as follows:

- A. Variable Costs items shall only be the following budget items: insurance, domestic water and gas (if common), hot water heater (if common), paint and roof.
- B. The amount of the Total Monthly Variable Costs divided by the total living square footage of all Units (188,022 sq.ft.) shall equal the Variable Factor of .054. Total Monthly Equal Costs shall be the Total Monthly Budget less Total Monthly Variable Costs.
- C. Monthly Base Assessment shall equal the Total Monthly Equal Costs divided by the one-hundred fifty-three (153) Units.
- D. The following are the square footages for calculating the budget. Any variance from the actual square footages shall not alter the assessment allocation without an amendment to this Declaration:

<u>UNIT NUMBER</u>	<u>SQUARE FOOTAGE</u>
2120	622
3116	622
1105	719
2105	719
1112	731

[Units with square footage of 719 and 731 shall use the average square footage of 725 for purposes of calculating the Monthly Variable Assessment]

3101 - 3102	940
3104	940
3117	940
3206	940
3306	940
3110	974

[Units with square footage of 940 and 974 shall use the average square footage of 957 for purposes of calculating the Monthly Variable Assessment]

EXHIBIT "B"

ASSESSMENT ALLOCATION

[Page 2 of 4]

D. (Continued)

<u>UNIT NUMBER</u>	<u>SQUARE FOOTAGE</u>
1312	1,113
1314	1,113
1318	1,113
1320	1,113
2312	1,113
2314	1,113
2316	1,113
2318	1,113
3310	1,113
3312	1,113
1106 - 1111 6	1,123
2106 - 2117 12	1,123
3106 - 3109 4	1,123

[Units with square footage of 1,113 and 1,123 shall use the average square footage of 1,118 for purposes of calculating the Monthly Variable Assessment]

1201 - 1208 8	1,240
1211	1,240
1222	1,240
1323 - 1326 4	1,240
2201 - 2208 8	1,240
2210	1,240
2221	1,240
2223 - 2230 8	1,240
3201 - 3205 5	1,240
3207	1,240
3215 - 3218 4	1,240
3222	1,240
3224 - 3227 4	1,240
3320 - 3321 2	1,240

EXHIBIT "B"

ASSESSMENT ALLOCATION

[Page 3 of 4]

D. (Continued)

<u>UNIT NUMBER</u>	<u>SQUARE FOOTAGE</u>
1101 - 1104 ⁴	1,258
1223 - 1224 ²	1,258
2101 - 2104 ⁴	1,258
2119	1,258
2121 - 2122 ²	1,258
3103	1,258
3112 - 3113 ²	1,258
3115	1,258
1310	1,262
1322	1,262
2310	1,262
2320	1,262

[Units with square footage of 1,249; 1,258; and 1,262 shall use the average square footage of 1,251 for purposes of calculating the Monthly Variable Assessment]

2118	1,320
3105	1,320
3111	1,320
3219	1,320
3223	1,334
3228	1,357
1216	1,348
1210	1,399
1221	1,399
2211	1,399
2220	1,399

[Units with square footage of 1,320; 1,334; 1,357; 1,348; and 1,399 shall use the average square footage of 1,359 for purposes of calculating the Monthly Variable Assessment]

EXHIBIT "B"

ASSESSMENT ALLOCATION

[Page 4 of 4]

D. (Continued)

<u>UNIT NUMBER</u>	<u>SQUARE FOOTAGE</u>
3329	1,448
1209	1,474
2209	1,474
2222	1,474
3208	1,474
3214	1,474
1212 - 1215	1,483
1217 - 1220	1,483
2212 - 2219	1,483
3209 - 3212	1,483
3114	1,487

[Units with square footage of 1,448; 1,474; 1,483; and 1,487 shall use the average square footage of 1,467 for purposes of calculating the Monthly Variable Assessment]

3213	1,640
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- E. The Monthly Variable Assessment for each Unit is calculated by multiplying the Variable Factor by the Unit square footage size.
- F. The Total Monthly Assessment for each Unit shall equal the Monthly Variable Assessment plus Monthly Base Assessment.

EXHIBIT "C"

CALIFORNIA CIVIL CODE SECTIONS 1365, 1365.5, and 1366

Current as of 9/9/93

[Page 1 of 6]

S 1365. Documents prepared and distributed by associations

Unless the declaration imposes more stringent standards, the association shall prepare and distribute to all its members the following documents:

(a) A pro forma operating budget, which shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) A summary of the association's reserves based upon the most recent review or study conducted pursuant to 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.

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

(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).

(3) A statement as to whether the board of directors of the association has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor.

(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.

The summary of the association's reserves disclosed pursuant to paragraph (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.

EXHIBIT "C"

CALIFORNIA CIVIL CODE SECTIONS 1365, 1365.5, and 1366

Current as of 9/9/93

[Page 2 of 6]

A copy of the operating budget shall be annually distributed not less than 45 days nor more than 60 days prior to the beginning of the association's fiscal year.

(b) A review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars (\$75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(c) In lieu of the distribution of the pro forma operating budget required by subdivision (a), the board of directors may elect to distribute a summary of the pro forma operating budget to all its members with a written notice that the pro forma operating 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 that a copy of the pro forma operating budget required by subdivision (a) be mailed to the member, the association shall provide the copy to the member by first-class United States mail at the expense of the association and delivered within five 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 budget.

(d) 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 60-day period immediately preceding the beginning of the association's fiscal year.

S 1365.5. Board of directors; duties

(a) Unless the governing documents impose more stringent standards, the board of directors of the association shall do all of the following:

(1) Review a current reconciliation of the association's operating accounts on at least a quarterly basis.

(2) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis.

EXHIBIT "C"

CALIFORNIA CIVIL CODE SECTIONS 1365, 1365.5, and 1366

Current as of 9/9/93

[Page 3 of 6]

(3) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(4) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

(5) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis.

(b) The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of moneys from the association's reserve accounts.

(c) 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 three years 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 delaying restoration of these funds and in restoring the expended funds to 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 not subject to the limitation imposed by Section 1366.

(d) At least once every three years the board of directors shall cause a study of the reserve account requirements of the common interest development to be conducted if the current replacement value of the major components which the association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the association for any fiscal year. 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.

EXHIBIT "C"

CALIFORNIA CIVIL CODE SECTIONS 1365, 1365.5, and 1366

Current as of 9/9/93

[Page 4 of 6]

The study required by this subdivision shall at a minimum include:

(1) 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 30 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1) during and at the end of their useful life.

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

(e) As used in this section, "reserve accounts" means moneys that the association's board of directors has identified for use to defray the future repair or replacement of, or additions to, those major components which the association is obligated to maintain.

(f) As used in this section, "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.

(g) This section does not apply to an association that does not have a "common area" as defined in Section 1351.

EXHIBIT "C"

CALIFORNIA CIVIL CODE SECTIONS 1365, 1365.5, and 1366

Current as of 9/9/93

[Page 5 of 6]

S 1366. Levy of assessments; limitation on increases; delinquent assessments; interest

(a) Except as provided in this section, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this title. However, annual increases in regular assessments for any fiscal year, as authorized by subdivision (b), shall not be imposed unless the board has complied with subdivision (a) of Section 1365 with respect to that fiscal year, or has obtained 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 50 percent of the owners of an association.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board of directors may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year 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 50 percent of the owners of an association. This section does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

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

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