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DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
CORONADO

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 FOR  
CORONADO

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**EXHIBIT "A" - LEGAL DESCRIPTION OF ANNEXABLE TERRITORY**

**EXHIBIT "B" - DRAWINGS DEPICTING EXCLUSIVE USE AREA PATIOS IN PHASE I**

**EXHIBIT "C" - MAINTENANCE DECLARATION**

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
CORONADO

THIS DECLARATION is made by MISSION VIEJO COMPANY, a California corporation ("Mission") and JOHN LAING HOMES (CALIFORNIA), INC., a California corporation ("Declarant").

P R E A M B L E:

A. Mission is the owner of certain real property ("Phase 1") located in the unincorporated area of the County of Orange, State of California, described as follows:

The portions of Parcel 1 of Lot Line Adjustment No. 94-022 identified as "Phase 1" and thirty (30) Condominiums consisting of Units 1 to 30, inclusive, and undivided thirty-thirtieths (30/30) interests in the Common Area as described on the Condominium Plan Recorded on SEPTEMBER 30, 1994 as Instrument No. 94-0590372, in Official Records of Orange County, California, which Condominium Plan encumbers a portion of Parcel 1 of Lot Line Adjustment No. 94-022, which was Recorded on July 22, 1994, as Instrument No. 94-0467077, of Official Records of Orange County, California.

Declarant has entered into an agreement dated December 16, 1993, as amended, with Mission to acquire Phase 1 from Mission.

B. It is the desire and intention of Declarant to create a "condominium project," as defined in Section 1351(f) of the California Civil Code, to subdivide the Property (as hereinafter defined) as authorized by Section 66427 of the California Government Code into "condominiums" as defined in Section 783 of the California Civil Code, and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the condominiums created pursuant to the Davis-Stirling Common Interest Development Act.

C. Declarant and Mission hereby declare that all of the Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the limitations, restrictions, reservations, rights, easements, conditions and covenants contained in this Declaration and in the Community Declaration, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of the Property for the purpose of enhancing the value, desirability and attractiveness of the Property. All provisions of this Declaration, including without limitation the easements, uses, obligations, covenants, conditions and restrictions hereof, are hereby imposed as equitable servitudes upon the



Property. All of the limitations, restrictions, reservations, rights, easements, conditions and covenants herein and in the Community Declaration shall run with and burden the Property and shall be binding on and for the benefit of all of the Property and all Persons having or acquiring any right, title or interest in the Property, or any part thereof, and their successive owners and assigns. The development plan of the Property shall be consistent with the overall development plan, if any, submitted to the VA and FHA.

D. Declarant and Mission, their successors, assigns and grantees, covenant and agree that the undivided interest in the Common Area, the membership in the Association, any easements conveyed therewith and the fee title to each respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit; provided, however, that this restriction upon the severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Property is suspended in accordance with Section 1359 of the California Civil Code and the provisions of Article X hereof. Any conveyance by an Owner of a Condominium, or any portion thereof, shall be presumed to convey the entire Condominium, together with a membership in the Association.

E. On OCTOBER 3, 1994, Mission recorded a Notice of Annexation and Supplemental Declaration for Delegate District No. 77 of Aliso Viejo Community Association ("Notice of Annexation"), which annexed certain real property ("Acquired Property") to the Subject Property covered by the Community Declaration, as Instrument No. 94- 0592952 of Official Records of Orange County, California. The Acquired Property includes Phase I and Parcel A of said Lot Line Adjustment No. 94-022 which Declarant will convey to the Community Association. Mission may, in its sole and absolute discretion, annex all or any portion of those portions of the Annexable Territory not encumbered by the Community Declaration, as of the date of Recordation of this Declaration, to the coverage of the Community Declaration. If Declarant fails to acquire those portions of the Annexable Territory, which portions are not owned by Declarant as of the date of Recordation of this Declaration, then Mission or its successors in interest to such portions of the Annexable Territory shall be entitled to annex all or any portion of such Annexable Territory in accordance with the provisions of this Declaration, and may develop such real property, whether annexed or not, with types of residences which may be different from those in Phase 1.

F. If those portions of the Annexable Territory not owned by Declarant as of the date of Recordation of this Declaration are not annexed to the Property in accordance with the provisions of this Declaration, then the owners of dwellings in such unannexed Annexable Territory shall require the use of certain streets within the Property in order to gain access to their dwellings. In addition, the owners of dwellings in such unannexed Annexable Territory may wish to use certain recreational facilities in the Property. Moreover, Mission or its successors in interest to the unannexed Annexable Territory may require use of certain portions of the Property in connection with its marketing activities for the sale of dwellings in the Annexable Territory. Mission has Recorded a Declaration of Maintenance Covenants, Conditions and Restrictions and Reservation of Easements ("Maintenance Declaration") to provide for the use of the streets and

recreational facilities in the Property by owners of dwellings in the unannexed Annexable Territory and for the fair allocation of payment of Common Expenses relating to such use. The Maintenance Declaration further authorizes Mission and its successors in interest to use certain portions of the Property in connection with its marketing activities. The Maintenance Declaration was Recorded on OCTOBER 3, 1994, as Instrument No. 94- 0592951, in Official Records of Orange County, California. A copy of the Maintenance Declaration is attached hereto as Exhibit "C."

G. Mission is executing this Declaration as an accommodation only to assist Declarant in Declarant's efforts to subdivide and sell the Property. The Improvements in Phase 1 have been or will be developed and constructed by Declarant. Mission shall have no liability to Declarant, the Association or its Members by reason of Mission's execution of this Declaration as owner of the Property or by Mission's conveyance of the Association Property in Phase 1 to the Association.

## ARTICLE I

### 1. Definitions.

Unless otherwise expressly provided, the following words and phrases when used herein shall have the following specified meanings.

#### 1.1. Annexable Territory.

Annexable Territory shall mean the real property described in Exhibit "A" attached hereto and incorporated herein by this reference, all or any portion of which may from time to time be made subject to this Declaration pursuant to Article XVI hereof; provided that the maximum number of Units that may be added to the Project pursuant to Section 16.1 of said Article XVI shall be Two Hundred Thirty-Three (233).

#### 1.2. Architectural Committee or Committee.

Architectural Committee or Committee shall mean the Architectural Review Committee created pursuant to Article IV hereof.

#### 1.3. Articles.

Articles shall mean the Articles of Incorporation of the Association filed in the Office of the Secretary of State of the State of California, as such Articles may be amended from time to time.

#### 1.4. Assessment, Annual.

Annual Assessment shall mean a charge against a particular Owner and his Condominium, representing a portion of the Common Expenses which are to be levied among all Owners and their Condominiums in the Project in the manner and proportions provided herein.

#### 1.5. Assessment, Capital Improvement.

Capital Improvement Assessment shall mean a charge which the Board may from time to time levy against each Owner and his Condominium, representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common

Property. Such charge shall be levied among all of the Owners and their Condominiums in the Project in the same proportions as are Annual Assessments.

**1.6. Assessment Reconstruction.**

Reconstruction Assessment shall mean a charge which the Board may from time to time levy against a particular Owner and his Condominium, representing a portion of the cost to the Association for reconstruction of any Improvements on any of the Common Property. Reconstruction Assessments relating to capital Improvements to those portions of the Common Property exclusive of both the Cube Lots and the Association Property shall be levied among all of the Condominiums located in those portions of the Project outside the Cube Lots then subject to the levy of Annual Assessments in the same proportions as the relative interior square foot floor areas of the residential elements of the Units of such Condominiums (as such areas are shown on the Condominium Plan or Plans for those portions of the Project), expressed as percentages, and computed by dividing the interior square foot floor area of the residential element of each such Unit by the total interior square foot areas of the residential elements of all such Units in such portions of the Project then subject to the levy of Annual Assessments.

With respect to Reconstruction Assessments relating to any capital Improvement which the Association is obligated to maintain located in a Cube Lot, such Reconstruction Assessment shall be levied equally among all of the Condominiums located in the Cube Lots then subject to the levy of Annual Assessments, based upon the number of such Condominiums owned.

Reconstruction Assessments for purposes of reconstructing all other capital Improvements which the Association is obligated to maintain shall be levied among all of the Condominiums in the Project then subject to the levy of Annual Assessments as follows:

(a) **Cube Lot Component.** The portion of such Reconstruction Assessments to be paid by the Owners of Condominiums in the Cube Lots then subject to the levy of Annual Assessments ("Cube Lot Component") shall be a fraction, having as its numerator the number of Condominiums in the Cube Lots subject to Annual Assessments, and as its denominator the total of the number of Condominiums in the Project subject to Annual Assessments. The Cube Lot Component shall be levied equally among all of the Condominiums in the Cube Lots then subject to the levy of Annual Assessments based upon the number of Condominiums owned.

(b) **Non-Cube Lot Component.** The portion of the Reconstruction Assessments to be paid by the Owners of Condominiums in those portions of the Project outside the Cube Lots then subject to the levy of Annual Assessments ("Non-Cube Lot Component") shall be a fraction, having as its numerator the number of Condominiums in those portions outside the Cube Lots subject to Annual Assessments, and as its denominator the total number of Condominiums in the Project subject to Annual Assessments. The Non-Cube Lot Component shall be levied among all of such Condominiums then subject to the levy of Annual Assessments in the same proportions as the relative interior floor areas

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of the residential elements of the Units of such Condominiums bear to one another as provided above.

**1.7. Assessment, Special.**

**Special Assessment shall mean a charge against a particular Owner directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty assessed by the Board, plus interest and other charges on such Special Assessments as provided for herein. Special Assessments shall not include any late payment penalties, interest charges or costs (including attorneys' fees) incurred by the Association in the collection of Annual, Capital Improvement and Reconstruction Assessments.**

**1.8. Association.**

**Association shall mean CORONADO AT ALISO VIEJO HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation (formed pursuant to the Nonprofit Mutual Benefit Corporation Law of the State of California), its successors and assigns. The Association is an "association" as defined in Section 1351(a) of the California Civil Code. The Association is defined as a "Sub-Association" in the Community Declaration.**

**1.9. Association Maintenance Funds.**

**Association Maintenance Funds shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article V hereof.**

**1.10. Association Property.**

**Association Property shall mean all of the real and personal property and improvements to which the Association shall hold fee title or over which the Association shall hold an easement for maintenance purposes or for the common use and enjoyment of the Members as provided herein. The Association Property located in Phase I shall include the portions of Parcel 1 of Lot Line Adjustment No. 94-022 identified as "Phase I" by the Phase I Plan, excluding all Units and the Common Area, as shown and described on the Phase I Plan. Additional Association Property may be annexed to the Property pursuant to the provisions of Article XVI hereof.**

**1.11. Beneficiary.**

**Beneficiary shall mean a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgage or Beneficiary.**

**1.12. Board or Board of Directors.**

**Board or Board of Directors shall mean the Board of Directors of the Association.**

**1.13. Budget.**

**Budget shall mean a written, itemized estimate of the income and Common Expenses of the Association in performing its functions under this Declaration, prepared pursuant to the Bylaws.**

1.14. Bylaws.

Bylaws shall mean the Bylaws of the Association as adopted by the Board, as such Bylaws may be amended from time to time.

1.15. Close of Escrow.

Close of Escrow shall mean the date on which a deed is Recorded conveying a Condominium to a consumer pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the DRE.

1.16. Common Area.

Common Area shall mean the entire Property, except the Units therein and the Association Property.

1.17. Common Expenses.

Common Expenses shall mean those expenses for which the Association is responsible under this Declaration, and shall be comprised of three components:

(a) "Shared Common Expenses" shall mean the costs of: maintenance, management, operation, repair and replacement of those portions of the Association Property located outside Cube Lots and also outside residential lots which are not Cube Lots (collectively, the "Non-Cube Association Property"); unpaid Special Assessments, Reconstruction Assessments (except those costs relating to buildings housing Units) and Capital Improvement Assessments (except those costs relating to Improvements made to buildings housing Units); the cost of maintenance of clustered mailboxes and address identification signs; the costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all gardening, security and other services benefiting the Association Property; the costs of workers' compensation insurance, errors and omissions and director, officer and agent liability insurance, and other insurance covering the directors, officers and agents of the Association; the costs of bonding of the members of the Board; the costs of fire, casualty and liability insurance relating to the Association Property; taxes paid by the Association, including any blanket tax assessed against the Property; amounts paid by the Association for discharge of any lien or encumbrance levied against the Property, or portions thereof; and the costs of any other item or items incurred by the Association, for any reason whatsoever in connection with the Property, for the common benefit of the Owners;

(b) "Cube Common Expenses" shall mean the costs of maintenance, operation, repair and replacement of any Common Property located in the Cube Lots; the costs of any and all utilities metered to more than one Unit located in the Cube Lots; and the costs of fire, casualty and liability insurance relating to any Common Property in the Cube Lots;

(c) "Non-Cube Common Expenses" shall mean the costs attributable to those portions of the Non-Cube Association Property located on residential lots (collectively, the "Residential Association Property"); including the costs of maintenance, repair and replacement of such Residential Association Property; unpaid Capital Improvement Assessments relating to such Residential Association Property Improvements; unpaid Reconstruction Assessments relating to such Residential Association Property Improvements; utilities metered to more than one Unit in such Residential Association Property; and the costs of fire, casualty and liability insurance relating to such Residential Association Property.

1.18. Common Property.

Common Property shall mean the Common Area and the Association Property.

1.19. Community Association.

Community Association shall mean Aliso Viejo Community Association, a California nonprofit public benefit corporation, its successors and assigns.

1.20. Community Association Property.

Community Association Property shall mean all of the real and personal property and Improvements now or hereafter owned by the Community Association, as further provided in the Community Declaration.

1.21. Community Declaration.

Community Declaration shall mean that certain Declaration of Covenants, Conditions and Restrictions for Aliso Viejo Community Association, which was Recorded on April 6, 1982, as Instrument No. 82-118353, in Official Records of Orange County, California, as it may be amended.

1.22. Condominium.

Condominium shall mean an estate in real property as defined in California Civil Code Section 1351(f), and shall consist of an undivided fee simple ownership interest in the Common Area in a Phase, together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. Subject to the provisions of Section 11.5 hereof, the undivided fee simple interest in the Common Area in a Phase shall be appurtenant to each Unit located in such Phase, and shall be a fraction having one (1) as its numerator and the number of Units located in that Phase as its denominator; and shall be held by the Owners of Condominiums located in that Phase as tenants in common.

1.23. Condominium Plan.

Condominium Plan shall mean the Recorded plan or plans, as amended from time to time, for all or a portion of a Phase of Development, consisting of (1) a description or survey map of the Phase of Development or portion thereof, which shall refer to or show monumentation on the ground, (2) a three-dimensional description of the Phase of Development or portion thereof, one or more dimensions of which may extend for an indefinite distance upwards or downwards in sufficient detail to identify the Common Area, each Separate Interest and the Association

Property, and (3) a certificate consenting to the Recordation thereof signed and acknowledged by the record owner of fee title to the Phase of Development or portion thereof, and by either the trustee or the Beneficiary of each Recorded Deed of Trust, and the Mortgagee of each recorded Mortgage encumbering the Phase of Development or portion thereof.

1.24. County.

County shall mean the County of Orange in the State of California, and its various departments, divisions, employees and representatives. If any portion of the Properties becomes a portion of an incorporated city, then the term "County" shall be deemed to include the city in which the Property is located.

1.25. Cube Lots.

Cube Lots shall mean any portion of the Annexable Territory which becomes annexed and in which the Units consist of three-dimensional airspace volumes designated on the Condominium Plan, and at least partially unenclosed by Improvements, and in each which Cube Lot each Unit entirely encompasses a single-family detached dwelling structure of the Owner. There are no Cube Lots in Phase 1. If there are any Cube Lots in subsequent Phases, they will be so designated in the respective Notice of Addition.

1.26. Declarant.

Declarant shall mean John Laing Homes (California), Inc., a California corporation, its successors, and any Person to which it shall have assigned any of its rights hereunder by an express written assignment.

1.27. Declaration.

Declaration shall mean this instrument as it may be amended from time to time. The Declaration is defined as a "Supplemental Declaration" in the Community Declaration.

1.28. Deed of Trust.

Deed of Trust shall mean a Mortgage as further defined herein.

1.29. Delegate.

Delegate shall mean a natural person selected by the Community Association Members in Delegate District No. 77 pursuant to Article II hereof to represent all such Members and to vote on their behalf, as further described in the Community Declaration and the Bylaws of the Community Association.

1.30. Delegate District No. 77.

Delegate District No. 77 shall mean the Delegate District (as defined in the Community Declaration) composed of the geographical area encompassed by the Property which is within the jurisdiction of the Association.

1.31. DRE.

DRE shall mean the California Department of Real Estate and any successors thereto.

1.32. Exclusive Use Area.

Exclusive Use Area shall mean those portions of the Association Property over which exclusive easements are reserved for the benefit of certain Owners including without limitation for parking, patio and balcony purposes and internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of that Unit, in accordance with California Civil Code Section 1351(i).

1.33. Family.

Family shall mean one or more natural persons related to each other by blood, marriage or adoption, or one or more natural persons not all so related, but who maintain a common household in a Residence.

1.34. FHA

FHA shall mean 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.

1.35. FHLMC.

FHLMC shall mean 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.

1.36. Fiscal Year.

Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.37. FNMA.

FNMA shall mean 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.

1.38. GNMA.

GNMA shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successor to such association.

1.39. Improvements.

Improvements shall mean all structures and appurtenances thereto of every type and kind, including but not limited to, buildings, walkways, sprinkler pipes, fire sprinklers (including any fire sprinkler heads which may penetrate the airspace of the Condominium Unit), recreational facilities, roads, driveways, parking areas, fences, mail kiosks, screening walls, block walls, retaining walls, awnings, stairs, decks, landscaping, antennae, hedges, windbreaks, the exterior surfaces of any visible structure and the paint on such surfaces, planted trees and shrubs, poles, signs, and water softener fixtures or equipment.



1.40. Maintenance Declaration.

Maintenance Declaration shall mean the Declaration of Maintenance Covenants, Conditions and Restrictions and Reservation of Easements described in Paragraph F of the Preamble of this Declaration.

1.41. Manager.

Manager shall mean the person employed by the Association pursuant to and limited by the provisions of this Declaration, and delegated the duties, power or functions of the Association as limited by this Declaration, the Bylaws and the terms of the agreement between the Association and said person.

1.42. Member Membership.

Member shall mean any Person holding a membership in the Association, as provided in this Declaration. Membership shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in the Restrictions.

1.43. Mission.

Mission shall mean Mission Viejo Company, a California corporation, its successors, and any Person to which it shall have assigned any of its rights hereunder by express written assignment.

1.44. Module.

Module shall mean a separate, three-dimensional airspace envelope shown or described on a Condominium Plan. A Module may include Units within it, but the Units shall not constitute Modules in and of themselves.

1.45. Mortgage.

Mortgage shall mean any Recorded mortgage or deed of trust or other conveyance of one or more Condominiums or other portion of the Property to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance.

1.46. Mortgagee Mortgagor.

Mortgagee shall mean a Person to whom a Mortgage is made and shall include the Beneficiary of a Deed of Trust. Mortgagor shall mean a Person who mortgages his or its property to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor" and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.47. Notice and Hearing.

Notice and Hearing shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at the Owner's expense, in the manner further provided in the Bylaws.

1.48. Notice of Addition.

Notice of Addition shall mean an instrument Recorded pursuant to Article XVI hereof to annex all or any portion of the Annexable Territory to the Property.

1.49. Owner.

Owner shall mean the record owner, whether one or more Persons, of a fee simple interest in a Condominium, including Declarant with respect to each Condominium owned by Declarant. The term "Owner" shall include a seller under an executory contract of sale but shall exclude Mortgagees.

1.50. Person.

Person shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.51. Phase 1.

Phase 1 shall mean all of the real property described in Paragraph A of the Preamble of this Declaration.

1.52. Phase 1 Plan.

Phase 1 Plan shall mean the Condominium Plan Recorded on SEPTEMBER 30, 1994, as Instrument No. 94- 0590372, in Official Records of Orange County, California.

1.53. Phase of Development.

Phase of Development or Phase shall mean each of the following: (a) Phase 1 and (b) all the real property covered by a Notice of Addition Recorded pursuant to Article XVI hereof for which a Final Subdivision Public Report has been issued by the DRE, unless otherwise defined in such Notice of Addition.

1.54. Project.

Project shall mean that portion of the Property which is, from time to time, divided into Condominiums, including the Common Area and the Units. The Project is a "condominium project" as defined in Section 1351(f) of the California Civil Code.

1.55. Property.

Property shall mean (a) Phase 1, and (b) each Phase of Development, described in a Notice of Addition. The Property is a "common interest development" as defined in Section 1351(c) of the California Civil Code.

1.56. Record, File, Recordation.

Record, File, or Recordation shall mean, with respect to any document, the recordation or filing of such document in the Office of the Orange County Recorder.

1.57. Residence.

Residence shall mean a Unit, intended for use by a single Family, together with any Exclusive Use Area reserved for the benefit of such Unit.

1.58. Restrictions.

Restrictions shall mean this Declaration, the Articles, Bylaws and the Rules and Regulations of the Association from time to time in effect.

1.59. Rules and Regulations.

Rules and Regulations shall mean the rules and regulations adopted by the Board pursuant to this Declaration or the Bylaws, as such Rules and Regulations may be amended from time to time.

1.60. Separate Interest or Unit.

Separate Interest or Unit shall mean a separate interest in space as defined in Section 1351(f) of the California Civil Code. Each Separate Interest or Unit shall be a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan. In interpreting deeds, declarations and plans, the existing physical boundaries of the Unit or a Unit constructed or reconstructed in substantial accordance with the Condominium Plan and the original plans thereof, if such plans are available, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan or Declaration, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries, as shown on the Condominium Plan or defined in the deed and Declaration, and the boundaries of a building as constructed or reconstructed.

With respect to Phase 1 of the Project and with respect to other Phases of the Project, except for a Phase which contains a Cube Lot unless otherwise specifically provided to the contrary in the Notices of Addition for such Phase, each such Unit consists of a living area space or spaces ("Living Element") bounded by and contained within the interior unfinished (meaning exclusive of all coverings, floor coverings, fixtures or decorations) surfaces of the perimeter walls, floors, ceilings, windows and doors of each Living Element, as well as a separately defined and similarly bounded garage element, as shown and defined in the Condominium Plan. With respect to the Cube Lots, each Unit consists of a three-dimensional airspace volume designated on the Condominium Plan.

1.61. VA.

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

## ARTICLE II

### 2. Coronado at Aliso Viejo Homeowners Association.

#### 2.1. Organization of Association.

The Association is or shall be incorporated under the name of CORONADO AT ALISO VIEJO HOMEOWNERS ASSOCIATION, as a corporation not for profit under the Nonprofit Mutual Benefit Corporation Law of the State of California, as required by Section 1363 of the California Civil Code.

## 2.2. Duties and Powers.

The duties and powers of the Association are those set forth in the Declaration, the Articles and Bylaws, together with its general and implied powers of a nonprofit mutual benefit corporation, generally to do any and all things that a corporation organized under the laws of the State of California may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and in this Declaration. The Association shall further have the right to install or construct capital Improvements on the Common Property. The Association may at any time, and from time to time reconstruct, replace or refinish any Improvement or portion thereof upon the Common Property in accordance with the original design, finish or standard of construction of such Improvement; replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Property. The Association may employ personnel necessary for the effective operation and maintenance of the Common Property, including the employment of legal, management and accounting services. The Association shall additionally have the power but not the duty to enter into contracts with Owners or other persons to provide services or to maintain and repair Improvements within the Property and elsewhere which the Association is not otherwise required to provide or maintain pursuant to this Declaration; provided, however, that any such contract shall provide for the payment to the Association for the costs of providing such services or maintenance. The Association shall comply with all of the provisions and requirements of the Community Declaration which apply to the Association. Mission is the Owner of all or a portion of the Annexable Territory. Declarant has entered into an agreement with Mission for the right to acquire the Annexable Territory from Mission. The Association shall comply with all of the provisions of the Maintenance Declaration applicable to the Association.

## 2.3. Membership.

Every Owner, upon becoming the Owner of a Condominium, shall automatically become a Member of the Association and the Community Association, and shall remain a Member thereof until such time as his ownership ceases, at which time his Membership in the Association and the Community Association shall automatically cease. Ownership of a Condominium shall be the sole qualification for Membership in the Association and the Community Association. All Memberships shall be appurtenant to the Condominium conveyed, and with the exception of Declarant, a Person shall be deemed an Owner of a Condominium only upon Recordation of a deed conveying the Condominium to such Person. Except as may otherwise be provided herein, the rights, duties, privileges and obligations of all Members of the Association shall be provided in the Restrictions.

## 2.4. Transfer.

The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Condominium, and then only to the purchaser or Mortgagee of such Condominium. A prohibited transfer is void and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Condominium to a contract purchaser under an agreement to purchase shall be entitled to

delegate to the contract purchaser his Membership rights in the Association. The delegation shall be in writing and shall be delivered to the Board before the contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Condominium until fee title to the Condominium sold is transferred, as further provided in Section 5.1 of this Declaration. If the Owner of any Condominium fails or refuses to transfer the Membership registered in his name to the purchaser of the Condominium upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a new Owner and his Condominium (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the membership to the new Owner on the records of the Association provided such fee does not exceed the Association's actual cost involved in changing its records of ownership.

#### 2.5. Classes of Membership.

The Association shall have two (2) classes of voting Membership.

Class A. Class A Members shall originally be all Owners except Declarant for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for each Condominium owned by such Class A Members and subject to assessment. Declarant shall become a Class A Member with regard to Condominiums owned by Declarant upon conversion of Declarant's Class B Membership as provided below. When more than one (1) Person owns any Condominium, all of those Persons shall be Members. The vote of such Condominium shall be exercised as they among themselves determine in accordance with Section 2.6, but in no event shall more than one (1) Class A vote be cast for any Condominium.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Condominium owned by Declarant and subject to assessment. The Class B Membership shall cease and be converted to Class A Membership immediately upon the first to occur of the following events:

- (1) The second anniversary of the first Close of Escrow in the most recent Phase of Development; or
- (2) The fourth anniversary of the first Close of Escrow in Phase 1; or
- (3) The seventh anniversary of the Recordation of this Declaration.

Notwithstanding the foregoing or the provisions of the Articles or Bylaws, Declarant shall be entitled to elect and maintain a majority of the members of the Board until the first to occur of (a) the fourth anniversary of the first Close of Escrow in Phase 1, or (b) the date on which Close of Escrow has occurred for one hundred seventy-five (175) Condominiums in the Project, which corresponds to seventy-five percent (75%) of the total number of Condominiums Declarant plans to include within the Project as of the date of Recordation hereof. This paragraph may not be amended, altered or revoked without the prior written consent of Declarant, which may be withheld in Declarant's sole discretion.

## 2.6. Voting Rights.

(a) All voting rights shall be subject to the Restrictions. Except as provided in Section 14.2 of this Declaration and Section 4.8 of the Bylaws, as long as there exists a Class B Membership, any provision of this Declaration, the Articles or Bylaws which expressly requires the vote or written consent of a specified percentage (i.e., other than actions requiring merely the vote or written consent of a majority of a quorum) of the voting power of the Association before action may be undertaken shall require the approval of such specified percentage of the voting power of each class of Membership. Except as provided in Section 14.2 of this Declaration and Section 4.8 of the Bylaws, when the Class B Membership has terminated, any provision of this Declaration, the Articles or Bylaws which expressly requires the vote or written consent of Owners representing a specified percentage (i.e., other than actions requiring merely the vote or written consent of a majority of a quorum) of the voting power of the Association before action may be undertaken shall then require the vote or written consent of Owners representing such specified percentage of both the total voting power of the Association and the voting power of the Association residing in Owners other than Declarant.

(b) At any meeting of the Association, each Owner, except as otherwise provided in Section 2.5 with respect to the voting power of Declarant, shall be entitled to cast no more than one (1) vote for each Condominium owned as shown on the Condominium Plan. Where there is more than one (1) record Owner of a Condominium ("co-owners"), all of those co-owners shall be Members and may attend any meeting of the Association, but only one (1) of those co-owners shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium shall from time to time designate in writing one (1) of their number to vote. Fractional votes shall not be allowed, and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation has been revoked, the vote for the Condominium shall be exercised as the co-owners owning the majority interests in the Condominium mutually agree. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the

corresponding voting co-owner is acting with the consent of his co-owners. No vote shall be cast for any Condominium if the co-owners present in person or by proxy owning the majority interests in such Condominium cannot agree to said vote or other action. The nonvoting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly-owned Condominium and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws of the Association, shall be deemed to be binding on all Owners, their successors and assigns.

2.7. Repair and Maintenance by the Association.

(a) Maintenance Standards. Subject to Article X pertaining to destruction of Improvements and Article XI pertaining to eminent domain, the Association shall paint, maintain, repair and replace the Common Property and Improvements thereon or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Property and Improvements thereon in a clean, sanitary and attractive condition reasonably consistent with the level of maintenance reflected in the most current Budget on file with and approved by the DRE and consistent with the maintenance guidelines adopted by the Board. The Association shall maintain Common Property landscaping in accordance with applicable County and Community Association requirements. The Association shall not be responsible for or obligated to perform those items of maintenance, repair or Improvement of the Units or Exclusive Use Area, the maintenance of which is the responsibility of the Owners as provided in Section 2.9. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Property.

(b) Maintenance Items. Association maintenance and repairs shall include, without limitation, the right, without obligation, to perform all corrective janitorial, landscaping and repair work within any Residence in those portions of the Project outside the Cube Lots, or within any Unit (exclusive of the interiors of the residential structures) in a Cube Lot, if the Owner fails to repair it; the repair and payment for all centrally metered utilities, water charges, and mechanical and electrical equipment in the Common Property; payment of all Common Expenses and charges for water and utilities serving recreational amenities; the repair and maintenance of the fire sprinkler systems (as originally installed by Declarant) in the residential buildings; the repair and maintenance of all walks, private driveways and other means of ingress and egress within the Property; the repair and maintenance of garage doors, front doors, the exterior hardware on the front doors, and the fences separating Exclusive Use Area patios; the periodic structural repair, resurfacing, sealing, caulking, replacement or painting of the Exclusive Use Area, so long as the need for any of these activities is not caused by the willful or negligent acts of the Owner to whom the Exclusive Use Area is

assigned or any of such Owner's Family, tenants or guests; application and maintenance of fertilizers and pesticides consistent with the County Management Guidelines for Use of Fertilizers and Pesticides; consultation with a state-licensed pest control advisor prior to use of pesticides; retention of a state licensed or certified pesticide applicator (or workers with equivalent training) to apply pesticides; contracting with a maintenance crew to inspect and maintain catch basins prior to October 15 of each year and prior to any anticipated storms forecasted with a greater than fifty percent (50%) chance of occurring; and if determined by the Board to be economically feasible, an inspection and preventive program for the prevention and eradication of infestation by wood-destroying pests and organisms in those portions of the Property outside the Cube Lots. Parking areas in the Common Property shall be swept rather than hosed down.

(c) Termite Eradication. If the Board adopts an inspection and preventive program for the prevention and eradication of infestation by wood destroying pests and organisms in those portions of the Property outside the Cube Lots, the Association, upon reasonable notice (which shall be given no less than fifteen (15) days nor more than thirty (30) days before the date of temporary relocation) to each Owner and the occupants of his Unit, may require such Owner and occupants to temporarily relocate from such Unit in order to accommodate efforts by the Association to eradicate such infestation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage caused to a Unit by such entry by the Board or by any person authorized by the Board shall be repaired by the Board as a Common Expense of the Association. All costs involved in maintaining the inspection and preventive program as well as repairing and replacing the Common Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of wood destroying pests or organisms shall be a "Non-Cube Common Expense" as defined in Section 1.17 subject to the restrictions applicable to Capital Improvement Assessments.

(d) Charges to Owners. All such costs of maintenance, repairs and replacements for the Property shall be paid for as Common Expenses out of the Association Maintenance Funds as provided in this Declaration. It shall be the affirmative duty of the Board of Directors to require strict compliance with all provisions of this Declaration and to cause the Property to be inspected by the Architectural Committee for any violation thereof. The cost of any maintenance, repairs or replacements by the Association which is not the responsibility of the Association or which arises out of, or is caused by, the act of an Owner or such Owner's Family, tenants, guests, invitees, or agents shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner.



## 2.8. Unsegregated Real Property Taxes.

To the extent not assessed to or paid by the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Property. In addition, if all of the Units located on a lot are taxed under a blanket tax bill covering all of such lot, each Owner shall pay his proportionate share of any installment due under the blanket tax bill to the Association at least ten (10) days prior to the delinquency date; and the Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date. Blanket taxes shall be allocated equally among the Owners and their Condominiums located on such lot, based upon the total number of Units located on such lot. The Association shall, at least forty-five (45) days prior to the delinquency date of any blanket tax installment, deliver to each Owner in such lot a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay his proportionate share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay his proportionate share. The Association shall add to the Annual Assessment of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the blanket tax bill for a Phase of Development, which late charge results from the failure of the delinquent Owner to make timely payment of his proportionate share of the taxes. Until the Close of Escrow for the sale of ninety percent (90%) of the Condominiums in the Project, the foregoing provisions relating to the collection of taxes in connection with a blanket tax bill on all or any portion of the Project may not be amended without the express written consent of Declarant.

## 2.9. Repair and Maintenance by Owners.

(a) Units Outside Cube Lots. With respect to those Units which are not located within Cube Lots, each Owner shall maintain, repair, replace, paint, paper, plaster, tile, finish and restore or cause to be so maintained, repaired, replaced and restored, at his sole expense, all portions of his Unit, as well as the windows, light fixtures actuated from switches controlled from, or separately metered to, such Owner's Unit, and the interior surfaces of the walls, ceilings, floors and permanent fixtures, in a clean, sanitary and attractive condition, in accordance with the Condominium Plan and the original construction design of the Improvements in the Project. However, excepting those Units located on Cube Lots, no bearing walls, ceilings, floors or other structural or utility bearing portions of the buildings housing the Units shall be pierced or otherwise altered or repaired, without the prior written approval of the plans for the alteration or repair by the Architectural Committee. Each Owner of a Unit which is not located on a Cube Lot shall also be responsible for maintaining (i) those portions of the sewer pipes servicing his Unit which run from the interiors of the Unit through the clean-out located in the garage, and (ii) that portion of the drainage pipe which runs through the Exclusive Use Area patio appurtenant to such Owner's Unit. Each Owner of a Unit which is not located within a Cube Lot shall be responsible, upon the Association's request, for clearing any landscaping Improvements away from the interior of the fence around such Owner's Exclusive Use Area patio in

order to accommodate the Association's efforts to repair, maintain, paint or replace such fence. The Association shall not be responsible for returning any such landscaping Improvements to their prior location. It shall further be the duty of each Owner of a Unit which is not located within a Cube Lot, at his sole expense, to keep the Exclusive Use Area over which an exclusive easement has been reserved for the benefit of such Owner free from debris and reasonably protected against damage, subject to the approval of the Architectural Committee. However, no Owner of a Unit which is not located within a Cube Lot shall be responsible for the periodic structural repair, resurfacing, sealing, caulking, replacement or painting of his assigned Exclusive Use Area, unless the painting, repair or replacement is caused by the willful or negligent acts of the Owner or his Family, tenants or guests. Notwithstanding any other provision herein, each Owner shall also be responsible for all maintenance and repair of any internal or external telephone wiring wherever located which is designed to serve only his Unit, and shall be entitled to reasonable access, as necessary, over the Common Property for such purposes, subject to reasonable limitations imposed by the Association. It shall further be the duty of each Owner to pay when due all charges for any utility service which is separately metered to his Unit. If the Board does not adopt an inspection and preventive program with regard to wood-destroying pests and other organisms pursuant to Section 2.7 herein, such a program shall be the responsibility of each Owner of a Unit which is not located on a Cube Lot. Subject to any required approval of the Architectural Committee, each Owner shall be responsible for maintaining those portions of any heating and cooling equipment and other utilities which are located within or which exclusively serve his Unit. In addition, each Owner shall be responsible for maintaining and repairing the air conditioning pad which supports or will support the air conditioning compressor serving such Owner's Unit. Garages and Exclusive Use Area parking spaces must be swept rather than hosed down.

(b) Units in Cube Lots. With respect to those Units located in the Cube Lots, each Owner shall maintain, repair, replace, paint, plaster, tile, finish and restore or cause to be so maintained, repaired, replaced and restored, at his sole expense, all portions of his Unit, other than those portions of the Unit which constitute Association Property for purposes of Association maintenance. It shall further be the duty of each Owner to pay when due all charges for any utility service which is separately metered to his Unit. Each Owner shall adopt a program for the prevention and eradication of infestation by wood-destroying pests and organisms in his Unit. Garages must be swept rather than hosed down.

#### 2.10. Use of Agent.

The Board of Directors, on behalf of the Association, may contract with a Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The maximum term of any such contract ("Management Contract") shall be one (1) year, unless a longer term is approved either by vote or written assent of a majority of the voting power of the Association or by VA or FHA, in

which case the maximum term of the Management Contract shall be three (3) years. The maximum term of any contract providing for Declarant's services to the Association or the Project shall also be three (3) years. Each such contract for Declarant's services and each Management Contract shall provide for its termination by either party thereto with cause upon no more than thirty (30) days' written notice to the other party, and without cause and without payment of a termination fee upon no more than ninety (90) days' written notice to the other party.

2.11. Election of Delegate to Community Association.

Delegate District No. 77 shall be represented at meetings of Delegates of the Community Association by a Delegate who must be either an Owner or an agent of Declarant for so long as Declarant owns a Condominium in the Project. The Delegate shall receive no salary or compensation for services as Delegate, provided that (a) nothing herein shall be construed to preclude any Delegate from serving the Community Association, the Association or Delegate District No. 77 in some other capacity and receiving compensation therefor, and (b) any Delegate may be reimbursed for actual expenses incurred in the performance of his duties as Delegate. A Delegate shall be elected by the vote of a majority of a quorum of the Members at the first annual meeting of the Members and at each subsequent annual meeting. The Delegate shall serve a term of one (1) year or until a successor has been elected and qualified. Any person serving as Delegate may be reelected and there shall be no limitation on the number of terms such Delegate may serve. A vacancy in the office of Delegate shall be deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any Delegate. Any vacancy caused by reason other than removal shall be filled by the vote of the Members at a meeting of the Members called for such purpose. A Delegate may be removed, with or without cause, by a vote of a majority of a quorum of the Members at a meeting of the Members called for such purpose. If a Delegate is so removed by vote of the Members, the Members shall elect a new Delegate at the same meeting. The term of office of any Delegate elected to fill a vacancy shall be the balance of the unexpired term of his predecessor. It shall be the duty of the Secretary of the Association to give written notice to the Secretary of the Community Association of the election of a Delegate or of a vacancy in the office of Delegate within ten (10) days of such election or vacancy.

ARTICLE III

3. Rights in Common Property.

3.1. Association Easement.

The Association shall have an easement over the Common Property for performing its duties and exercising its powers described in this Declaration. The Association's obligations to maintain the Common Property in any Phase of Development shall commence on the date Annual Assessments commence on Condominiums in such Phase. Until commencement of Annual Assessments on Condominiums in any Phase, the Common Property in such Phase shall be maintained by Declarant.

3.2. Partition.

Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of the Project, nor shall Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Project seek any such judicial partition.

3.3. Members' Easements in Common Property.

Subject to the provisions of this Declaration, every Member of the Association shall have, for himself, his Family, his tenants and guests, a nonexclusive easement of access, ingress, egress, use and enjoyment of, in and to the Common Property (other than any Association Property located within Units in the Cube Lots), and such easements shall be appurtenant to and shall pass with title to every Condominium in the Project.

3.4. Extent of Members' Easements.

The rights and easements of use and enjoyment of the Common Property created by this Declaration shall be subject to the Restrictions, which include, without limitation, the following:

(a) The right of the Board to suspend the rights and easements of any Member, and the Persons deriving such rights and easements from any Member, for use and enjoyment of any recreation facilities located on the Common Property, for any period during which the payment of any Annual, Special, Capital Improvement or Reconstruction Assessment against the Member and his Condominium remains delinquent, and, after Notice and Hearing as provided in the Bylaws, to suspend such rights and easements for the period set forth in the Bylaws for any violation of the Restrictions, it being understood that any suspension for either nonpayment of any Assessment or breach of the Restrictions shall not constitute a waiver or discharge of the Member's obligation to pay assessments as provided in this Declaration;

(b) The right of the Association to consent to or otherwise cause the construction of additional Improvements on the Common Property and to consent to or otherwise cause the alteration or removal of any existing Improvements on the Common Property for the benefit of the Members of the Association;

(c) The right of the Association, acting through the Board, to grant, consent to or join in the grant or conveyance of easements, licenses or rights-of-way in, on or over the Common Property for purposes not inconsistent with the intended use of the Property as a residential Condominium project;

(d) Subject to the provisions of this Declaration, the right of each Owner to the exclusive use and occupancy for the purposes designated in this Declaration or in any Recorded Notice of Addition of the Exclusive Use Area assigned to his respective Unit;

(e) The rights and reservations of Declarant as set forth in this Declaration;

(f) The right of the Association, acting through the Board, to reasonably restrict access to roofs, maintenance and landscaped areas and similar areas of the Property;

(g) The right of the Association to reasonably limit the number of guests and tenants of the Owners using the Common Property; and

(h) The right of the Association, acting through the Board, to establish uniform Rules and Regulations for the use of the Common Property, as provided in this Declaration.

The rights and easements of use and enjoyment of the Common Property created by this Declaration shall further be subject to the rights and easements created and set forth in the Maintenance Declaration.

### 3.5. Delegation of Use.

Any Member entitled to the right and easement of use and enjoyment of the Common Property may delegate his right to use and enjoyment of the Common Property to his tenants, contract purchasers or subtenants who reside in his Condominium, subject to reasonable regulation by the Board. An Owner who has made such a delegation of rights shall not be entitled to use or enjoy the recreational facilities or equipment of the Property for so long as such delegation remains in effect.

### 3.6. Waiver of Use.

No Member may exempt himself from personal liability for Assessments duly levied by the Association, or effect the release of his Condominium from the liens and charges thereof, by waiving use and enjoyment of the Common Property or by abandoning his Condominium.

### 3.7. Damage by Member.

To the extent permitted by California law, each Member shall be liable to the Association for any damage to the Common Property not fully reimbursed to the Association by insurance (including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by the Member, his guests, tenants or invitees, or any other Persons deriving their right and easement of use and enjoyment of the Common Property from the Member, or his or their respective Family and guests, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right, after Notice and Hearing as provided in the Bylaws, to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the Person for whom the Member may be liable as described above. In the case of joint ownership of a Condominium, the liability of the owners shall be joint and several, except to the extent that the Association shall have previously contracted in writing with the joint

owners to the contrary. After Notice and Hearing as provided in the Bylaws, the cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against such Member's Condominium, and may be enforced as provided herein.

## ARTICLE IV

### 4. Architectural Review Committee.

#### 4.1. Members of Committee.

The Architectural Review Committee, sometimes referred to herein as the "Architectural Committee" or the "Committee," shall be comprised of three (3) members. The initial members of the Committee shall consist of representatives of Declarant until one (1) year after the original issuance of the Final Subdivision Public Report ("Public Report") for Phase 1 ("First Anniversary"). After the First Anniversary the Board may appoint and remove one (1) member of the Committee, and Declarant shall have the right and power at all times to appoint or remove a majority of the members of the Committee or to fill any vacancy of such majority, until the earlier to occur of (i) Close of Escrow for the sale of ninety percent (90%) of all the subdivision interests in the Property and the Annexable Territory, or (ii) expiration of five (5) years following the date of original issuance of the Public Report for Phase 1, after which the Board shall have the power to appoint and remove all of the members of the Architectural Committee. Committee members appointed by the Board shall be from the Membership of the Association, but Committee members appointed by Declarant need not be Members of the Association. The Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Property. Board members may also serve as Committee members.

#### 4.2. Review of Plans and Specifications.

The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. The Committee and its powers hereunder are in addition to the architectural committee under the Community Declaration and its powers thereunder. No construction, alteration, removal, relocation, repainting, demolishing, addition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including landscaping, in the Property shall be commenced or maintained, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Committee and approved in writing by the Committee; provided, however, that any Improvement may be repainted without Committee approval so long as the Improvement is repainted the identical color which it was last painted. Without limiting the generality of the foregoing, the provisions of this Article IV apply to the construction, installation, alteration and modification of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714, the County Building Code, applicable zoning regulations, and associated County

ordinances. The Owner submitting the plans and specifications ("Applicant") shall obtain a written, dated receipt therefor from an authorized agent of the Committee. Until changed by the Board, the address for the submission of such plans and specifications shall be the principal office of the Association. The Committee shall approve plans and specifications submitted for its approval only if it deems that the installation, construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Property or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof will not become a burden on the Association. Declarant, and any Person to which Declarant may assign all or a portion of its exemption hereunder, need not seek or obtain Architectural Committee approval of any Improvements constructed on the Property by Declarant or such Person, as the case may be.

The Committee may condition its approval of proposals or plans and specifications for any Improvement (1) upon the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Property as a result of such work, (2) on such changes therein as it deems appropriate, (3) upon the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (4) upon the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (5) upon the Applicant's agreement to reimburse the Association for the cost of maintenance, (6) upon the Applicant's agreement to complete the proposed work within a stated period of time, or (7) all of the above, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The Committee may provide that the amount of the fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. Decisions of the Committee and the reasons therefor shall be transmitted by the Committee to the Applicant at the address set forth in the application for approval within forty-five (45) days after receipt by the Committee of all materials required by the Committee. Any application submitted pursuant to this Section 4.2 shall be deemed approved unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the Committee of all required materials. The Applicant shall meet any review or permit requirements of the County prior to making any alterations or Improvements permitted hereunder.

4.3. Meetings of the Committee.

The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 4.8. In the absence of such designation, the vote of a majority of the Committee or written consent of a majority of the Committee taken without a meeting shall constitute an act of the Committee.

4.4. No Waiver of Future Approvals.

The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans and specifications, drawings or matter subsequently or additionally submitted for approval or consent.

4.5. Compensation of Members.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

4.6. Inspection of Work.

The Architectural Committee or its duly authorized representative may at any time inspect any work for which approval of plans is required under this Article IV ("Work"), which right to inspect shall include the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the Committee-approved plans for the Work or with the requirements of this Declaration ("Noncompliance").

(a) Time Limit. The Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the latest to occur of the following events: (i) submittal of the plans for the Work to the Committee for its approval as provided in this Article IV; (ii) completion of the Work as provided in the Committee-approved plans; and (iii) written notice from the Owner to the Committee that the Work has been completed. This time limit for inspection and notification by the Committee shall be extended indefinitely if any of these conditions has not occurred. If the Committee fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

(b) Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days from the date of notification from the Committee, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, as provided in the Bylaws, the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the



date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a Notice of Noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

#### 4.7. Scope of Review.

The Architectural Committee shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, solely on the basis of aesthetic considerations, consistency with this Declaration, and the overall benefit or detriment which would result to the immediate vicinity and the Property generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features. The Committee's approval or disapproval shall be based solely on the considerations set forth in this Article IV, and the Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. The Architectural Committee may, but need not, consider the impact of views from other Residences or Condominiums and reasonable privacy right claims as factors in reviewing, approving or disapproving any proposed landscaping, construction or other Improvement. However, Declarant does not warrant any protected views within the Property and no Residence or Condominium is guaranteed the existence or unobstructed continuation of any particular view.

#### 4.8. Variances.

The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including without limitation restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by at least a majority of the members of the Committee, and shall become effective upon Recordation. After Declarant has lost the right to appoint a majority of the members of the Committee, the Board must approve any variance recommended by the Committee before any such variance shall become effective. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of his Residence.

#### 4.9. Appeals.

For so long as Declarant has the right to appoint and remove a majority of the members of the Architectural Committee, decisions of the Architectural Committee shall be final, and there shall be no appeal to the Board of Directors. When Declarant is no longer entitled to appoint and remove a majority of the members of the Architectural Committee the Board may, at its discretion, adopt policies and procedures for the appeal of Architectural Committee decisions for reconsideration by the Board. The Board shall have no obligation to adopt or implement any such

appeal procedures, and in the absence of Board adoption of appeal procedures, all decisions of the Architectural Committee shall be final.

## ARTICLE V

### 5. Association Maintenance Funds and Assessments.

#### 5.1. Personal Obligation of Assessments.

Declarant, for each Condominium owned by it, hereby covenants and agrees to pay, and each Owner, by acceptance of a deed of a Condominium whether or not it shall be so expressed in any such deed, is deemed to covenant and agree to pay to the Association all Annual Assessments for Common Expenses and all applicable Special Assessments, Reconstruction Assessments and Capital Improvement Assessments. The Association shall not levy or collect any Annual Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment that exceeds the amount necessary for the purpose for which it is levied. Except as provided in this Section 5.1, all such assessments (other than Special Assessments), together with interest, costs, and reasonable attorneys' fees, shall be a separate, distinct and personal obligation of the Person who was the Owner of the Condominium at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of the Condominium or by an offer to waive use of the Common Property or the Exclusive Use Area. The personal obligation for delinquent assessments shall not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser. The assessments for Common Expenses levied against Owners and their Condominiums shall be reduced by such amounts as are collected from the owners of real property in any portions of the Annexable Territory which remain unannexed, as further provided in the Maintenance Declaration.

#### 5.2. Maintenance Funds of Association.

The Board of Directors shall establish no fewer than two (2) separate Association Maintenance Fund accounts, into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution. The Association Maintenance Funds shall include: (1) an Operating Fund for current Common Expenses of the Association, (2) an adequate Reserve Fund for capital Improvements, replacements, painting and repairs of the Common Property (which cannot normally be expected to occur on an annual or more frequent basis), and for payment of deductible amounts for policies of insurance which the Association obtains as provided in Section 9.1 hereof, and (3) any other funds, including without limitation, "Cost Center Operating and Reserve Funds," which the Board of Directors may establish to the extent necessary under the provisions of this Declaration. As used herein, "Cost Center Operating and Reserve Funds" refers to Maintenance Funds established for the purpose of operating, maintaining and replacing "Cost Centers," i.e., Improvements or maintenance areas located on a portion or portions of the Project, the maintenance or use of which is or may be fully or partially restricted to certain Owners as specified in one or more Notices of Addition, and where the expenses of operating, maintaining and replacing such Improvements or maintenance areas are borne solely or disproportionately by such specified Owners. There are no Cost Centers in

Phase 1. Nothing contained herein shall limit, preclude or impair the establishment of additional Maintenance Funds by the Association, so long as the amounts assessed to, deposited into, and disbursed from any such Fund are earmarked for specified purposes authorized by this Declaration.

5.3. Purpose of Assessments.

The assessments levied by the Board of Directors on behalf of the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners, for the operation, replacement, improvement and maintenance of the Common Property, and to discharge any other obligations of the Association under this Declaration. All amounts deposited into the Maintenance Funds must be used solely for the common benefit of all of the Owners for purposes authorized by this Declaration. Disbursements from the Operating Fund shall be made by the Board of Directors for such purposes as may be necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used. Disbursements from the Reserve Fund shall be made by the Board of Directors only for the purposes specified in this Article V and in Section 1365.5(c) of the California Civil Code, as it may be amended from time to time. Nothing in this Declaration shall be construed in such a way as to permit the use of Association assessments or funds to abate any annoyance or nuisance emanating from outside the boundaries of the Property. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws.

5.4. Limitations on Annual Assessment Increases.

The Board shall levy Annual Assessments in accordance with the following provisions:

(a) Maximum Authorized Annual Assessment for Initial Year of Operations. Until the first day of the Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Board may only levy an Annual Assessment per Condominium in an amount which exceeds Two Thousand Eight Hundred Eighty Dollars and Forty-Three Cents (\$2,880.43) if the Board first obtains the approval of Members casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Members are represented ("Increase Election"). Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.4(e).

(b) Maximum Authorized Annual Assessment for Subsequent Fiscal Years. Starting with the first Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Board may only levy Annual Assessments which exceed the Annual Assessments for the immediately preceding Fiscal Year as follows:

(i) If the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must either (a)

have distributed the Budget for the current Fiscal Year in accordance with Section 1365(a) of the California Civil Code, or (b) obtain the approval of Members casting a majority of votes in an Increase Election;

(ii) If the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must obtain the approval of Members casting a majority of votes in an Increase Election.

Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.4(e).

(c) Supplemental Annual Assessments. If the Board, by majority vote, determines that the important and essential functions of the Association may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses for the Property for any reason, it shall immediately determine the approximate amount of the inadequacy. Subject to the limitations described in Sections 5.4(a) and (b) above and (e) below, the Board shall have the authority to levy, at any time by a majority vote, a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Condominium.

(d) Automatic Assessment Increases. Notwithstanding any other provisions of this Section 5.4, upon Declarant's annexation of any portion of the Annexable Territory pursuant to Article XVI, the Annual Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Common Property in or abutting such Annexable Territory in accordance with the standards prescribed by the then current DRE Operating Cost Manual, or if the Operating Cost Manual is no longer maintained by the DRE, pursuant to standards prescribed by comparable maintenance cost guidelines prepared in accordance with prudent property management practices. However, such increase shall occur only if (i) the annexation of such Annexable Territory is permitted by the DRE and VA or FHA, and (ii) the amount of such increase does not result in the levy of an Annual Assessment which is greater than Two Thousand Eight Hundred Eighty Dollars and Forty-three Cents (\$2,880.43).

(e) Emergency Situations. For purposes of Sections 5.4(a), 5.4(b) and 5.6, 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 Property or any portion thereof for which the Association is responsible where a threat to personal safety on the Property is discovered; and

(3) An extraordinary expense necessary to repair or maintain the Property or any portion thereof for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Prior to the imposition or collection of an assessment pursuant to this subparagraph (3), 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. The resolution shall be distributed to the Members with the Notice of Assessment.

#### 5.5. Annual Assessments/Commencement-Collection.

The Board of Directors shall authorize and levy the amount of the Annual Assessment upon each Condominium, as provided herein, by majority vote of the Board. The initial Annual Assessment shall commence on all Condominiums in a Phase of Development (including unsold Condominiums therein owned by Declarant) on the first day of the first calendar month following the first Close of Escrow for the sale of a Condominium in such Phase or on the first day of the first calendar month following conveyance of the Association Property in that Phase to the Association, whichever shall first occur. All Annual Assessments shall be assessed against the Members and their Condominiums as follows: Shared Common Expenses (as defined in Section 1.17(a)) shall be assessed equally against the Members and their Condominiums; Cube common Expenses (as defined in Section 1.17(b)) shall be assessed equally against the Condominiums located in the Cube Lots and the Owners thereof; Non-Cube Common Expenses (as defined in Section 1.17(c)) shall be assessed equally against the Condominiums located in those portions of the Project exclusive of the Cube Lots and the Owners thereof. Annual Assessments for fractions of any month involved shall be prorated. Declarant shall pay its full pro rata share of the Annual Assessments on all unsold Condominiums for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. However, unless otherwise established by the Board, the initial Annual Assessments shall be assessed in accordance with the most recent Budget on file with and approved by the DRE. Written notice of any change in the amount of any Annual Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due. From time to time the Board may determine that all excess funds in the Operating Fund be retained by the Association and used to reduce the following year's Annual Assessments. Upon dissolution of the Association incident to the abandonment or termination of the Property, any amounts remaining in any of the

Maintenance Funds shall be distributed to or for the benefit of the Members in the same proportions as such monies were collected from the Members.

Each Member shall pay to the Association his Annual Assessment in installments at such frequency and in such amounts as established by the Board. Each installment of Annual Assessments may be paid by the Member to the Association in one check or in separate checks as payments attributable to deposits into specified Association Maintenance Funds. If any installment of an Annual Assessment payment is less than the amount assessed and the payment does not specify the Association Maintenance Fund or Funds into which it should be deposited, the receipt by the Association from that Member shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

#### 5.6. Capital Improvement Assessments.

Should the Board of Directors determine the need for a capital improvement or other such addition to the Property, the cost of which in the aggregate exceeds five percent (5%) of the Budgeted gross expenses of the Association for the then current Fiscal Year, then the vote or written consent of Members casting a majority of votes at an Increase Election shall be required to approve and render effective a Capital Improvement Assessment levied by the Board of Directors to cover the cost of such expenditure. Capital Improvement Assessments may be levied by the Board without the consent of the Members, if the aggregate of such expenditures in each Fiscal Year does not exceed five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year. Notwithstanding the foregoing, the Board may levy in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year which exceeds five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 5.4(e).

#### 5.7. Delinquency.

Any installment of an assessment provided for in this Declaration shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board of Directors of the Association. The Board shall be authorized to adopt a system pursuant to which any installment of Annual Assessments, Capital Improvement Assessments, Special Assessments, or Reconstruction Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges as provided herein, shall bear interest commencing thirty (30) days from the due date until paid at the rate of up to twelve percent (12%) per annum, but in no event more than the maximum rate permitted by law. The Board may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 1366(d)(2). The Association need not accept any tender of a partial payment of an installment of an assessment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter.

#### 5.8. Creation and Release of Lien.

All sums other than Special Assessments assessed in accordance with the provisions of this Declaration shall constitute a lien on the respective Condominium prior and superior to (a) any

declaration of homestead Recorded after the Recordation of this Declaration, and (b) all other liens, except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage or Deed of Trust with first priority or seniority over other Mortgages or Deeds of Trust) made in good faith and for value and Recorded prior to the date on which the "Notice of Lien" (described in this Section) against the respective Condominium was Recorded. The lien shall become effective upon Recordation by the Board or its authorized agent of a Notice of Assessment ("Notice of Lien") securing the payment of any Annual, Capital Improvement or Reconstruction Assessment or installment thereof, levied by the Association against any Condominium Owner as provided in Section 1367 of the California Civil Code. The Notice of Lien shall state (i) the amount of the assessment or installment, as the case may be, and other authorized charges and interest, including the cost of preparing and Recording the Notice of Lien, (ii) the expenses of collection in connection with any delinquent installments, including without limitation reasonable attorneys' fees, (iii) a sufficient description of the Condominium against which the same has been assessed, (iv) the name and address of the Association, (v) the name of the Owner thereof, and (vi) in order for the lien to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Lien shall be signed by any authorized officer or agent of the Association. The lien shall relate only to the individual Condominium against which the assessment was levied and not to the Property as a whole. Upon payment to the Association of the full amount claimed in the Notice of Lien, or other satisfaction thereof, the Board of Directors shall cause to be Recorded a Notice of Satisfaction and Release of Lien ("Notice of Release") stating the satisfaction and release of the amount claimed. The Board of Directors may demand and receive from the applicable Owner a reasonable charge, to be determined by the Board, for the preparation and Recordation of the Notice of Release before Recording it. Any purchaser or encumbrancer who has acted in good faith and extended value may rely upon the Notice of Release as conclusive evidence of the full satisfaction of the sums stated in the Notice of Lien.

#### 5.9. Enforcement of Liens.

It shall be the duty of the Board of Directors to enforce the collection of any amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration. The lien on a Condominium may be enforced by sale of the Condominium by the Association, the Association's attorneys, any title insurance company authorized to do business in California, or other persons authorized to conduct the sale as a trustee, after failure of the Owner to pay any Annual, Capital Improvement or Reconstruction Assessment, or installment thereof, as provided herein. The sale shall be conducted in accordance with the provisions of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any manner permitted by law. An action may be brought to foreclose the lien of the Association by the Board, or by any Owner if the Board fails or refuses to act, after the expiration of at least thirty (30) days from the date on which the Notice of Lien was Recorded; provided that at least ten (10) days have expired since a copy of the Notice of Lien was mailed to the Owner affected thereby. The Association, through its agents, shall have the power to bid on the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit, and the defaulting Owner shall be

required to pay the reasonable rental value for such Unit during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving any lien securing the same, but this provision or any institution of suit to recover a money judgment shall not constitute an affirmation of the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

5.10. Priority of Assessment Lien.

The lien of the assessments provided for herein, including interest and costs of collection (including attorneys' fees), shall be subordinate to the lien of any first Mortgage upon one or more Condominiums which was Recorded before Recordation of the Notice of Lien on the Condominium(s). Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from liens for any assessments thereafter becoming due. When the Mortgagee of a first Mortgage of record or other purchaser of a Condominium obtains title pursuant to a judicial or nonjudicial foreclosure of the first Mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Owners of the Condominiums in the Property including such acquirer, his successors and assigns.

5.11. Capital Contributions to the Association.

Upon the acquisition of record title to a Condominium from Declarant, each Owner of a Condominium shall contribute to the capital of the Association an amount equal to Fifty-One Dollars and Fifty-One Cents (\$51.51), which is the amount equal to one-two hundred thirty-third (1/233) of the product of two (2) monthly installments of Annual Assessments from the Phase 1 Budget (as reflected in the Final Subdivision Public Report for Phase 1) times thirty (30), which is the number of Condominiums in Phase 1. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom to the Association or to Declarant if Declarant has previously advanced such funds to the Association.

ARTICLE VI

6. Project Easements and Rights of Entry.

6.1. Easements.

(a) Access. Each Unit shall have appurtenant to it nonexclusive easements for access, ingress and egress over all of the Common Property, including any private streets or driveways currently existing in the Property or subsequently added to it, but excluding any Association Property located within



Units in the Cube Lots, which easements may be conveyed by Declarant or Mission, as applicable, to Owners and to the Association for so long as Declarant or Mission, as applicable, owns any interest in the Property. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by all Owners and their guests, tenants and invitees residing on or temporarily visiting the Property, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Condominium in the Project.

(b) Maintenance and Repair. The Board of Directors and all agents, officers and employees of the Association shall have nonexclusive easements over the Common Property (including the Exclusive Use Area) as necessary to maintain and repair the Common Property, and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Property shall be appurtenant to, binding upon, and shall pass with the title to, every Condominium conveyed.

(c) Exclusive Use Area. Each Unit shall have appurtenant to it exclusive easements over the Property for use of the Exclusive Use Area, including without limitation for parking and balcony purposes as shown and assigned on the Condominium Plan or Plans for the Project, and for patio purposes as shown on Exhibit "B" and assigned in the individual grant deeds of the respective Units. Owners shall be entitled to exchange Exclusive Use Area parking spaces assigned to their respective Units, provided that (i) a reciprocal deed of conveyance identifying the exchanged Exclusive Use Area parking spaces, the exchanging Owners and their respective Condominiums, is executed by the exchanging Owners and the first Mortgagees of such exchanging Owners, and Recorded; and (ii) no exchange of Exclusive Use Area parking spaces shall be effective if such exchange would result in a reduction of the number of parking spaces to which such Owners were originally entitled. A copy of the Recorded reciprocal deed of conveyance shall be delivered to the Board as soon as possible after Recordation.

(d) Utility Easements. Declarant, for the benefit of the Association, has the right to grant additional easements and rights-of-way over the Property to utility companies and public agencies, as necessary, for the proper development and disposal of the Property. Such right of Declarant shall expire (i) with respect to any Phase of Development, upon Close of Escrow for the sale of all Condominiums in such Phase by Declarant, or (ii) with respect to all Phases, upon expiration of seven (7) years from the date of original issuance by the DRE of the Final Subdivision Public Report for Phase 1.

(e) Encroachments. Declarant, the Association and Owners of contiguous Residences shall have a reciprocal easement appurtenant to each of the Residences over the Residences and the Common Property for the purpose of (1)

accommodating any existing encroachment of any wall of any Improvement, and (2) maintaining the same and accommodating authorized construction, reconstruction, repair, shifting, movement or natural settling of the Improvements or any other portion of the Property housing their respective Units. Easements and reciprocal negative easements for utility services and repairs, replacement and maintenance of the same over all of the Common Property are specifically reserved for the benefit of the Owners. Reciprocal nonexclusive easements for drainage of water over, across and upon the Common Property, including without limitation those portions of the Exclusive Use Area patios improved with drainage lines by Declarant, are expressly reserved for the benefit of the Common Property, and for the benefit of the Owners and the Association. The foregoing easements shall not unreasonably interfere with each Owner's use and enjoyment of adjoining Residences. No portion of the Common Property, including without limitation parking spaces and other amenities contemplated as a part of the Property, are proposed to be leased by Declarant to the Owners or to the Association.

(f) Completion of Improvements. Declarant has the right and easement to enter the Property to complete any Improvement which Declarant deems desirable to implement Declarant's development plan.

#### 6.2. Rights of Entry.

The Board of Directors shall have a limited right of entry in and upon the Common Property (including without limitation the Exclusive Use Areas) and the interior of all Units for the purpose of inspecting the Property, and taking whatever corrective action may be deemed necessary or proper by the Board of Directors, consistent with the provisions of this Declaration. However, such entry upon the interior of a Unit shall be made, except to effect emergency repairs or other emergency measures, only after three (3) days prior written notice to the Owner of such Unit and after authorization of two-thirds (2/3rds) of the Board of Directors. Nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property or Improvements required to be maintained or repaired by the Owners. Nothing in this Article VI shall in any manner limit the right of the Owner to exclusive occupancy and control over the interior of his Unit. However, an Owner shall permit a right of entry to the Board of Directors or any other person authorized by the Board of Directors, as reasonably necessary, such as in case of any emergency originating in or threatening his Unit, whether the Owner is present or not. Any damage caused to a Unit by such entry by the Board of Directors or by any person authorized by the Board of Directors shall be repaired by the Association as a Common Expense of the Association. Furthermore, an Owner shall permit other Owners, or their representatives, to enter his Residence for the purpose of performing required installations, alterations or repairs to the mechanical or electrical services to a Residence, provided that such requests for entry are made in advance and entry is made at a time reasonably convenient to the Owner whose Unit is to be entered; and provided further, that the entered Unit is left in substantially the same condition as existed immediately preceding such entry. In case of an emergency, such right of entry shall be immediate. Any damage caused to a Unit by such entry by an Owner or its representative shall be repaired by such Owner. Upon receipt of reasonable notice from the Association (which shall in no event be less than fifteen (15) days nor more than thirty (30) days) each Owner shall vacate his

Unit in order to accommodate efforts by the Association to perform any other maintenance or repairs pursuant to the Declaration. The Board shall have the right of entry to the Units and the right to remove Owners from their Units, as necessary, to accomplish its duties as provided herein. The cost of performing any such maintenance or repairs shall be a Common Expense of the Association; however, each Owner shall bear his own costs of temporary relocation. If the Association acts to eradicate any wood destroying pests or organisms, then the procedure established in Section 2.7 shall control.

## ARTICLE VII

### 7. Declarant's Rights and Reservations.

Nothing in the Restrictions shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to subdivide or resubdivide any portion of the Property, or to complete Improvements to and on the Common Property or any portion of the Property owned solely or partially by Declarant, or to alter the foregoing or its construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Property so long as any Condominium in the Project remains unsold. Any alteration of Declarant's construction plans shall require the prior approval of FHA and VA if such alteration is inconsistent with the general plan of development of the Property submitted to and approved by FHA and VA. The rights of Declarant hereunder shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of its business of completing the work and disposing of the Condominiums by sale, resale, lease or otherwise. Each Owner by accepting a deed to a Condominium hereby acknowledges that the activities of Declarant may temporarily or permanently impair the view of such Owner and may constitute an inconvenience or nuisance to the Owners, and hereby consents to such impairment, inconvenience or nuisance. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title to a Condominium in the Project by a purchaser from Declarant to establish on that Condominium additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. Declarant may use any Condominiums owned by Declarant in the Project as model home complexes or real estate sales or leasing offices. Declarant need not seek or obtain Architectural Committee approval of any Improvement constructed or placed on any portion of the Property by Declarant. The rights of Declarant hereunder and elsewhere in these Restrictions may be assigned by Declarant to any successor in interest to any portion of Declarant's interest in any portion of the Property by a written assignment. Notwithstanding the foregoing or any other provision of this Declaration, the rights and reservations of Declarant in this Declaration shall automatically be assigned to Mission, without the need for any further documentation, with respect to any portion or portions of the Property or Annexable Territory to which Mission holds fee title upon Mission's election to exercise any of such rights and reservations. Notwithstanding any other provision of this Declaration, the prior written approval of Declarant, as developer of the Property, will be required before any amendment to this Article shall be effective. Each Owner, with the exception of the Secretary, Department of Veterans Affairs, an officer of the United States of America, hereby grants, upon acceptance of his deed to his Unit, an irrevocable, special power of attorney to Declarant to execute and Record all documents and maps necessary

to allow Declarant to exercise its rights under this Article. Declarant and its prospective purchasers of Condominiums shall be entitled to the nonexclusive use of the Common Property and any recreational facilities thereon, without further cost for access, ingress, egress, use or enjoyment, in order to show the Property to its prospective purchasers, to dispose of the Property as provided herein, and to develop and sell the Annexable Territory. Declarant, its successors and tenants, shall also be entitled to the nonexclusive use of any portions of the Property which comprise private streets, drives and walkways for the purpose of ingress, egress and accommodating vehicular and pedestrian traffic to and from the Property and the Annexable Territory. The use of the Common Property by Declarant shall not unreasonably interfere with the use thereof by the other Members. The Association shall provide Declarant with a copy of the minutes of each meeting of the Association and each meeting of the Board following their preparation and also of all notices and other documents to which a Beneficiary is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefor. The rights and reservations of Declarant set forth in this Article VII shall terminate on the seventh (7th) anniversary of the first Close of Escrow for the sale of a Condominium in the Project.

At such time, if any, as Mission annexes all or any portion of the Annexable Territory to the Project, Mission and its successors in interest to such annexed portion of the Annexable Territory (other than any Person acquiring any or all of such annexed Annexable Territory pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by DRE) shall enjoy all of the rights of Declarant set forth in this Declaration.

## ARTICLE VIII

### 8. Residence and Use Restrictions.

All of the Property shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemptions of Declarant set forth in this Declaration.

#### 8.1. Single Family Residences.

That portion of the Unit comprising the "residential elements" shall be used as a residence for a single Family and for no other purpose. An Owner may rent his Unit to a single Family provided that the Unit is rented pursuant to a lease or rental agreement which is (a) in writing, (b) for a term of at least seven (7) days, and (c) subject to all of the provisions of this Declaration.

#### 8.2. Parking and Vehicular Restrictions.

(a) Authorized Vehicles. The following vehicles are Authorized Vehicles: motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two-wheel motorcycles, and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Property intended for parking of motorized vehicles.

(b) Prohibited Vehicles. The following vehicles are Prohibited Vehicles: recreational vehicles (e.g., motorhomes, travel trailers, camper vans, boats, etc.), commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks, etc.), buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Board. Prohibited Vehicles shall not be parked, stored or kept on any public or private street within, adjacent to or visible from the Property or any other Common Property parking area unless specifically authorized by the Board. Prohibited Vehicles may only be parked within an Owner's fully enclosed garage with the door closed so long as their presence on the Property does not otherwise violate the provisions of this Declaration.

(c) General Restrictions. Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Unit and kept within the Property shall be parked in the garage or designated assigned parking space, as applicable, of that Owner to the extent of the space available; provided that each Owner shall ensure that any such garage or parking space accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant. There shall be no parking in the motor court areas of the Project. No repair, maintenance or restoration of any vehicle shall be conducted on the Property except within an enclosed garage when the garage door is closed, provided such activity is not undertaken as a business, and provided that such activity may be prohibited entirely by the Board if the Board determines that it constitutes a nuisance. Drip pans must be used during repairs. Washing of vehicles shall be restricted to use of a bucket and sponge.

(d) Parking Regulations. The Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas not assigned to individual Units, including without limitation designating "parking," "guest parking," and "no parking" areas thereon; and shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Property pursuant to California Vehicle Code Section 22658.2 or other applicable statute. If the Board fails to enforce any of the parking or vehicle use regulations, the County may, but need not, enforce such regulations in accordance with state and local laws and ordinances.

### 8.3. Nuisances.

No noxious or offensive activities shall be conducted upon the Property or on any public street abutting or visible from the Property. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residence and its contents, shall be placed or used in any such Residence. Noisy or smoky vehicles, large power equipment and large power tools, off-road motor vehicles or items which may unreasonably interfere with television or

radio reception of any Owner in the Property, and objects which create or emit loud noises or noxious odors shall not be located, used or placed on any portion of the Property or on any public street abutting or visible from the Property, or exposed to the view of other Owners without the prior written approval of the Architectural Committee. The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner shall permit or cause anything to be done or kept upon the Property or on any public street abutting or visible from the Property which may increase the rate of insurance on Units or on the Property, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Owners, nor commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Residence. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of children and other family members or persons residing in or visiting his Unit. Any damage to the Common Property, personal property of the Association, or property of another Owner, caused by such children or other family members shall be repaired at the sole expense of the Owner of the Unit where such children or other family members or persons are residing or visiting.

#### 8.4. Signs.

No sign, poster, display or other advertising device of any kind shall be erected or maintained anywhere on the Property or on any public street abutting or visible from the Property, or shown or displayed from any Residence, without the prior written consent of the Architectural Committee; provided, however, that the restrictions of this Section shall not apply to any sign or notice of customary and reasonable dimension which states that the Residence is for rent or sale, so long as it is consistent with the standards promulgated by the Architectural Committee in accordance with Section 4.2 hereof. Such sign or notice may be placed within a Unit, and may also be placed upon the Common Property with the prior written approval of the Architectural Committee; provided that the location of such sign or notice on the Common Property shall be within an area specifically established by the Committee for such purpose. This Section shall not apply to any signs used by (a) Declarant or its agents in connection with the sale of Condominiums or the construction or alteration of the Units or Common Property, (b) a successor-in-interest to Declarant's interest in all or any portion of the Annexable Territory in connection with the sale of Condominiums in the Annexable Territory, (c) traffic and visitor parking signs installed by Declarant, and (d) traffic and parking control signs installed with the consent of the Board. Notwithstanding the foregoing, nothing contained in this Section shall be construed in such manner as to permit the maintenance of any sign which is not in conformance with any ordinance of the County.

#### 8.5. Antennae.

No radio station or shortwave operators of any kind shall operate from any Unit or any other portion of the Property unless approved by the Architectural Committee. No exterior radio antenna, "C.B." antenna, television antenna, earth receiving station, satellite dish or other antenna of any type shall be erected or maintained anywhere in the Property unless approved by the Architectural Committee.

#### 8.6. Inside and Outside Installations.

No outside installation of any type, including but not limited to clotheslines, shall be constructed, erected or maintained on any Residence, excepting antennae installed by Declarant as a part of the initial construction of the Property and except as may be installed by, or with the prior consent of the Architectural Committee. No balcony, patio or deck covers, wiring, or installation of air conditioning, water softeners, or other machines shall be installed on the exterior of the buildings of the Property or be allowed to protrude through the walls or roofs of the buildings (with the exception of those items installed during the original construction of the Property) unless the prior written approval of the Architectural Committee is secured. Outdoor patio or lounge furniture, plants and barbecue equipment may be maintained pursuant to rules and procedures of the Architectural Committee. No window in any Unit shall be covered in whole or in part, inside or outside, with aluminum foil, newspaper, paint, reflective tint or any other material reasonably deemed inappropriate for such use by the Architectural Committee; provided, however, that an Owner may use plain white sheets to cover windows for a period not to exceed six (6) months after Close of Escrow pending the installation of drapes, curtains, shutters or other appropriate interior window coverings. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Residence shall be commenced without the prior written approval of the Architectural Committee. Nothing shall be done in any Unit or in, on or to the Common Property which will or may tend to impair the structural integrity of any building in the Project or which would structurally alter any such building except as otherwise expressly provided herein. There shall be no alteration, repair or replacement of wall coverings within Units located outside Cube Lots which may diminish the effectiveness of the sound control engineering within the buildings in the Project. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Property for labor or materials alleged to have been furnished or delivered to the Property or any Condominium Unit for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge. No Improvement may be installed, constructed or planted in such a manner in any Unit in a Cube Lot such that the Improvement extends or grows beyond the boundaries of the airspace volume comprising the Unit. The Association shall have the authority to trim, prune or remove any landscaping Improvement which grows beyond the boundaries of the Unit, and the costs of such trimming, pruning or removal shall be a Special Assessment chargeable to the Owner of the Unit wherein such landscaping Improvement is located.

#### 8.7. Animal Regulations.

No livestock, reptiles, insects, poultry or other animals of any kind shall be raised, bred or kept in any Residence except that usual and ordinary domestic dogs, cats, fish, and birds inside bird cages may be kept as household pets within any Residence provided that they are not kept, bred or raised therein for commercial purposes or in unreasonable quantities or sizes. As used in the Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per Residence; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The Board shall have the right to limit the size of pets and may prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees

within the Property must be either kept within an enclosure, an enclosed balcony or on a leash held by a person capable of controlling the animal. Furthermore, any Owner shall be liable to each and all remaining Owners, their families, guests and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Project by such Owner or by members of his family, his tenants or his guests. It shall be the duty and responsibility of each such Owner to clean up after such animals which have deposited droppings or otherwise used any portion of the Property or on any public street abutting or visible from the Property.

#### 8.8. Business or Commercial Activity.

No part of the Property shall ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including without limitation any activity for which the provider is compensated in any way or receives any form of consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license; except Declarant, its successors and assigns may use any portion of the Property for a model home site and display and sales offices in accordance with Article VII hereof. The provisions of this Section 8.8 shall not preclude any of the above-described activities without external evidence thereof, provided that all of the following conditions are fulfilled: (a) such activities are conducted in conformance with all applicable governmental ordinances; (b) the patrons or clientele of such activities do not visit the Unit or park automobiles or other vehicles within the Property; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Unit; (d) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (e) such activities are consistent with the residential character of the Property and conform with the provisions of this Declaration.

#### 8.9. Rubbish Removal.

Trash, garbage, or other waste shall be disposed of by residents of the Property only by depositing the same into trash containers of a type typically used for such purpose. No portion of the Property shall be used for the storage of building materials, refuse or any other materials, except that building materials may be kept on an Owner's balcony, patio or yard temporarily during construction which has been previously approved by the Architectural Committee. No clothing, household fabrics or other unsightly articles shall be hung, dried or aired on any portion of the Property, including the interior of any Residence, so as to be visible from other Residences or the street. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefor.

#### 8.10. Further Subdivision.

Except as otherwise provided herein, no Owner shall physically or legally subdivide his Unit in any manner, including without limitation any division of his Unit or his Condominium into time-share estates or time-share uses; however, the right of an Owner to rent or lease all of his Unit by means of a written lease or rental agreement subject to the Restrictions shall not be impaired. Any failure by the lessee of the Unit to comply with the terms of this Declaration, the Bylaws of the Association or the Rules and Regulations shall constitute a default under the lease



or rental agreement. Notwithstanding the foregoing, no Unit in the Project may be partitioned or subdivided without the prior written approval of the Beneficiary of any first Mortgage on that Unit. This Section may not be amended without the prior written approval of the Beneficiaries of at least seventy-five percent (75%) of the first Mortgages of Condominiums in the Project.

8.11. Drainage.

There shall be no interference with or alteration of the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Architectural Committee. For the purpose hereof, "established" drainage in any Phase is defined as the drainage which exists at the time of the first Close of Escrow for the sale of a Condominium in such Phase, or that which is shown on any plans approved by the Architectural Committee.

8.12. Water Supply System.

No individual water supply or water softener system shall be permitted in any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of any applicable water district, the County, and all other applicable governmental authorities. Any sewage disposal system shall be installed only after approval by the Architectural Committee and any governmental health authority having jurisdiction.

8.13. View Obstructions.

Each Owner, by accepting title to a Condominium, hereby acknowledges that (a) there are no protected views within the Property, and no Condominium is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping or other installation of Improvements by Declarant or other Owners may impair the view from any Condominium, and the Owners hereby consent to such view impairment.

8.14. Rights of Handicapped.

Subject to the provisions of Article IV of this Declaration, each Owner shall have the right to modify his Residence and the route over the Common Property leading to the front door of his Residence, at his sole cost and expense, in order to facilitate access to his Residence by persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such persons.

ARTICLE IX

9. Insurance.

9.1. Duty to Obtain Insurance; Types.

(a) Public Liability. The Board shall cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), with such limits as may be considered acceptable to FNMA (not less than \$1 million covering all claims for personal injury and property damage arising

out of a single occurrence), insuring against liability for bodily injury, death and property damage arising from the activities of the Association and its Members, with respect to the Common Property.

(b) Fire and Casualty Insurance. The Board shall also cause to be obtained and maintained fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Property and those portions of the Units consisting of all fixtures, installations or additions comprising a part of the buildings housing the Units and all built-in or set-in appliances, cabinets and initial basic floor coverings, as initially installed or replacements thereof in accordance with the original plans and specifications for the Property, or as installed by or at the expense of the Owners.

(c) Fidelity Bonds. Fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling funds of the Association, including, but not limited to, officers, directors, trustees, employees and agents of the Association and employees of the Manager of the Association, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than the sum equal to one fourth (1/4) of the Annual Assessments on all Condominiums in the Project, plus reserve funds.

(d) Insurance Required by FNMA, GNMA and FHLMC. The Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond coverage meeting the insurance and fidelity bond requirements for condominium projects established by FNMA, GNMA and FHLMC, so long as any of which is a Mortgagee or Owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA and FHLMC, as applicable.

(e) Other Insurance. The Board of Directors shall purchase such other insurance, as necessary, including but not limited to, errors and omissions, directors, officers and agents liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability and vandalism insurance, fidelity bonds and worker's compensation, and such other risks as shall customarily be covered with respect to condominium projects similar in construction, location and use.

(f) Beneficiaries. Such insurance shall be maintained for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured, subject, however, to loss payment requirements as set forth herein.

9.2. Waiver of Claim Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said Persons.

9.3. Right and Duty of Owners to Insure.

It is the responsibility of each Owner to provide insurance on his personal property and upon all other property and Improvements within his Unit for which the Association has not purchased insurance in accordance with Section 9.1 hereof. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability for damage to person or property occurring inside his individual Unit or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

9.4. Notice of Expiration Requirements.

If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be cancelled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity bonds shall provide that they may not be cancelled or substantially modified without ten (10) days prior written notice to any insurance trustee named pursuant to Section 9.6 and to each FNMA servicer who has filed a written request with the carrier for such notice.

9.5. Insurance Premiums.

Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Annual Assessments levied by the Association and collected from the Owners. That portion of the Annual Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the Reserve Fund, to be used solely for the payment of premiums of required insurance as such premiums become due.

9.6. Trustee for Policies.

The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. Unless the applicable insurance policy provides for a different

procedure for the filing of claims, all claims made under such policy shall be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. A record of all claims made shall be kept by the Association. All insurance proceeds under any such policies as provided for in Section 9.1 of this Article shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in Article X of this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 10.4 of this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

9.7. Actions as Trustee.

Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance, in a manner satisfactory to Beneficiaries of seventy-five percent (75%) of the first Mortgages held by first Mortgagees who have filed requests under Section 9.4. Duplicate originals or certificates of all policies of fire and casualty insurance maintained by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who have requested the same in writing.

9.8. Annual Insurance Review.

The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance referred to in Section 9.1 above. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on those portions of the Property outside the Units in the Cube Lots except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

9.9. Required Waiver.

All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

- (a) subrogation of claims against the Owners and tenants of the Owners;

- (b) any defense based upon coinsurance;
- (c) any right of setoff, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (d) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured;
- (e) any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;
- (f) notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium;
- (g) any right to require any assignment of any Mortgage to the insurer;
- (h) any denial of an Owner's claim because of negligent acts by the Association or other Owners; and
- (i) prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

9.10. Insurance Obligations of Owners of Units in Cube Lots.

Each Owner of a Unit in a Cube Lot shall insure the Improvements (exclusive of the Association Property) in his Unit, including his entire residential dwelling structure, against loss or damage by fire or by any other casualty, under the standard form of extended endorsement now in use in the State of California or under such other insurance as may be required by the Beneficiary of the first Mortgage on his Unit. All such insurance shall be in an amount as near as practicable to the full replacement value of the residential dwelling structure, and appurtenant Improvements, without deduction for depreciation or coinsurance. All such policies shall contain a provision that the same shall not be cancelled or terminated except upon at least thirty (30) days' written notice to the Association. Each such Owner shall notify the Association of the existence or nonexistence of an assignment of such insurance maintained by said Owner upon the sale of his Unit. The Association may, but is not obligated to, cure an Owner's failure to comply with this section by purchasing the insurance on behalf of the Owner, who shall then be required to reimburse the Association for its cost of obtaining the insurance. Such cost shall constitute a Special Assessment against the Owner.

It is the responsibility of each such Owner to provide insurance on his personal property and upon all other property and improvements within his Unit (exclusive of the Association Property). It shall also be the responsibility of each such Owner to carry public liability insurance

in the amount such Owner deems desirable to cover his individual liability for damage to person or property occurring inside his Unit. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon the Board's request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any such Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

## ARTICLE X

### 10. Destruction of Improvements.

#### 10.1. Restoration of the Property.

Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Property, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article IX hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan or Plans and the original construction plans if they are available, unless changes recommended by the Architectural Committee have been approved in writing by sixty-seven percent (67%) of the Owners and by the Beneficiaries of fifty-one percent (51%) of first Mortgages upon the Condominiums. If the amount available from the proceeds of such insurance policies for such restoration and repair is at least eighty-five percent (85%) of the estimated cost of restoration and repair, a Reconstruction Assessment shall be levied by the Board of Directors in the proportions set forth in Section 1.6 hereof to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than eighty-five percent (85%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("Conditions to Reconstruction") have first been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Property is approved by the affirmative vote or written consent of sixty-seven percent (67%) of the Owners who would be required to pay any Reconstruction Assessment and by the written consent of the Beneficiaries of fifty-one percent (51%) of the first Mortgages on the Condominiums of such Owners; and (b) within six (6) months after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("Reconstruction Certificate"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than eighty-five percent (85%) of the estimated cost of restoration and repair, it shall be conclusively presumed that the Owners have determined not to proceed with restoration

and repair and not to allow the Board to levy a Reconstruction Assessment, in which case the Owners may proceed as provided in Section 10.2 below.

#### 10.2. Sale of Property and Right to Partition.

No Owner shall have the right to partition of his interest in the Condominium and there shall be no judicial partition of the Project, or any part thereof, except as provided in Section 1359(b) of the California Civil Code as amended or in any successor statute. For purposes of Subsection 4 of said Section 1359(b), partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 10.1 above have failed to occur; and (b) within six (6) months after the date on which destruction occurred, restoration or repair has not actually commenced; and (c) the Owners of sixty-seven percent (67%) of the Condominiums in the Project approve the partition by vote or written consent. In such event, the Association, acting through a majority of the Board, shall prepare, execute and Record, as promptly as practical, the certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Property for the benefit of the Owners with the exception of the Secretary, Department of Veterans Affairs, an officer of the United States of America, and such other documents and instruments as may be necessary for the Association to consummate the sale of the Property at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately prior to such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Project. The Board is hereby authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. Notwithstanding the foregoing, the balance then due on any valid encumbrance of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing herein shall be deemed to prevent partition of a cotenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the Units and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Common Area and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

#### 10.3. Interior Damage.

With the exception of any casualty or damage insured against by the Association pursuant to Section 9.1 of this Declaration, restoration and repair of any damage to the interior of any individual Residence, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Residence so damaged. In the event of a determination to rebuild the Property after partial or total destruction, as provided in this Article X, such interior repair and restoration shall be completed as promptly

as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Committee as provided herein.

10.4. Notice to Owners and Listed Mortgagees

The Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Property, shall promptly notify all Owners and Beneficiaries, insurers and guarantors of first Mortgages on Condominiums in the Project, who have filed a written request for such notice with the Board. The Board, immediately upon having knowledge of any damage or destruction affecting a Unit, shall promptly notify any Beneficiary, insurer or guarantor of any Mortgage encumbering such Unit who has filed a written request for such notice with the Board.

ARTICLE XI

11. Eminent Domain

The term "taking" as used in this Article shall mean condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent domain. The Board shall represent the Owners, with the exception of the Secretary, Department of Veterans Affairs, an officer of the United States of America, in any proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Unit Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article XI.

11.1. Project Condemnation

If there is a taking of an interest in all or part of the Property such that the ownership, operation and use of the Property in accordance with the provisions of this Declaration is substantially and adversely affected, and within one hundred twenty (120) days after the effective date of the taking the Owners of Units (a) not taken, or (b) only partially taken but capable of being restored to at least ninety-five percent (95%) of their area and to substantially their condition prior to the taking (collectively, the "Remaining Units") do not by affirmative vote of at least one-third of their voting power approve the continuation of the Project and the repair, restoration and replacement to the extent feasible of the Common Property and the Remaining Units, then the Board shall proceed with the sale of that portion of the Property which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 10.2.

11.2. Condemnation of Common Property

If there is a taking of (a) all or any portion of the Common Area, or any interest therein, other than the taking of an undivided interest therein taken as a result of the taking of a Condominium, or (b) all or any portion of the Association Property (exclusive of any (i) Association Property located within a Unit in a Cube Lot or (ii) any Exclusive Use Area), or any interest therein, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.



11.3. Condemnation of Exclusive Use Area.

If there is a taking of all or any portion of an Exclusive Use Area which is not taken in connection with the taking of all or any portion of the Unit to which it is appurtenant, the award in condemnation shall be paid to the Owner of the Unit to which the taken Exclusive Use Area was appurtenant; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

11.4. Condemnation of Condominiums.

If there is a taking of a Condominium, the award in condemnation shall be paid to the Owner of the Condominium; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

11.5. Condemnation of Portions of Units.

(a) Minor Takings Within Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration of such Units can be accomplished at a cost less than or equal to the sum of (A) the amount of the condemnation awards for such takings plus (B) any amounts the Owners of the taken Units wish to contribute to restoration plus (C) an amount less than or equal to five percent (5%) of the Budgeted gross expenses of the Association for that Fiscal Year (collectively, the "Allowable Cost"), then the Board shall contract for such restoration and levy a Reconstruction Assessment (determined in accordance with Section 1.6 hereof) in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners' contributions, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards in excess of the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decreases in the fair market values of their Condominiums; provided, however, that such awards shall first be applied to the balance then due on any Mortgages encumbering such Owners' Condominiums, in order of priority.

(b) Minor Takings Exceeding Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a Special Meeting of the Members against whom a Reconstruction Assessment determined in accordance with Section 1.6 hereof would be levied. If more than fifty percent (50%) of such Members are represented at such Special Meeting, either in person or by proxy, and a majority of the votes cast at such Special Meeting are in favor of levying a Reconstruction Assessment (determined in accordance with Section 1.6 hereof) in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the

Owners of the taken Units wish to contribute to such restoration, then the Board shall contract for such restoration and levy such Reconstruction Assessment, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration.

(c) Major Takings. If the requisite approval is not obtained at the Special Meeting referred to in Section 11.5(b), or if there is a taking of a portion of one or more Units such that the Units are not capable of being restored such that the intended use of the Units as residential dwellings is not substantially and adversely affected, then the award in condemnation shall be paid to the Owners of the taken Units; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units and appurtenant Exclusive Use Areas shall become part of the Association Property, and the Owners of such taken Units on any lot, by acceptance of the award allotted to them in taking proceedings, hereby relinquish (i) to the Association such remaining portions of the taken Units and appurtenant Exclusive Use Areas, and (ii) to the other Owners in such lot, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area. Each Owner relinquishing his interests pursuant to this Section shall, at the request of the Board and at the expense of the Association, execute and acknowledge such deeds and other instruments which the Board deems necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit or Residence shall not be liable for assessments under this Declaration which accrue on or after the date such Owner accepts his condemnation award.

11.6. Portions of Awards in Condemnation Not Compensatory for Value of Real Property.

Those portions of awards in condemnation which do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

11.7. Notice to Owners and Mortgagees.

The Board, upon learning of any taking affecting a material portion of the Property, or any threat thereof, shall promptly notify all Owners and those Beneficiaries, insurers and guarantors of Mortgages on Condominiums in the Project who have filed a written request for such notice with the Association. The Board, upon learning of any taking affecting a Unit, or any threat thereof, shall promptly notify any Beneficiary, insurer or guarantor of a Mortgage encumbering such Unit who has filed a written request for such notice with the Association.

## ARTICLE XII

### 12. Rights of Mortgagees.

Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration shall operate to defeat or render invalid the rights of the Beneficiary under any Deed of Trust upon one (1) or more Condominiums made in good faith and for value, provided that after the foreclosure of any such Deed of Trust such Condominium(s) shall remain subject to this Declaration, as amended. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Condominium, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage. For purposes of any provision of this Declaration or the other Restrictions which require the vote or approval of a specified percentage of first Mortgagees, such vote or approval shall be determined based upon one (1) vote for each Condominium encumbered by each such first Mortgage. In order to induce VA, FHA, FHLMC, GNMA and FNMA to participate in the financing of the sale of Condominiums within the Project, the following provisions are added hereto (and to the extent these added provisions pertaining to the rights of Mortgagees, VA, FHA, FHLMC, FNMA and GNMA conflict with any other provisions of this Declaration or any other of the Restrictions, these added provisions shall control):

(a) Each Beneficiary, insurer and guarantor of a first Mortgage encumbering any Condominium, upon filing a written request for notification with the Board, is entitled to written notification from the Association of: (1) any condemnation or casualty loss which affects either a material portion of the Property or the Unit(s) securing the respective first Mortgage; and (2) any delinquency of sixty (60) days or more in the performance of any obligation under the Restrictions, including without limitation the payment of assessments or charges owed by the Owner(s) of the Unit(s) securing the respective first Mortgage, which notice each Owner hereby consents to and authorizes; and (3) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond maintained by the Association; and (4) any proposed action of the Association which requires consent by a specified percentage of first Mortgagees.

(b) Every Owner, including every first Mortgagee of a Mortgage encumbering any Condominium who obtains title to such Condominium pursuant to the remedies provided in such Mortgage, or pursuant to foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Restrictions.

(c) Each first Mortgagee of a Mortgage encumbering any Condominium which obtains title to such Condominium, pursuant to judicial foreclosure or the powers provided in such Mortgage, shall take title to such Condominium free and clear of any claims for unpaid assessments or charges against such Condominium which accrued prior to the time such Mortgagee acquires title to such Condominium in accordance with Section 5.10.

(d) Unless at least sixty-seven percent (67%) of the first Mortgagees or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(1) by act or omission seek to abandon or terminate the Property; or

(2) change the method of determining the obligations, assessment dues or other charges which may be levied against any Owner; or

(3) partition or subdivide any Condominium Unit; or

(4) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property. (The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Property under this Declaration, and the granting of exclusive easements to Owners over portions of the Common Property to conform the boundaries of the Common Property to the as-built location of Improvements installed or constructed by Declarant shall not be deemed a transfer within the meaning of this clause); or

(5) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, the exterior appearance or the maintenance of the residential structures or the Common Property; or

(6) fail to maintain or cause to be maintained Fire and Extended Coverage insurance on insurable Common Property as provided in Article IX of this Declaration; or

(7) use hazard insurance proceeds for losses to any Condominium property (i.e., Improvements to the Units or Common Property) for other than the repair, replacement or reconstruction of such condominium property, subject to the provisions of Article X of this Declaration; or

(8) change the pro rata interest or obligations of any Condominium in order to levy assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Condominium in the Common Area.

(e) All Beneficiaries, insurers and guarantors of first Mortgages, upon written request to the Association, shall have the right to:

(1) examine current copies of the Association's books, records and financial statements and the Restrictions during normal business hours; and

(2) require the Association to submit an annual audited financial statement if one is available, or have one prepared at the expense of the requesting entity if such statement is not otherwise prepared by the Association; provided that, upon annexation of additional Units to the Project such that fifty (50) or more Units are subject to this Declaration, the Association may be required to submit such a statement without expense to the requesting entity within one hundred twenty (120) days of the end of the Fiscal Year; and

(3) receive written notice of all meetings of Owners; and

(4) designate in writing a representative who shall be authorized to attend all meetings of Owners.

(f) All Beneficiaries, insurers and guarantors of first Mortgages, upon written request, shall be given thirty (30) days' written notice prior to the effective date of (1) any proposed material amendment to the Restrictions or Condominium Plans; (2) any termination of an agreement for professional management of the Property following any decision of the Owners to assume self-management of the Project; and (3) any proposed termination of the Property as a condominium project.

(g) The Reserve Fund described in Article V of this Declaration must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large special assessments.

(h) The Board shall secure and cause to be maintained in force at all times a fidelity bond for any Person handling funds of the Association, including, but not limited to, employees of the professional Manager.

(i) In addition to the foregoing, the Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of VA, FHA, FHLMC, FNMA or GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Condominiums. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of

their residential Condominiums, if such agencies approve the Property as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Condominium.

(j) Each Owner hereby authorizes the first Mortgagee of a first Mortgage on his Condominium to furnish information to the Board concerning the status of such first Mortgage and the loan which it secures.

(k) When professional management has been previously required by a Beneficiary, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of sixty-seven percent (67%) of the voting power of the Association and the Beneficiaries of fifty-one percent (51%) of the first Mortgages of Condominiums in the Project.

(l) All intended Improvements in any Phase of Development other than Phase I shall be substantially completed or the completion of such Improvements shall be secured by a bond or other arrangement acceptable to the DRE prior to the first Close of Escrow for the sale of a Condominium in such Phase. All such Improvements shall be substantially consistent with the Improvements in Phase I in structure, type and quality of construction. The requirements of the immediately preceding sentence are for the benefit only of and may be enforced only by FNMA.

(m) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

## ARTICLE XIII

### 13. Duration and Amendment.

#### 13.1. Duration.

This Declaration shall continue in full force for a term of fifty (50) years from the date of Recordation hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is Recorded satisfying the requirements of an amendment to this Declaration as set forth in Section 13.2. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant Membership in the Association, as long as this Declaration shall continue in full force and effect. The provisions of this Article are subject to the provisions of Sections 10.2 and 11.5 of this Declaration.

### 13.2. Termination and Amendment.

(a) Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association at which a proposed amendment is to be considered. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than (i) sixty-seven percent (67%) of the voting power of each Class of Members of the Association, and (ii) sixty-seven percent (67%) of the voting power of the Association residing in Members other than Declarant, provided that the specified percentage of the voting power of the Association necessary to amend a specified Section or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision. So long as there exists a Class B Membership, the prior approval of VA and FHA shall be required for any amendment of this Declaration. A draft of the proposed amendment shall be submitted to VA and FHA for approval prior to its approval by the Membership of the Association.

(b) In addition to the required notice and consent of VA, FHA, Members and Declarant provided above, the Beneficiaries of fifty-one percent (51%) of the first Mortgages on all the Condominiums in the Project who have requested the Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees must approve any amendment to this Declaration which is of a material nature, as follows:

(1) Any amendment which affects or purports to affect the validity or priority of encumbrances or the rights or protection granted to Beneficiaries, insurers or guarantors of first Mortgages as provided in Articles V, IX, X, XI, XII and XIII hereof.

(2) Any amendment which would necessitate an encumbrancer after it has acquired a Condominium through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(3) Any amendment which would or could result in an encumbrance being cancelled by forfeiture, or in a Condominium not being separately assessed for tax purposes.

(4) Any amendment relating to the insurance provisions as set out in Article IX hereof, or to the application of insurance proceeds as set out in Article X hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(5) Any amendment which would or could result in partition or subdivision of a Condominium Unit in any manner inconsistent with the provisions of this Declaration.

(6) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Condominium is proposed to be sold, transferred, or otherwise conveyed.

(7) Any amendment concerning:

(A) Voting rights;

(B) Rights to use the Common Property;

(C) Reserves and responsibility for maintenance, repair and replacement of the Common Property;

(D) Boundaries of any Unit;

(E) Owners' interests in the Common Area;

(F) Convertibility of Common Area into Units or Units into Common Area;

(G) Leasing of Units;

(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 to or from the Property;



(J) Assessments, assessment liens, or the subordination of such liens; or

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

(c) Termination of this Declaration shall require approval by the Members as provided in subsection (a) of this Section 13.2. No such termination shall be effective unless it is also approved in advance either by fifty-one percent (51%) of the Beneficiaries of the first Mortgages on all of the Condominiums in the Project (if said termination is proposed by reason of the substantial destruction or condemnation of the Property) or by sixty-seven percent (67%) of such Beneficiaries (if said termination is for reasons other than such substantial destruction or condemnation).

(d) Each Beneficiary of a first Mortgage on a Condominium in the Project which receives proper written notice of a proposed amendment or termination of this Declaration by certified or registered mail with a return receipt requested shall be deemed to have approved the amendment or termination if the Beneficiary fails to submit a response to the notice within thirty (30) days after the Beneficiary receives the notice.

(e) A copy of each amendment shall be certified by at least two (2) officers of the Association, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by two (2) officers of the Association that the requisite number of Owners and mortgagees have either voted for or consented in writing to any amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Mortgagees has been obtained.

(f) Notwithstanding any other provisions of this Section 13.2, at any time prior to the first Close of Escrow for the sale of a Condominium within Phase 1, Mission (for so long as Mission owns any portion of the Property) and Declarant may unilaterally amend or terminate this Declaration by Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant and, if applicable, by Mission.

(g) Notwithstanding any other provisions of this Section 13.2, for so long as Declarant owns any portion of the Property or the Annexable Territory, Declarant may unilaterally amend this Declaration by Recording a written instrument signed by Declarant in order to conform this Declaration to the requirements of VA, FHA, DRE, FNMA, GNMA or FHLMC then in effect.

(h) Notwithstanding any other provisions of this Declaration, this Declaration may not be amended to delete or modify any rights of Mission described herein without the prior written approval of Mission.

### 13.3. Protection of Declarant.

Until the seventh (7th) anniversary of the first Close of Escrow for the sale of a Condominium in the Project, the prior written approval of Declarant and Mission will be required before any amendment which would impair or diminish the rights of Declarant or Mission to complete the Property or sell or lease Condominiums therein in accordance with this Declaration shall become effective. Notwithstanding any other provisions of the Restrictions, until such time as (i) Declarant or Mission is no longer entitled to add Annexable Territory to the Property without the consent of the Association pursuant to Section 16.1, or (ii) Declarant or Mission no longer owns any Condominiums in the Property, whichever occurs last, the following actions, before being undertaken by the Association, shall first be approved in writing by Declarant and Mission:

(a) Any amendment or action requiring the approval of first Mortgagees pursuant to this Declaration, including without limitation all amendments and actions specified in Sections 13.2;

(b) The annexation to the Property of real property other than the Annexable Territory pursuant to Section 16.2;

(c) The levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Common Property by Declarant; or

(d) Subject to Section 5.4 regarding limitations on Annual Assessment increases, any significant reduction of Association maintenance or other services.

## ARTICLE XIV

### 14. Enforcement of Certain Bonded Obligation.

#### 14.1. Consideration by Board of Directors.

If (1) the Improvements to be located on the Common Property in any Phase of Development are not completed prior to the issuance of a Final Subdivision Public Report for such Phase by the DRE for the sale of Condominiums in the Project, and (2) the Association is obligee under a bond or other arrangement ("Bond") required by the DRE to secure performance of the commitment of Declarant to complete such Improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond, with respect to any such

Improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Improvement on the Common Property, the Board shall be directed to consider and vote on the aforesaid question if a Notice of Completion has not been filed, within thirty (30) days after the expiration of the extension.

14.2. Consideration by the Members.

A special meeting of Members, for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, shall be held no fewer than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) of the total voting power of the Association. A vote of a majority of the voting power of the Association residing in Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XV

15. General Provisions.

15.1. Enforcement of Restrictions.

(a) Violations Identified by the Association. If the Board determines that there is a violation of any provision of the Restrictions, or the Architectural Committee determines that an Improvement which is the maintenance responsibility of an Owner is in need of installation, maintenance, repair, restoration or painting, then the Board shall give written notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) the length of time the Owner has to remedy the violation including, if applicable, the length of time the Owner has to submit plans to the Architectural Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Architectural Committee.

If an Owner does not perform such corrective action as is required by the Board and the Architectural Committee within the allotted time, the Board, after Notice and Hearing, may undertake to remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. Such Special Assessment shall be subject to enforcement and collection by the Board in accordance with the procedures provided for in this Declaration.

If the violation involves nonpayment of any type of Assessment, then the Board shall be entitled to collect such delinquent Assessment pursuant to the procedures set forth in Article V.

(b) Violations Identified by an Owner. In the event that an Owner alleges that another Owner, his family, guests or tenants, is violating the Restrictions (other than nonpayment of any type of Assessment), the Owner must first submit the matter to the Board pursuant to the Notice and Hearing procedure established in Article XII of the Bylaws before the complaining Owner may resort to alternative dispute resolution pursuant to Section 1354 of the California Civil Code or a court of law for relief with respect to the alleged violation.

(c) Arbitration. In the event of a dispute between or among (a) Declarant, its builders, general contractors or brokers, or their agents or employees, and any Owner(s) or the Association, or (b) any Owner, and another Owner, or (c) the Association, and any Owner regarding any controversy or claim between the parties (exclusive of construction defect claims), including any claim based on contract, tort, or statute, arising out of or relating to the rights or duties of the parties under the Restrictions (excluding disputes relating to the payment of any type of Assessments), the matter may be submitted to arbitration in accordance with Article XVIII of this Declaration so long as the requirements of Sections 15.1(a) and (b) above have been met, if they are applicable.

(d) Legal Proceedings. Failure to comply with any of the terms of the Restrictions by an Owner, his family, guests, employees, invitees or tenants, shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof. Provided, however, that the procedures established in Sections 15.1(a), (b) and (c) above must first be followed, if they are applicable.

(e) Limitation on Expenditures. The Association shall not incur litigation expenses, including without limitation attorneys' fees, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings without the approval of a majority of the voting power of the Association, excluding the voting power of any Owner who would be a defendant in such proceedings. Such approval shall not be necessary if the legal proceedings are initiated to (i) enforce the use restrictions contained in Article VIII hereof, (ii) enforce the architectural control provisions contained in Article IV hereof, or (iii) collect any unpaid assessments levied pursuant to this Declaration.

(f) Schedule of Fines. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner for the failure of such Owner, or of a resident of or visitor to such Owner's

Unit, to comply with any provisions of the Restrictions. Such fines or penalties may only be assessed by the Board after Notice and Hearing.

(g) No Waiver. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision, or any other provision hereof.

(h) Right to Enforce. The Board, the board of directors of the Community Association, any Owner (not at the time in default hereunder), or Declarant (so long as Declarant is an Owner) shall be entitled to enforce the Restrictions as described in this Article. Each Owner shall have a right of action against the Association for the Association's failure to comply with the Restrictions. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive.

(i) Attorneys Fees. Any judgment rendered in any action or proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the court or arbitrator, as applicable, may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and costs of court or arbitration, as applicable.

#### 15.2. Severability.

The provisions hereof shall be deemed independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provisions hereof.

#### 15.3. Interpretation.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the creation and operation of a residential condominium development and for the maintenance of Common Property, and any violation of this Declaration shall be deemed to be a nuisance. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the other, unless the context dictates otherwise.

#### 15.4. Mergers or Consolidations.

Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Property, together with the covenants and restrictions established upon any other

property, as one (1) plan. Any such merger or consolidation shall require the prior written approval of VA.

15.5. Use of Recreational Facilities.

The Board of Directors shall have the right to limit the number of guests that an Owner or such Owner's tenant may permit to use the open parking and recreational facilities on the Common Property, and the Board shall have the right to set further reasonable restrictions on the time and manner of use of said parking areas and recreational facilities, in accordance with the Rules and Regulations, including, without limitation, Rules and Regulations restricting or prohibiting the use of all or designated portions of the Property recreational facilities by minors, guests of an Owner or his tenants.

15.6. No Public Right or Dedication.

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use.

15.7. Nonliability and Indemnification.

(a) General Limitation. Except as specifically provided in the Restrictions or as required by law, no right, power, or responsibility conferred on the Board or the Architectural Committee by this Declaration, the Articles or the Bylaws shall be construed as a duty, obligation or disability charged upon the Board, the Architectural Committee, any member of the Board or of the Architectural Committee, or any other officer, employee or agent of the Association. No such Person shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's acts or omissions within what such Person reasonably believed to be the scope of his Association duties ("Official Acts"), except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. No such Person shall be liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct.

(b) Damages Limitation. A volunteer Board member or volunteer Association officer shall not be personally liable in excess of the coverage of insurance specified below to any person who suffers injury, including without limitation bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all of the following conditions are satisfied:

(1) The Board member or officer is a tenant of a Unit or an Owner of no more than two (2) Units;

(2) The act or omission was performed within the scope of the Board member's or officer's Association duties;

(3) The act or omission was performed in good faith;

(4) The act or omission was not willful, wanton or grossly negligent; and

(5) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim was made one (1) or more policies of insurance which shall include coverage for (A) general liability of the Association and (B) individual liability of officers and Board members for negligent acts or omissions in that capacity; provided, that both types of coverage are in the amount of at least five hundred thousand dollars (\$500,000.00) if the Project then consisted of one hundred (100) or fewer Condominiums, and at least one million dollars (\$1,000,000.00) if the Project then consisted of more than one hundred (100) Condominiums.

A Board member or Association officer who at the time of the act or omission was the Declarant or received direct or indirect compensation as an employee from Declarant or from a financial institution that purchased a Condominium at a judicial or nonjudicial foreclosure of a Mortgage is not a volunteer for purposes of this Section 15.7(b). The payment of actual expenses incurred by a Board member or Association officer does not affect the member's or officer's status as a volunteer for purposes of this Section 15.7(b).

(c) Indemnification. The Association shall pay all expenses incurred by, and satisfy any judgment or fine levied against, any person as a result of any action or threatened action against such person to impose liability on such person for his Official Acts, provided that:

(1) The Board determines that such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Association;

(2) In the case of a criminal proceeding, the Board determines that such person had no reasonable cause to believe his conduct was unlawful; and

(3) In the case of an action or threatened action by or in the right of the Association, the Board determines that such person

acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Any determination of the Board required under this Section 15.7(c) must be approved by a majority vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, such determination may be made by the vote or written consent of a majority of a quorum of the Members of the Association voting at a meeting of the Association called for such purpose, provided that the person to be indemnified shall not be entitled to vote. Payments made hereunder shall include amounts paid and expenses incurred in settling any such action or threatened action. This Section 15.7(c) shall be construed to authorize payments and indemnification to the fullest extent now or hereafter permitted by applicable law. The entitlement to indemnification hereunder shall inure to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any person entitled to such indemnification.

#### 15.8. Notices.

Except as otherwise provided in this Declaration, notice to be given to an Owner shall be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one (1) or more co-owners of a Condominium or to any general partner of a partnership owning a Condominium shall be deemed delivery to all co-owners or to the partnership, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address shall have been furnished, to the street address of such Owner's Unit. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Board of Directors in which case the notice provisions of the Bylaws shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners.

#### 15.9. Priorities and Inconsistencies.

If there are conflicts or inconsistencies between this Declaration and either the Articles of Incorporation or the Bylaws of the Association, the terms and provisions of this Declaration shall prevail. All of the terms, conditions and restrictions of this Declaration are and shall be subordinate to the terms, conditions, covenants and restrictions contained in the Community Declaration. If there is any conflict or inconsistency between this Declaration and the Community Declaration, the terms and provisions of the Community Declaration shall prevail.



15.10. Constructive Notice and Acceptance.

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Condominium or other portion of the Property does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof.

15.11. Declarant's Right to Cure Alleged Defects.

It is Declarant's intent that the Common Property, the Units, and the Improvements be built in compliance with all applicable building codes and ordinances and that they be of a quality that is consistent with good construction practices for production housing of this type. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect in construction exists and Declarant's responsibility therefor. It is Declarant's intent to resolve all disputes and claims regarding "Alleged Defects" (as defined below) in any portion of the Common Property, any Unit, and any Improvements, amicably, and without the necessity of time consuming and costly litigation. Accordingly, the Association, and all Owners shall be bound by the following claim resolution procedure:

(a) Declarant's Right to Cure. If the Association or any Owner or Owners (collectively "Claimant") claim, contend or allege that any portion of the Common Property, any Unit, and/or any Improvements are defective or that Declarant or its agents, consultants, contractors or subcontractors were negligent in the planning, design, engineering, grading or construction thereof (collectively, an "Alleged Defect"), Declarant is hereby granted the irrevocable right to inspect, repair and/or replace such Alleged Defect as set forth herein.

(b) Notice to Declarant. In the event that a Claimant discovers any Alleged Defect, Claimant shall, within fifteen (15) calendar days after discovery, notify Declarant, in writing, at 23382 Mill Creek Drive, Suite 105, Laguna Hills, California 92653 or such other address at which Declarant maintains its principal place of business, of the specific nature of such Alleged Defects ("Notice of Alleged Defect").

(c) Right to Enter, Inspect, Repair, and/or Replace. Within a reasonable time after the receipt by Declarant of a Notice of Alleged Defect or the independent discovery of any Alleged Defect by Declarant, Declarant shall have the irrevocable right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Property, any Unit, and/or any Improvements for the purposes of inspecting and, if deemed necessary by Declarant, repairing and/or replacing such Alleged Defect. In conducting such inspection, repairs and/or replacement Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

(d) Legal Actions. No Claimant shall initiate any legal action, cause of action, proceeding or arbitration against Declarant alleging damages (i) for the costs of repairing or the replacement of any Alleged Defect or (ii) for the diminution in value resulting from such Alleged Defect, unless and until Claimant has (aa) delivered to Declarant a Notice of Alleged Defect and (bb) Declarant has, within one hundred twenty (120) days after its receipt of such Notice of Alleged Defect, either (1) failed to repair or replace such Alleged Defect or (2) if such Alleged Defect cannot reasonably be repaired or replaced within such one hundred twenty (120) day period, failed to commence such repair or replacement of the Alleged Defect and, thereafter, diligently pursue such repair or replacement to completion.

(e) No Additional Obligations. Nothing set forth in this Section 15.11 shall be construed to impose any obligation on Declarant to inspect, repair or replace any items or Alleged Defect for which Declarant is not otherwise obligated under applicable state and federal law or any limited warranty provided by Declarant in connection with the sale of the Units constructed thereon. Notwithstanding any other provision of this Declaration, this Section 15.11 shall not be amended without the prior written approval of Declarant.

15.12. No Representations or Warranties.

No representations or warranties of any kind, express or implied, other than the standard warranty required by VA and FHA, have been given or made by Declarant, or its agents or employees in connection with the Property, or any portion thereof, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a condominium project, except as specifically and expressly set forth in this Declaration and except as may be filed by Declarant from time to time with the DRE.

15.13. Aircraft Noise.

By acceptance of a deed to a Condominium, each Owner acknowledges and understands that the Property is subject to overflight, sight and sound of aircraft operating from El Toro Marine Corps Air Station.

15.14. Post-Tension Concrete System.

By acceptance of the deed to a Condominium, each Owner acknowledges and understands that due to expansive soil conditions, the Improvements may be built using a post-tension concrete system ("System"). The System involves placing steel cables under high tension in the concrete slab foundation located beneath the Improvements housing the Units. Therefore, any attempt to alter or pierce the foundation (for example, saw cutting, drilling, or installation of a subterranean floor safe) could damage the integrity of the System and cause serious injury or damage to persons and personal property. Each Owner, by acceptance of a deed to his Condominium, hereby agrees that Declarant shall not be responsible for any damage or injury resulting from or arising in connection with the alteration of the slab or foundation of the building housing the Unit

by the Owner, by the Association or by any of their employees, agents, family members or representatives.

## ARTICLE XVI

### 16. Annexation of Additional Property.

Additional real property may be annexed to Phase I and such additional real property may become subject to this Declaration by any of the methods set forth hereinafter:

#### 16.1. Additions by Declarant.

Declarant, Mission or their successors or assigns shall have the right from time to time to add the Annexable Territory, or any portion or portions thereof (including any recreation facilities located thereon), to the Property and to bring such added territory within the general plan and scheme of this Declaration without the approval of the Association, its Board of Directors, or Members; provided that such a right of Declarant, Mission and their successors and assigns shall terminate on the earlier to occur of the third (3rd) anniversary of the original issuance of the most recently issued Final Subdivision Public Report for the most recent Phase of Development, or the seventh (7th) anniversary of the date of Recordation of this Declaration. As each Phase of Development is developed, Declarant or Mission, as applicable, may, with respect thereto, record a supplemental declaration ("Supplemental Declaration") which may supplement this Declaration with such additional covenants, conditions, restrictions, reservations and easements as Declarant or Mission, as applicable, may deem appropriate for that Phase of Development. Declarant, Mission, or their successors and assigns may, if they so choose, make any annexations and develop the Project in accordance with Section 11018.5(a)(2)(D) of the California Business and Professions Code, Section 66427 of the California Government Code, or both such statutes. Prior to any annexation under this Section 16.1, detailed plans for the development of the additional property must be submitted to VA and VA must determine that such plans are in accordance with the development plan and so advise Declarant or Mission, as applicable.

#### 16.2. Other Additions.

In addition to the provision for annexation specified in Section 16.1 above, additional real property may be annexed to the Property and brought within the general plan and scheme of this Declaration upon the approval by vote or written consent of Members entitled to exercise no less than two-thirds (2/3rds) of the voting power of the Association. Notwithstanding the foregoing, any additional real property annexed to the Property after the seventh (7th) anniversary of the Recordation of this Declaration shall not effect a change in the percentage interests of Owners in the Common Area which existed prior to the date of annexation.

#### 16.3. Rights and Obligations-Added Territory.

Subject to the provisions of Section 16.4, upon the Recording of a Notice of Addition of Territory containing the provisions as set forth in this Section, all provisions contained in this Declaration shall apply to the real property described in such Notice of Addition of Territory (the "added territory") in the same manner as if it were originally covered by this Declaration. Thereafter, the rights, powers and responsibilities of the parties to this Declaration with respect to the added territory shall be the same as with respect to the property originally covered hereby, and the

rights, powers and responsibilities of the Owners, lessees and occupants of Units within the added territory, as well as within the property originally subject to this Declaration, shall be the same as if the added territory were originally covered by this Declaration. From and after the first day of the month following the first Close of Escrow for the sale of a Condominium in the added territory, the Owner of Condominiums located in the added territory shall share in the payment of assessments to the Association to meet Common Expenses of the entire Property as provided in Section 5.5 hereof. Voting rights attributable to the Condominiums in the added territory shall not vest until Annual Assessments have commenced as to such Condominiums.

#### 16.4. Notice of Addition of Territory.

The additions authorized under Sections 16.1 and 16.2 shall be made by Recording a Notice of Addition of Territory, or other similar instrument (which notice or instrument may contain the Supplemental Declaration, if any, affecting each such Phase of Development), with respect to the added territory ("Notice of Addition") which shall extend the general plan and scheme of this Declaration to such added territory. The Notice of Addition for any addition under Section 16.1 shall be signed by Declarant. The Notice of Addition for any addition under Section 16.2 shall be signed by at least two (2) officers of the Association to certify that the requisite approval of the Members under Section 16.2 was obtained. The Recordation of said Notice of Addition shall constitute and effectuate the annexation of the added territory described therein, and thereupon said added territory shall become and constitute a part of the Property, become subject to this Declaration and encompassed within the general plan and scheme of covenants, conditions, restrictions, reservation of easements and equitable servitudes contained herein, and become subject to the functions, powers and jurisdiction of the Association; and the Owners of Condominiums in said added territory shall automatically become Members of the Association. Such Notice of Addition may contain a Supplemental Declaration with such additions and modifications of the covenants, conditions, restrictions, reservation of easements and equitable servitudes contained in this Declaration as may be necessary to reflect the different character, if any, of the added territory, or as Declarant or Mission, as applicable, may deem appropriate in the development of the added territory, and as are not inconsistent with the general plan and scheme of this Declaration. If the added territory is developed with residential dwellings and other Improvements different from those in the previous Phases of Development, such Supplemental Declaration shall contain a fair, reasonable and appropriate allocation of (a) maintenance responsibilities between the Association and the Owners of Units in such added territory, and (b) payment of Annual Assessments, Capital Improvement Assessments and Reconstruction Assessments by the Owners of Units in such added territory. In no event, however, shall such Notice of Addition or Supplemental Declaration otherwise revoke, modify or add to the covenants, conditions, restrictions, reservation of easements, or equitable servitudes established by this Declaration as the same shall pertain to the real property originally covered by this Declaration. Concurrently with the first Close of Escrow for the sale of a Condominium in any Phase of Development annexed to the Property in accordance herewith, Declarant or Mission, as applicable, shall pay to the Association an appropriate amount (as determined by DRE) for reserves for replacement or deferred maintenance of the Common Property in such Phase necessitated by or arising out of the use and occupancy of the Condominiums in such Phase under a rental program conducted by Declarant if such rental program was in effect for at least one (1) year prior to such first Close of Escrow.

16.5. Reciprocal Cross-Easements Between Phases

Subject to annexation of additional property as set forth in Section 16.1:

(a) Each of the Condominiums hereafter located in each Phase of Development annexed to Phase 1 and their respective Owners, shall have appurtenant nonexclusive easements to use the Common Property (other than any buildings containing dwelling units or Exclusive Use Area) in Phase 1, including, without limitation, the driveways, pursuant to and in the manner set forth in this Declaration, to the same extent and with the same effect as if each of the Owners of a Condominium in each Phase of Development annexed to Phase 1 owned an undivided interest in the Common Area in Phase 1.

(b) Each Condominium in Phase 1 and their Owners shall have an appurtenant nonexclusive easement to use the Common Property (other than any buildings containing dwelling units or Exclusive Use Area) in each Phase of Development annexed to Phase 1, including, without limitation, the driveways, pursuant to and in the manner set forth in this Declaration, to the same extent and with the same effect as if each of the Owners of a Condominium in Phase 1 owned an undivided interest in the Common Area in each such Phase of Development.

These reciprocal cross-easements shall be effective as to each Phase of Development annexed to Phase 1 and as to Phase 1, only upon the first Close of Escrow for the sale of a Condominium in such Phase of Development annexed to Phase 1. Prior to such first Close of Escrow, neither Phase 1 nor the Phases of Development annexed to Phase 1 shall be affected by these reciprocal cross-easements.

16.6. Deannexation and Amendment

Declarant or Mission, as applicable, may amend a Notice of Addition or delete all or a portion of a Phase of Development from coverage of this Declaration and the jurisdiction of the Association, so long as Declarant or Mission, as applicable, is the owner of all of such Phase of Development, and provided that (1) an amending instrument or a Notice of Deletion of Territory, as applicable, is Recorded in the same manner as the applicable Notice of Addition was Recorded, (2) Declarant or Mission, as applicable, has not exercised any Association vote with respect to any portion of such Phase of Development, (3) assessments have not yet commenced with respect to any portion of such Phase of Development, (4) Close of Escrow has not occurred for the sale of any Condominium in such Phase of Development, (5) the Association has not made any expenditures or incurred any obligations with respect to any portion of such Phase of Development, and (6) a draft of the Notice of Deletion of Territory has been submitted to VA and VA has determined that the deannexation is acceptable and in accordance with the revised general plan and has so advised Declarant.

16.7. Power of Attorney

Each Owner of a Condominium in the Project, by accepting a deed to a Condominium, shall be deemed to have (a) agreed and acknowledged that the Owners own no interest in the Annexable

Territory which may be developed, if at all, by Declarant or Mission in its sole and absolute discretion and (b) constituted and irrevocably appointed Declarant (for so long as Declarant or its successive assigns owns all or any portion of the Annexable Territory), as his Attorney-in-Fact, for himself and each of his Mortgagees, optionees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, to prepare, execute, acknowledge and Record any Condominium Plan or amendment to the Condominium Plans for all or any portion of the Annexable Territory. This power of attorney is coupled with an interest. However, nothing set forth herein shall be deemed or construed as an agreement by Declarant that any Owner shall be entitled to any participation in or discretion over the preparation and Recordation of a Condominium Plan or Plans for all or any portion of the Annexable Territory. 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 this Section.

## ARTICLE XVII

### 17. Annual Inspection.

#### 17.1. Duty to Inspect.

It shall be the duty of the Board to have the Common Property inspected at least once each year.

#### 17.2. Purpose of Inspection.

The purpose of the inspection shall be to (i) determine whether the Common Property is being maintained adequately in accordance with the standards of maintenance established in Section 2.7 hereof, (ii) identify the condition of the Common Property and any Improvements thereon including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (iii) recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future.

#### 17.3. Scope of Inspection.

All of the Common Property and Improvements thereon including, but not limited to, the exterior and structural integrity of all structures, gates, walls, walkways, irrigation systems, landscaping, and drainage devices shall be inspected.

#### 17.4. Experts and Consultants.

The Board may employ such experts and consultants as are necessary to perform the inspection and make the report required by this Article.

#### 17.5. Report to Owners.

The Board shall have a report of the results of the inspection of the Common Property required by this Article prepared. The report shall be furnished to Owners within the time set forth for furnishing Owners with the Budget. The report shall include at least the following:

- (a) a description of the condition of the Common Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) a description of all maintenance, repair and replacement planned for the ensuing fiscal year and included in the Budget;
- (c) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) a summary of all reports of inspections performed by any expert or consultant employed by the Board to perform inspections;
- (e) a report of the status of compliance with the maintenance, replacement and repair needs set forth in the inspection report for preceding years; and
- (f) such other matters as the Board deems appropriate.

#### ARTICLE XVIII

#### 18. Arbitration of Disputes.

##### 18.1. Arbitration Generally Encouraged.

Notwithstanding any other provision of this Declaration, in the event of an arbitrable dispute between or among (a) Declarant or Mission, or either of their builders, general contractors or brokers, or their agents or employees, and any Owner(s) or the Association, or (b) any Owner, and another Owner, or (c) the Association, and any Owner (exclusive of disputes relating to the payment of Annual Assessments, Capital Improvement Assessments, Reconstruction Assessments, Special Assessments or any other assessments imposed by this Declaration), the matter may be submitted to binding arbitration following Notice and Hearing as provided in the Bylaws, if applicable. Arbitrable disputes include any controversy or claim, including any claim based on contract, tort, or statute, arising out of or relating to the rights or duties of the parties under the Restrictions, but do not include any construction defect claims. Any controversy regarding whether a dispute is an arbitrable dispute shall be determined by the arbitrator.

##### 18.2. Arbitrator.

The arbitration shall be conducted by the Judicial Arbitration and Mediation Services, Inc. at 500 North State College Boulevard, Suite 600, Orange, California, County of Orange, or its successor ("JAMS"). If JAMS is unavailable, arbitration will be conducted by and in accordance with the rules of the American Arbitration Association ("AAA") as herein modified. In either case, there shall be only one arbitrator who shall be selected by mutual agreement of the parties, failing which the selection shall be made by JAMS or its substitute.

### 18.3. Rules for Arbitration.

The rules to be followed in the arbitration are as follows: Claims comprising the petition for arbitration shall be submitted in the form of a complaint, prepared in conformance with California Code of Civil Procedure, Section 420 et seq., filed with the service or association which will be conducting the arbitration, with copies personally served on all responding parties. The respondent will have thirty (30) days to file a response which will take the form of an answer, prepared in compliance with California Code of Civil Procedure, Section 431.30. No demurrers, motions to strike, or pretrial motions will be permitted. The matters at issue will be set for hearing by the arbitrator. Within twenty (20) days of the filing of the response to the claim, the arbitrator will schedule, upon mutual agreement of the parties, a prehearing conference, discovery and hearing dates. If parties are unable to agree, the arbitrator will set the appropriate dates. Parties shall be allowed to conduct discovery under the provisions of the California Code of Civil Procedure, Sections 1282.6, 1283 and 1283.05. Any disputes concerning discovery shall be submitted to the arbitrator and attorneys fees will be awarded to the party prevailing at hearing of any discovery dispute, regardless of which party ultimately prevails in the matter. At the arbitration hearing, order of proof shall be governed by the California Code of Civil Procedure unless the parties mutually agree otherwise. Admissibility will be governed by the California Evidence Code.

### 18.4. Decision of Arbitrator.

The arbitrator shall comply with, and the decision of the arbitrator shall be rendered in accordance with, the law of the State of California. The arbitrator shall have the power to grant all legal and equitable remedies and award compensatory damages provided by California law, but shall not have the power to award punitive damages. The parties agree to be bound by the decision of the arbitrator, which shall be final, shall not be appealable, and which shall allow for no trial de novo on the same issues. The arbitrator's decision shall be rendered within thirty (30) days following submission of the matter at issue, but the failure to comply with this provision shall in no way invalidate any decision or award as may be rendered more than thirty (30) days after submission.

### 18.5. Award.

Upon the rendering of the decision or award, the prevailing parties shall be entitled to reasonable costs and attorneys' fees. Judgment upon any award may be entered in any court having jurisdiction or applications may be made to such court for judicial acceptance of the award and an order of enforcement.

### 18.6. Miscellaneous.

Nothing in this Article shall constitute a waiver of any of the benefits of statute of limitations or equitable defense by any party. Notwithstanding any other provision of this Declaration, this Article may not be amended without the prior written consent of Declarant.



This Declaration is dated for identification purposes September 1, 1994.

JOHN LANG HOMES (CALIFORNIA),  
INC., a California corporation

By: [Signature]

Its: PRESIDENT

By: [Signature]

Its: Anti-trust

"Declarant"

MISSION VIEJO COMPANY, a California  
corporation

By: Steven Nelson

Its: EXECUTIVE V.P.

By: [Signature]

Its: SR. VICE PRESIDENT / SECRETARY

"Mission"

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On Sept. 20, 1994, before me, Caroline E. Hunter  
personally appeared Robert F. Hilde and Terry Regier  
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) authorized capacity(ies), and that by (his)  
(her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

WITNESS my hand and official seal.



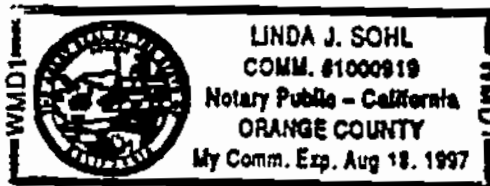
(SEAL)

Caroline E. Hunter  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On September 26, 1994, before me, Linda J. Sohl  
personally appeared Steven Delson and William K. Smith  
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) authorized capacity(ies), and that by (his)  
(her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

Linda J. Sohl  
Notary Public in and for said State

EXHIBIT "A"

LÉGAL DESCRIPTION OF ANNEXABLE TERRITORY

Parcel 1 of Lot Line Adjustment No. 94-022, which was Recorded on July 22, 1994, as Instrument No. 94-0467077, of Official Records of Orange County, California.

Excepting therefrom, Phase 1.

## EXHIBIT "B"

### DRAWINGS DEPICTING EXCLUSIVE USE AREA PATIOS IN PHASE 1

The Exclusive Use Areas for patio purposes shall each contain at least the number of square feet in the areas as are shown on the drawing attached hereto. The minimum sizes of the Exclusive Use Areas for patio purposes are bounded by a plane eight (8) feet below the surface of the ground to a height of sixteen (16) feet, laterally to the foundations and structures of the residential buildings and to the interior surfaces of the fences surrounding the patio areas, as such foundations, structures and fences are initially constructed by Declarant. Each Owner of a Condominium to which an Exclusive Use Area patio is appurtenant shall have an encroachment easement appurtenant to each patio over the Residences and Common Property for the purpose of accommodating any encroachment of any patio that may exceed the dimensions shown on the attached drawing, and for the purpose of maintaining the same. These drawings showing the patio areas contain only approximate dimensions and are not necessarily drawn to scale.

PHASE 1  
 CONDOMINIUM EXHIBIT FOR

SHEET 1 OF 3

**CORONADO**

IN ORANGE COUNTY, STATE OF CALIFORNIA  
 A PORTION OF PARCEL 1 OF L.L.A. NO. 94-022, INST. NO. 94-0467077, O.R.

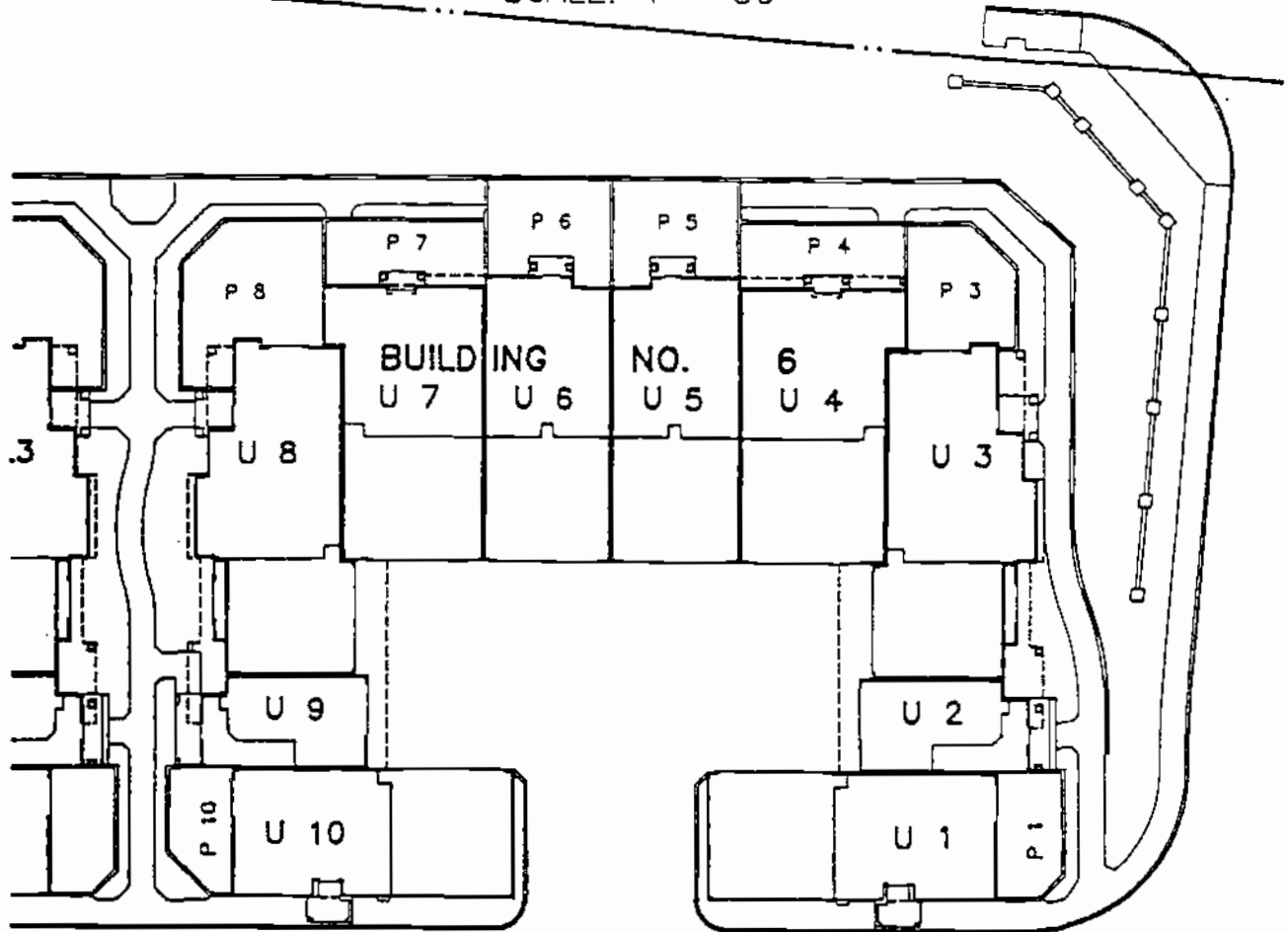
ENGINEER: K.W. LAWLER

DATE: JULY 29, 1994

K.W. LAWLER AND ASSOCIATES, INC.

**PATIO PLAN**

SCALE: 1" = 30'



**LEGEND :**

- U ——— RESIDENTIAL ELEMENT
- P ——— PATIO ELEMENT

**PATIO AREAS  
 FOR  
 BLDG 6**

BLDG. NO.	UNIT NO.	AREA SQ. FT.
6	1	150
	2	NONE
	3	233
	4	197
	5	237
	6	237
	7	197
	8	362
	9	NONE
	10	138

PHASE 1  
 CONDOMINIUM EXHIBIT FOR

SHEET 2 OF 3

**CORONADO**

IN ORANGE COUNTY, STATE OF CALIFORNIA

A PORTION OF PARCEL 1 OF L.L.A. NO. 94-022, INST. NO. 94-0467077, O.R.

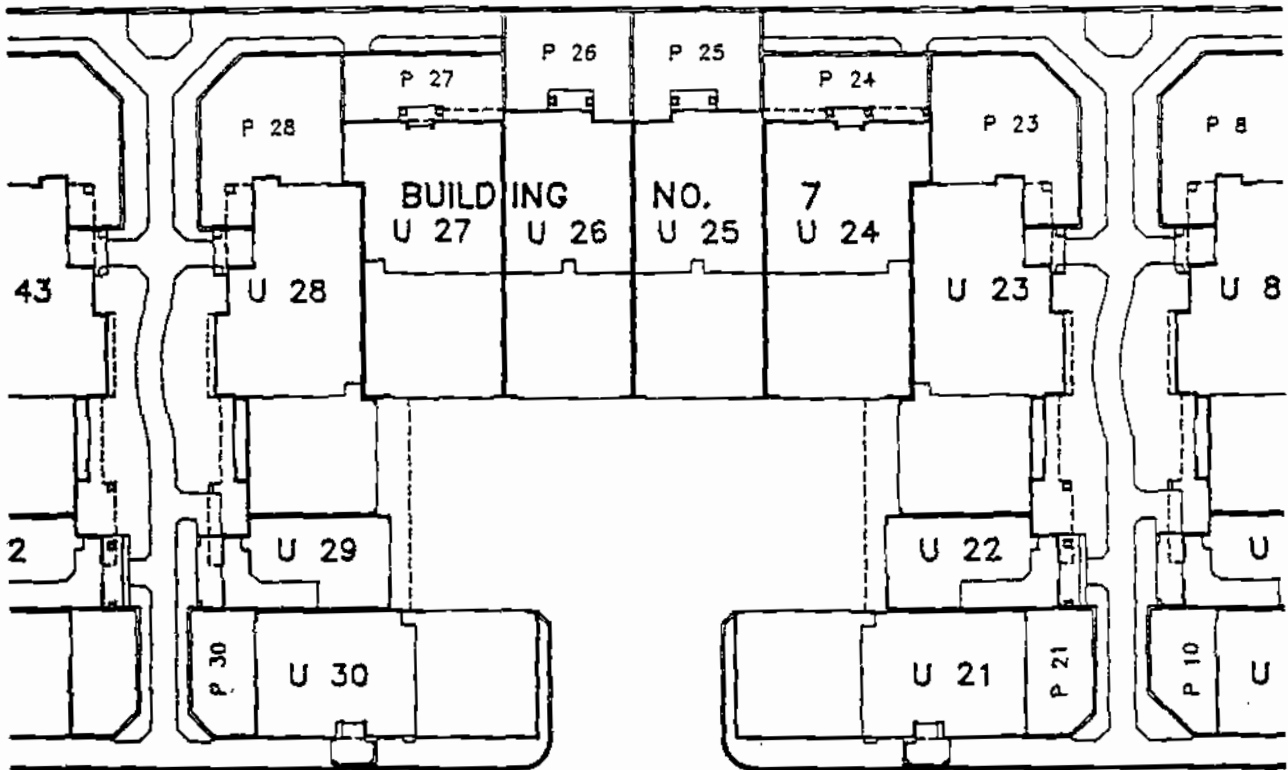
ENGINEER: K.W. LAWLER

DATE: JULY 29, 1994

K.W. LAWLER AND ASSOCIATES, INC.

**PATIO PLAN**

SCALE: 1" = 30'



**LEGEND :**

- U ——— RESIDENTIAL ELEMENT
- P ——— PATIO ELEMENT

PATIO AREAS FOR BLDG 7		
BLDG. NO.	UNIT NO.	AREA SQ. FT.
7	21	150
	22	NONE
	23	362
	24	197
	25	237
	26	237
	27	197
	28	362
	29	NONE
	30	150

PHASE 1  
 CONDOMINIUM EXHIBIT FOR  
**CORONADO**

SHEET 3 OF 3

IN ORANGE COUNTY, STATE OF CALIFORNIA

A PORTION OF PARCEL 1 OF L.I.A. NO. 94-022, INST. NO. 94-0467077, O.R.

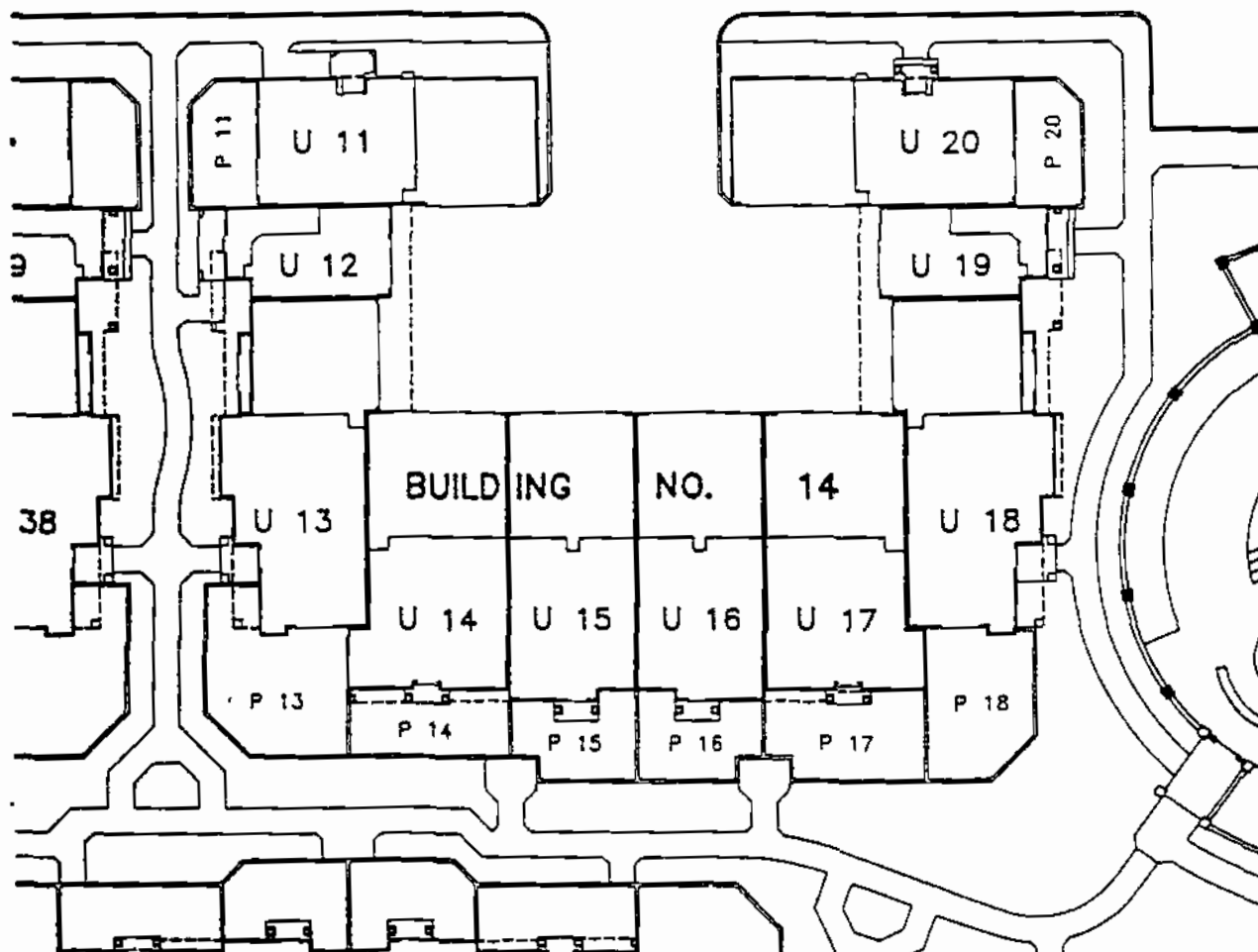
ENGINEER: K.W. LAWLER

DATE: JULY 29, 1994

K.W. LAWLER AND ASSOCIATES, INC.

**PATIO PLAN**

SCALE: 1" = 30'



PATIO AREAS FOR BLDG 14		
BLDG. NO.	UNIT NO.	AREA SQ. FT.
14	11	150
	12	NONE
	13	362
	14	197
	15	179
	16	179
	17	257
	18	281
	19	NONE
	20	150

**LEGEND :**

- U ——— RESIDENTIAL ELEMENT
- P ——— PATIO ELEMENT

EXHIBIT "C"

MAINTENANCE DECLARATION



RECORDING REQUESTED BY:  
FIRST AMERICAN TITLE INS. CO.  
WHEN RECORDED MAIL TO:

Morrison & Foerster  
19900 MacArthur Boulevard  
Irvine, California 92715-2443  
Attention: Andrew P. Bernstein

DOC # 94-0592951  
03-OCT-1994 03:00 PM

Recorded in Office, County  
of Orange County, California  
See A. Grant, County Auditor  
Date of 11 1994

*FA 150209M PSC*

(Space Above For Recorder's Use)

**DECLARATION OF MAINTENANCE COVENANTS, CONDITIONS  
AND RESTRICTIONS AND RESERVATION OF EASEMENTS**

This Declaration of Maintenance Covenants, Conditions and Restrictions and Reservation of Easements ("Declaration"), dated the 12<sup>th</sup> day of AUGUST, 1994, is made by MISSION VIEJO COMPANY, a California corporation ("MVC") as owner.

**RECITALS:**

A. Pursuant to that certain Agreement for the Purchase and Sale of Real Property dated December 15, 1993, as amended (the "Purchase Agreement"), MVC has agreed to sell to John Laing Homes (California), Inc., a California corporation ("Developer"), and Developer has agreed to purchase from MVC, that certain real property in the unincorporated area of Orange County, California more particularly described in Schedule "1" attached hereto (the "Master Parcel"). Developer intends to improve the Master Parcel with a development of not more than two hundred thirty-three (233) condominium units, together with associated on-site and off-site improvements (the "Master Project"). Attached hereto as Schedule "2" is a site plan of the Master Project that has been approved by MVC and the County of Orange (the "Site Plan"). As is shown on the Site Plan, it is anticipated that the Master Project will include (1) private streets and associated improvements including, without limitation, parking areas, curbs, sidewalks, gutters and landscaping, and (2) a swimming pool, spa, cabana and related recreational facilities (collectively, the "Planned Common Area Improvements").

B. Pursuant to the Purchase Agreement, Developer has agreed to purchase the Master Parcel in multiple stages (each a "Stage"). The location of each Stage is shown on the Site Plan. Each Stage will consist of one or more groups of condominium units (each a "Phase," and collectively, the "Phases"). Each Phase will be covered by a separate Final Subdivision Public Report issued by the California Department of Real Estate. Subsequent to the recordation hereof, Developer has agreed to acquire from MVC the first Phase of the first Stage, which is more particularly described on Schedule "1" attached hereto. As Developer acquires each Stage, it intends to construct those Planned Common Area Improvements associated with such Stage, as shown on the Site Plan. The actual location of the Planned Common Area Improvements may vary from those shown on the Site Plan and will be depicted on one or more instruments to be recorded in the Official Records of Orange County, California (the "Official Records") in accordance with Section 17 below. For the purposes of this Declaration, (1) "Developer's Parcel" shall mean collectively, those Stages of the Master Parcel that Developer has acquired from MVC from time to time pursuant to the Purchase Agreement, (2) "Developer's Project" shall mean those portions of the Master Project that Developer has constructed or is constructing on Developer's Parcel, (3) "Developer's Declaration" shall mean that certain declaration of covenants, conditions and restrictions applicable to Developer's Project that has been approved by MVC pursuant to the Purchase Agreement and recorded in the Official Records concurrently with the recordation hereof, (4) "Developer's Streets" shall mean all those private streets and associated improvements designated pursuant to Section 17 below that are part of Developer's Project from time to time and are subject to Developer's Declaration, including without limitation parking areas, curbs, sidewalks, gutters and landscaping, and (5) "Recreational Facilities" shall mean the swimming pool, spa, cabana and related recreational facilities designated pursuant to Section 17 below that are part of Developer's Project from time to time and are subject to Developer's Declaration.

C. If Developer does not acquire all of the Master Parcel from MVC, MVC intends to transfer those Stages of the Master Parcel not acquired by Developer (the "Unpurchased Stages") to one or more persons or entities (each a "Successor Developer") for development as one or more residential developments (each an "Adjacent Project"). An Adjacent Project may consist of condominium units for sale to the public (each a "Condominium Project") or a project of rental apartment units (each an "Apartment Project"). Each of the Unpurchased Stages that is

transferred to a Successor Developer by MVC is referred to herein as an "Adjacent Parcel." Each Adjacent Project is anticipated to include private streets and associated improvements including, without limitation, curbs, sidewalks, gutters and landscaping (the "Adjacent Project Streets"). All of the Adjacent Project Streets associated with any Adjacent Project are collectively referred to herein as the "Adjacent Streets." The exact location of the Adjacent Streets is not known as of the date of this Declaration, but will be depicted on one or more instruments to be recorded in the Official Records in accordance with Section 17 hereof.

D. Pursuant to the Purchase Agreement, Developer either has created or will create a homeowners association ("Developer's Association") to operate, manage and maintain Developer's Project, including Developer's Streets and the Recreational Facilities. If Developer does not acquire all of the Stages from MVC in accordance with the terms of the Purchase Agreement, then pursuant to Developer's Declaration, MVC or a Successor Developer shall have the right to annex all or part of the Unpurchased Stages into Developer's Project, in which case such property shall become part of Developer's Project and the rights of MVC or such Successor Developer under this Declaration will terminate with respect to such Unpurchased Stages so annexed pursuant to Section 19(k) below. Alternatively, a Successor Developer may (1) create a homeowners association (each an "Adjacent Association") to operate, manage and maintain its Adjacent Parcel, including the associated Adjacent Project Streets, or (2) continue to maintain the relevant Adjacent Parcel and Adjacent Project Streets itself.

E. If MVC or a Successor Developer does not annex all or part of an Adjacent Parcel into Developer's Project, the residents of units developed on such Adjacent Parcel and others desiring access to such Adjacent Parcel will need to use Developer's Streets in order to obtain such access to such Adjacent Parcel. MVC wishes to provide for such access and the sharing of certain costs related thereto through this Declaration.

F. If MVC or a Successor Developer does not annex all or part of an Adjacent Parcel into Developer's Project, a Successor Developer may wish residents of the units developed on such Adjacent Parcel to have the right to use the Recreational Facilities. MVC wishes to provide for such use of the Recreational Facilities and the sharing of certain costs related thereto through this Declaration.

G. MVC wishes to reserve nonexclusive easements over certain portions of Developer's Property exclusive of the residential buildings intended to be constructed thereon, Developer's Streets, and the Recreational Facilities ("Marketing Areas") for purposes of aiding each Successor Developer's rental, sales and marketing of residences in each Adjacent Project, in accordance with the provisions of this Declaration. The anticipated location of the Marketing Areas is shown on Schedule "4." The actual location of the Marketing Areas will be depicted on one or more instruments to be recorded in the Official Records prior to the first occupancy of a unit in the first Adjacent Project to be developed on an Adjacent Parcel in accordance with Section 17 below.

H. MVC now wishes to execute this Declaration with respect to the use and maintenance of Developer's Streets, the Recreational Facilities and the Marketing Areas and the use of the Adjacent Streets.

NOW, THEREFORE, MVC as the owner of the Master Parcel, hereby covenants, agrees and declares that all of its interest as the same may from time to time appear in the Master Parcel shall be held and conveyed subject to the following covenants, restrictions and easements, all of which are equitable servitudes and shall run with title to the Master Parcel or any portion thereof until released as provided herein, and shall be binding upon all parties having or acquiring any right or title in the Master Parcel or any portion thereof, as follows:

1. Nonexclusive Easements Over Developer's Streets and Adjacent Streets.

(a) MVC hereby grants and reserves to itself, for the benefit of MVC, each Successor Developer, each Adjacent Association, and their respective members, guests, tenants, employees, contractors and invitees, and each Adjacent Parcel, nonexclusive easements of access, ingress, egress, use and enjoyment in, to and over Developer's Streets for vehicular and pedestrian purposes reasonably related to the construction, maintenance, marketing and use of the residences and related improvements located or to be located in each Adjacent Project. MVC further grants and reserves to itself, for the benefit of MVC, each Successor Developer, each Adjacent Association and their respective successors and assigns and each Adjacent Parcel, an easement over Developer's Streets for drainage purposes in accordance with the grading plan for each Adjacent Project as approved by the County of Orange.

(b) MVC hereby grants and reserves to itself, for the benefit of Developer, Developer's Association, their successors and assigns, and their members, guests, owners, employees, tenants, contractors and invitees, and Developer's Parcel, nonexclusive easements of access, ingress, egress, use and enjoyment in, to and over the Adjacent Streets for vehicular and pedestrian purposes reasonably related to the use of the residences and related improvements located in Developer's Project.

(c) Easements Appurtenant. The easements granted and reserved herein over Developer's Streets, on the one hand, and over the Adjacent Streets, on the other hand, shall be appurtenant to, and shall pass with title to, each Adjacent Parcel and Developer's Parcel, respectively, any portion thereof or interest therein, except that such easements shall pass to Developer's Association and each Adjacent Association but not to any person or entity who acquires a unit within Developer's Project or an Adjacent Project pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the California Department of Real Estate.

2. Use of Recreational Facilities. MVC hereby grants and reserves to itself, for the benefit of MVC, each Successor Developer, each Adjacent Association, and their respective members, guests, tenants and invitees, nonexclusive easements of access, ingress, egress, use and enjoyment in, to and over the Recreational Facilities for recreational purposes. Residents of each Adjacent Project shall be entitled to use of the Recreational Facilities to the same extent as the members of Developer's Association. The right of residents of individual units in each Adjacent Project to use the Recreational Facilities shall commence, with respect to each such unit, upon the commencement of Adjacent Share with respect to such unit in accordance with Section 5 below. Developer's Association shall furnish each Successor Developer or Adjacent Association, as applicable, upon request from time to time, an adequate number of keys or similar means of gaining access to the Recreational Facilities for each resident of a unit within each Adjacent Project at a cost no greater than what is then charged to members of Developer's Association. Unless a Successor Developer records an instrument in the Official Records specifically referring to this Declaration and stating that the easement and rights created in this Section 2 will apply to a portion of an applicable Adjacent Parcel ("Adjacent Phase"), the easement and rights described in this Section 2 shall automatically terminate with respect to any such Adjacent Phase upon either (a) the first close of escrow for

the sale of a unit in such Adjacent Phase (for a Condominium Project) or (b) the first residential occupancy by a tenant of a unit in such Phase (for a Rental Project).

3. Maintenance of Developer's Streets, Adjacent Streets and Recreational Facilities. Developer shall, in a reasonable and workmanlike manner, cause Developer's Streets and the Recreational Facilities to be operated, maintained, repaired, replaced and insured at a level consistent with that reflected in the initial budget for Developer's Project submitted to and approved by the California Department of Real Estate. Developer shall ensure that Developer's Streets are clear and unobstructed to allow for continuous traffic flow. Each Successor Developer shall, concurrently with the commencement of Adjacent Share for the applicable Successor Project as provided in Section 5 below, cause the applicable Successor Project Streets to be operated, maintained, repaired, replaced and insured at a level consistent with the operation, maintenance, repair, replacement and insurance of Developer's Streets. Each Successor Developer shall ensure that the applicable Successor Project Streets are clear and unobstructed to allow for continuous traffic flow. If either party (or any successor in interest to any party) ("Aggrieved Party") feels that the streets over which it has been granted an easement pursuant to Section 1 above are not being adequately maintained by the other party (or the successor in interest to such party) ("Non-Aggrieved Party"), the Aggrieved Party shall cause notice of such inadequate maintenance, specifying the nature of the inadequate maintenance, to be delivered to the Non-Aggrieved Party. If the Non-Aggrieved Party fails to take remedial action within fifteen (15) days of the delivery of such notice, the Aggrieved Party shall have the right, but not the obligation, to perform remedial action and receive reasonable reimbursement therefor within fifteen (15) days of delivery of an invoice therefor to the Non-Aggrieved Party.

4. Allocation of Costs to Maintain Developer's Streets and the Recreational Facilities.

(a) Unless this Declaration has terminated with respect to an Adjacent Parcel pursuant to Section 19(k) below, each Successor Developer shall share in the reasonable and necessary costs ("Maintenance Costs") to Developer of maintaining Developer's Streets and, to the extent the easement described in Section 2 above has not terminated with respect to an Adjacent Parcel, the Recreational Facilities (collectively, the "Maintained Items"). Maintenance Costs shall include (i) the costs to

Developer of hazard and liability insurance related to the Maintained Items, (ii) the costs to Developer of maintaining all Maintained Item improvements, (iii) the reasonable and customary reserves related to maintenance by Developer of the Maintained Items, and (iv) administrative (including accounting) costs associated with Developer's determination of the allocation of Maintenance Costs pursuant to this Section 4.

(b) In December of each calendar year, Developer shall estimate in good faith the Maintenance Costs for the following calendar year ("Estimated Maintenance Costs"), and the monthly average number of units which will be subject to assessment by Developer's Association. In addition, in December of each calendar year, each Successor Developer shall estimate in good faith for the following calendar year the monthly average number of units which will be subject to assessment by each Adjacent Association (if Adjacent Association assessments for an Adjacent Parcel have commenced for a Condominium Project) or the monthly average number of units in each Adjacent Project for which residential occupancy by tenants will have commenced (for a Rental Project), respectively. Each Successor Developer shall pay Developer its share of the Estimated Maintenance Costs ("Adjacent Share") for each calendar month after the commencement of Adjacent Share pursuant to Section 6 below. The Adjacent Share shall be payable monthly by each Successor Developer in advance within thirty (30) days of receipt of an invoice therefor from Developer. Adjacent Share for each Successor Developer for each calendar month after commencement of Adjacent Share for such Successor Developer shall be an amount equal to one-twelfth (1/12) of the total Estimated Maintenance Costs for the then current calendar year multiplied by a fraction, the numerator of which is either (i) the estimated monthly average number of residences subject to assessment by the applicable Adjacent Association (for Condominium Projects), or (ii) the estimated monthly average number of residences in the applicable Adjacent Project for which residential occupancy by tenants has commenced (for Rental Projects), and the denominator of which is the estimated monthly average number of residences subject to assessment by Developer's Association plus either (I) the estimated monthly average number of residences subject to assessment by all Adjacent Associations (for Condominium Projects), or (II) the estimated monthly average number of all residences in all Adjacent Projects for which residential occupancy by tenants has commenced (for Rental Projects). Each Successor Developer shall cooperate with Developer in providing Developer the information necessary to calculate Adjacent Share for each Successor Developer.

(c) In January of each calendar year following the year in which Adjacent Share commences for any Successor Developer, Developer shall calculate the actual Maintenance Costs for the preceding calendar year as actually paid by Developer and shall give written notice thereof to each Successor Developer. Such notice shall be accompanied by a refund to each Successor Developer of the amount, if any, by which the Adjacent Share for such year for such Successor Developer exceeded such Successor Developer's share of actual Maintenance Costs for such year. If a Successor Developer's share of actual Maintenance Costs for such year exceeded the Adjacent Share for such Successor Developer for such year, such Successor Developer shall pay the amount of such excess ("Deficit") to Developer within thirty (30) days of receipt of the statement of actual Maintenance Costs; provided that the aggregate amount of all such Deficits of the Successor Developers shall not exceed five percent (5%) of the Estimated Maintenance Costs without the written approval of each Successor Developer (or, following assignment of a Successor Developer's rights and obligations hereunder to an Adjacent Association, the approval of a majority of each class of members of such Adjacent Association). Each Successor Developer shall be entitled to inspect and copy at its sole expense the books and records of Developer relating to the Estimated Maintenance Costs and actual Maintenance Costs upon reasonable notice during normal business hours. Developer shall maintain all such records for any calendar year's Maintenance Costs for at least three (3) years after the end of such calendar year. Following assignment of each Successor Developer's rights and obligations hereunder to an Adjacent Association, (i) such Adjacent Association shall be responsible for all of Successor Developer's responsibilities hereunder with respect to the Successor Project, and (ii) such Adjacent Association shall allocate and collect Adjacent Share from its members in accordance with the governing documents of such Adjacent Associations, which governing documents shall provide for such allocation.

5. Commencement of Adjacent Share. The Adjacent Share for each Successor Developer shall commence on the first day of the first calendar month following the first residential occupancy of a unit in the applicable Adjacent Project being developed by such Successor Developer.

6. Changes in Estimated Maintenance Costs. Any proposed increase by Developer in Estimated Maintenance Costs which exceeds twenty percent (20%) of the Actual Maintenance Costs for the preceding calendar year, and any proposed decrease by Developer in Estimated Maintenance Costs which exceeds ten percent (10%) of the Actual



Maintenance Costs for the preceding calendar year must be approved in advance by each Successor Developer (or, following assignment of a Successor Developer's rights and obligations hereunder to an Adjacent Association, by the vote or written consent of a majority of the voting power of each class of members of such Adjacent Association at a meeting or election of such Adjacent Association at which at least fifty percent (50%) of such Adjacent Association's members are represented). Notwithstanding the foregoing, an increase in the Estimated Maintenance Costs in excess of twenty percent (20%) of the Actual Maintenance Costs for the preceding calendar year may be made if such increase is necessary to address an "Emergency Situation," as defined in Section 8 below.

7. Capital Improvements. Should Developer determine the need for a capital improvement or other such addition to the Maintained Items, the cost of which, in the aggregate, exceeds five percent (5%) of the Estimated Maintenance Costs for the then current calendar year, then the approval of each Successor Developer (or, following assignment of Successor Developer's rights and obligations hereunder to an Adjacent Association, the vote or written consent of at least a majority of each class of the voting power of the members of such Adjacent Association at a meeting or election of such Adjacent Association at which at least fifty percent (50%) of such Adjacent Association's members are represented) shall be required to approve and render effective the amounts levied by Developer to cover the cost of such expenditure ("Capital Improvement Fee"). Notwithstanding the foregoing, a Capital Improvement Fee in excess of five percent (5%) of the Estimated Maintenance Costs for the then current calendar year may be levied by Developer without the consent of each Successor Developer or each Adjacent Association, as applicable, if such increase is necessary to address an "Emergency Situation" as defined in Section 8 below. Each Successor Developer or each Adjacent Association, as applicable, shall pay its share of the Capital Improvement Fee within thirty (30) days of the due date thereof established by Developer.

8. Emergency Situation. For purposes of Sections 6 and 7, an "Emergency Situation" is any one of the following: (a) an extraordinary expense required by an order of a court; (b) an extraordinary expense necessary to repair or maintain the Maintained Items where a threat to personal safety on the Maintained Items is discovered; or (c) an extraordinary expense necessary to repair or maintain the Maintained Items or any part thereof that could not have been reasonably foreseen by Developer in preparing the budget for the management, operation and maintenance of

Developer's Project and the Maintained Items. However, prior to the imposition or collection of an amount pursuant to part 'c' of this Section, Developer shall adopt 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 such resolution shall be distributed to each Successor Developer with the notice of assessment. Notwithstanding the foregoing, no "Emergency Situation" shall be deemed to exist to the extent that funds already budgeted to the Maintained Items have been assessed and collected, in which case such funds shall be used to remedy what would otherwise be the "Emergency Situation" under this Declaration.

9. Non-Payment of Adjacent Share. If all or any portion of the Adjacent Share or any other charge or fee levied pursuant to this Declaration remains unpaid for a period of thirty (30) days beyond the date on which such amount is due, the charge or fee shall be deemed to be delinquent and the amount unpaid shall bear interest from the date due at an annual rate equal to the lesser of (a) the maximum rate allowable by law, or (b) the Reference Rate published from time to time by Bank of America NT&SA, as its reference rate for computation of interest rates on commercial loans. In addition, the delinquent party shall be responsible for all costs of collection of the delinquent amount including without limitation reasonable attorneys' fees.

10. Damage to Maintained Items. Each party shall be liable to the other for any damage to the Maintained Items not fully reimbursed by insurance sustained because of negligence, willful misconduct or unauthorized use thereof by such party, or such party's members, agents, employees, contractors or any other person or entity deriving a right of use and enjoyment of the Maintained Items from such party.

11. Nonexclusive Easements Over Marketing Areas. MVC hereby grants and reserves to itself, for the benefit of MVC, each Successor Developer and their prospective purchasers, tenants, owners, customers, agents, employees, contractors and invitees, nonexclusive easements appurtenant to each Adjacent Project of access, ingress, egress, use and enjoyment in, to and over the Marketing Areas for vehicular and pedestrian purposes reasonably related to the rental, sales, marketing and use of the residences and related improvements located or to be located in the Adjacent Project. If Developer fails to acquire any of the Stages from MVC, various marketing efforts, including viewing of

the applicable Adjacent Project by prospective tenants, buyers, agents and others related to sales or rental of residences in such Adjacent Project will begin, and such marketing efforts will continue until such time as all residences in such Adjacent Project are sold "Marketing Period".

10. Maintenance of Marketing Areas. Developer shall, in a reasonable and workmanlike manner, cause the Marketing Areas to be operated, maintained, repaired, replaced and insured at a level consistent with that reflected in the initial budget for Developer's Project submitted to and approved by the California Department of Real Estate.

11. Marketing Signs. MVC acknowledges that each Successor Developer may desire to place certain signs, flags and other marketing displays (collectively, "Marketing Signs" on the Marketing Areas during the Marketing Period. MVC hereby grants and reserves to itself, for its benefit and the benefit of each Successor Developer, easements and rights of way for the installation, maintenance and removal of Marketing Signs over and under such portions of the Marketing Areas where such installation, maintenance and removal of Marketing Signs would not unreasonably interfere with either the use of Developer's Streets or the access to the units in Developer's Project by the owners or residents thereof. As soon as reasonably possible after the end of the Marketing Period for each Adjacent Project, the Successor Developer that posted such Marketing Signs shall remove them and shall repair any damage to the Marketing Areas caused by such installation, maintenance or removal.

14. Assignment or Transfer.

(a) Upon the conveyance by MVC to Developer and Developer's Association of each Phase of the Master Project pursuant to the Purchase Agreement, MVC shall be automatically free and relieved, from and after the date of such conveyance, of all liability for the performance of any covenant or obligations on the part of MVC contained herein thereafter to be performed relating to such Phase, and all such liability shall be deemed to have been assumed by Developer.

(b) MVC shall have the right to transfer, assign or convey all or any portion of the Unpurchased Stages or any interest therein. In the event of any transfer, assignment or other conveyance of the Unpurchased Stages, MVC shall be automatically free and relieved, from and after the date of such transfer, assignment or

conveyance, of all liability for the performance of any covenant or obligation on the part of MVC contained herein hereafter to be performed relating to the portion of the Unpurchased Stages that is transferred, assigned or conveyed, and all such liability shall be deemed to have been assumed by the transferee of the portion of the Unpurchased Stages so conveyed. MVC may transfer, assign or convey its interest in the Unpurchased Stages without the consent of Developer and such transfer, assignment or conveyance shall not be deemed a violation of any of the terms and conditions of this Declaration. Any successor-in-interest of MVC to the Unpurchased Stages may similarly transfer, assign or convey the Unpurchased Stages, any portion thereof or interest therein, and upon such transfer, assignment or other conveyance, such successor-in-interest shall be automatically free and relieved, from and after the date of such transfer, assignment or conveyance, of all liability for the performance of any covenant or obligation on the part of such successor-in-interest contained herein hereafter to be performed relating to the portion of the Unpurchased Stages that is transferred, assigned or conveyed, and all such liability shall be deemed to have been assumed by the transferee of the Unpurchased Stages so conveyed. Immediately upon the commencement of assessments for the first unit covered by Developer's Association, the rights and obligations of Developer hereunder shall be automatically assigned to and assumed by Developer's Association without any further documentation. Subject to the foregoing, this Declaration shall inure to the benefit of and be binding upon the respective successors-in-interest and assignees of the parties (excepting therefrom any person or entity who acquires a unit pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the California Department of Real Estate), and may be assigned in whole or in part.

15. Covenants Running With the Land. MVC hereby declares that Developer's Project, Developer's Streets, the Recreational Facilities, each Adjacent Project, each of the Adjacent Streets and all interests therein are to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the foregoing limitations, restrictions, easements, covenants, and conditions, all of which are declared and agreed to be in furtherance of and for the protection, maintenance and improvement of Developer's Project, Developer's Streets, the Recreational Facilities, each Adjacent Project and each of the Adjacent Streets for the purpose of enhancing their value, desirability, and attractiveness. All provisions of this Declaration are imposed as equitable servitudes upon Developer's Project, Developer's Streets, the Recreational

Facilities, each Adjacent Project and each of the Adjacent Streets. All provisions of this Declaration shall run with Developer's Parcel and each Adjacent Parcel, shall be binding upon and for the benefit of Developer's Parcel, each Adjacent Parcel and any portion thereof or interest therein, and shall be binding upon and for the benefit of each Successor Developer, each Adjacent Association, Developer's Association and each of their members, guests, tenants, employees, contractors and invitees.

16. Rules and Regulations. Each Successor Developer, each Adjacent Association and Developer's Association shall cooperate with one another with respect to the promulgation and enforcement of rules and regulations respecting the Maintained Items. Such rules and regulations shall apply uniformly to all owners and residents of condominiums in Developer's Project and all owners and residents of units in each Adjacent Project. Each Successor Developer, Adjacent Project residents and each Adjacent Association shall at all times comply with the provisions of the Declaration of covenants, conditions and restrictions for Developer's Project and such rules and regulations adopted by Developer's Association respecting the use and enjoyment of the Maintained Items. Each Adjacent Association shall enforce the provisions of this Declaration against its members and Developer's Association shall enforce the provisions of this Declaration against its members.

17. Accreditation of Instruments Depicting Locations of Developer's Streets, Recreational Facilities, Adjacent Streets and Marketing Areas. Developer, MVC or a Successor Developer may, with the prior approval of MVC, record an instrument ("Locational Instrument") in the Office of the Orange County Recorder which accurately depicts the location of any or all of Developer's Streets, Recreational Facilities, Adjacent Streets or Marketing Areas and which states that it is the intent of the party recording such Locational Instrument to designate the final location of any such item pursuant to the terms of this Declaration. Such Locational Instrument shall determine the precise location of the easements which are the subject matter of this Declaration and shall supersede the exhibits hereto which depict the Planned Common Area Improvements and the anticipated Marketing Areas as of the date of execution of this Declaration. Any Locational Instrument and any declaration of covenants, conditions and restrictions encumbering all or any portion of Adjacent Project shall make specific reference to this Declaration, and must be recorded prior to the twenty-first anniversary of the death

of all lineal descendants of President Bill Clinton living as of the date of execution of this Declaration.

18. Notices. Any notices to be given hereunder by any Party to any other Party shall be in writing and shall be delivered either personally or by United States mail, registered or certified, postage paid with return receipt requested. Notice shall be delivered or addressed to the Parties, until notice of a different address is given, at the following addresses:

Developer: John Laing Homes (California), Inc.  
23382 Mill Creek Drive, Suite 105  
Laguna Hills, California 92653  
Attention: Mr. Terry Neale

MVC: Mission Viejo Company  
26137 La Paz Road  
Mission Viejo, California 92691  
Attention: John Franklin  
Division Vice President

Notices not personally served shall be deemed delivered three (3) days after mailing.

19. Miscellaneous.

(a) Waiver. The waiver by any party of the breach by any other party of any term, covenant, or condition contained in this Declaration shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Declaration.

(b) Choice of Law. This Declaration shall be governed by and construed in accordance with the laws of the State of California.

(c) Language Construction. Whenever the context of this Declaration requires, the masculine gender shall include the feminine and neuter and the singular number shall include the plural. Designations used herein are for convenience only and shall not be controlling in the interpretation of this Declaration.

(d) Severability. If any provision of this Declaration is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall, nevertheless, continue in full force without being impaired or invalidated in any way.

(e) Attorneys' Fees. In the event of any legal action or other proceeding between the parties regarding this Declaration (an "Action"), the prevailing party shall be entitled to the payment by the losing party of its reasonable attorneys' fees, court costs and litigation expenses, as determined by the court.

(f) Post-Judgment Attorneys' Fees. The prevailing party in any Action shall be entitled, in addition to and separately from the amounts recoverable under Section 19(e) above, to the payment by the losing party of the prevailing party's reasonable attorneys' fees, court costs and litigation expenses incurred in connection with (a) any appellate review of the judgment rendered in such Action or of any other ruling in such Action, and (b) any proceeding to enforce a judgment in such Action. It is the intent of the parties that the provisions of this Section 19(f) be distinct and severable from the other rights of the parties under this Declaration, shall survive the entry of judgment in any Action and shall not be merged into such judgment.

(g) Mortgagee Protection. No portion of this Declaration or any amendment or violation thereof shall operate to defeat or render invalid, in whole or in part, the rights of the beneficiary, insurer, guarantor, or holder of any mortgage or deed of trust encumbering any portion of the Master Parcel; provided, however, that if all or a portion of the Master Parcel is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser at such sale, including, without limitation, the lender, and the successors and assigns of such purchaser, shall hold any and all property so purchased subject to all of the restrictions and other provisions of this Declaration. The foregoing proviso shall also apply to a deed in lieu of foreclosure and to the transferee of the lender after such deed in lieu.

(h) Exhibits. All exhibits to this Declaration are incorporated herein by this reference.

(i) Effective Date. This Declaration shall be effective as of the date of its recordation.

(j) Term. If Developer fails to acquire the first Phase of the first Stage of the Master Project at the time required in the Purchase Agreement, then MVC shall have the right to terminate this Declaration by recording a document to such effect in the Official Records. The provisions of this Declaration relating to the right and easement of MVC, any Successor Developer, any Adjacent

Association, and their respective members, owners, tenants, employees, contractors and service providers. The provisions of this Declaration shall automatically terminate with respect to any portion of the Master Parcel at such time, if any, as such portion of the Master Parcel becomes annexed to Developer's Project and subject to the payment of assessments to Developer's Association in accordance with the regulations and policies of the California Department of Real Estate.

k Amendment. Subject to the provisions of Section 19.4 above, no amendment, change, or modification to this Declaration shall be valid unless it is in writing and executed by Developer and MVC. Such amendment shall be recorded in the Official Records.

(l) Authority. The persons executing this Declaration on behalf of MVC represent that they have the authority to execute this Declaration on behalf of MVC and that all necessary approvals to bind MVC to this Declaration have been obtained.

IN WITNESS WHEREOF, MVC has executed this Declaration as of the date first above written.

MVC:

MISSION VIEJO COMPANY, a California corporation

By: 

Name: Gregory J. Turner

Title: DIVISION VICE PRESIDENT

By: 

Name: Steve R. Davidson

Title: \_\_\_\_\_



STATE OF CALIFORNIA )  
COUNTY OF Orange ) ss.

On March 12, 1997, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Gregory J. ..., 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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the within instrument.

WITNESS my hand and official seal.



Sally Jo Clark  
Notary Public

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ ) ss.

On \_\_\_\_\_, 199  , before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, 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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the within instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

**Schedule "1"**  
to  
**Declaration of Maintenance Covenants, Conditions  
and Restrictions and Reservation of Easements**

**Legal Description of the Master Parcel**

All that certain real property located in the unincorporated area of the County of Orange, State of California described as follows

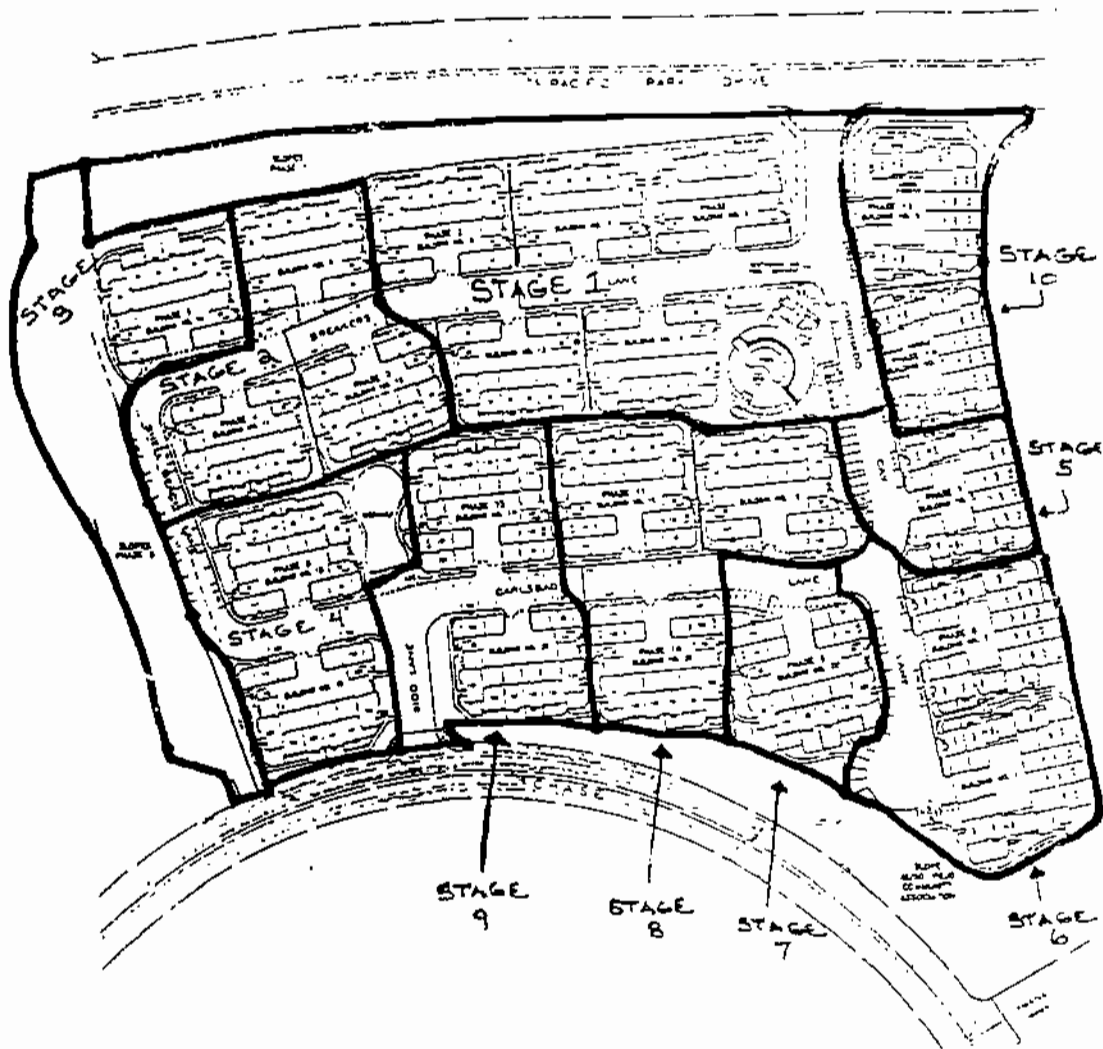
Parcel 1 of Lot Line Adjustment No 94-022, which was Recorded on July 22, 1994, as Instrument No 94-0467077, of Official Records of Orange County, California

Schedule "2"  
to  
Declaration of Maintenance Covenants, Conditions  
and Restrictions and Reservation of Easements

Site Plan for the Master Project

Schedule "2"

Schedule "2"



Site Plan For Master Project

CORONADO  
TRACT NO. 13961

**Schedule "3"**  
to  
**Declaration of Maintenance Covenants, Conditions  
and Restrictions and Reservation of Easements**

**Legal Description of the First Phase of the First Stage**

All that certain real property located in the County of Orange, State of California described as follows:

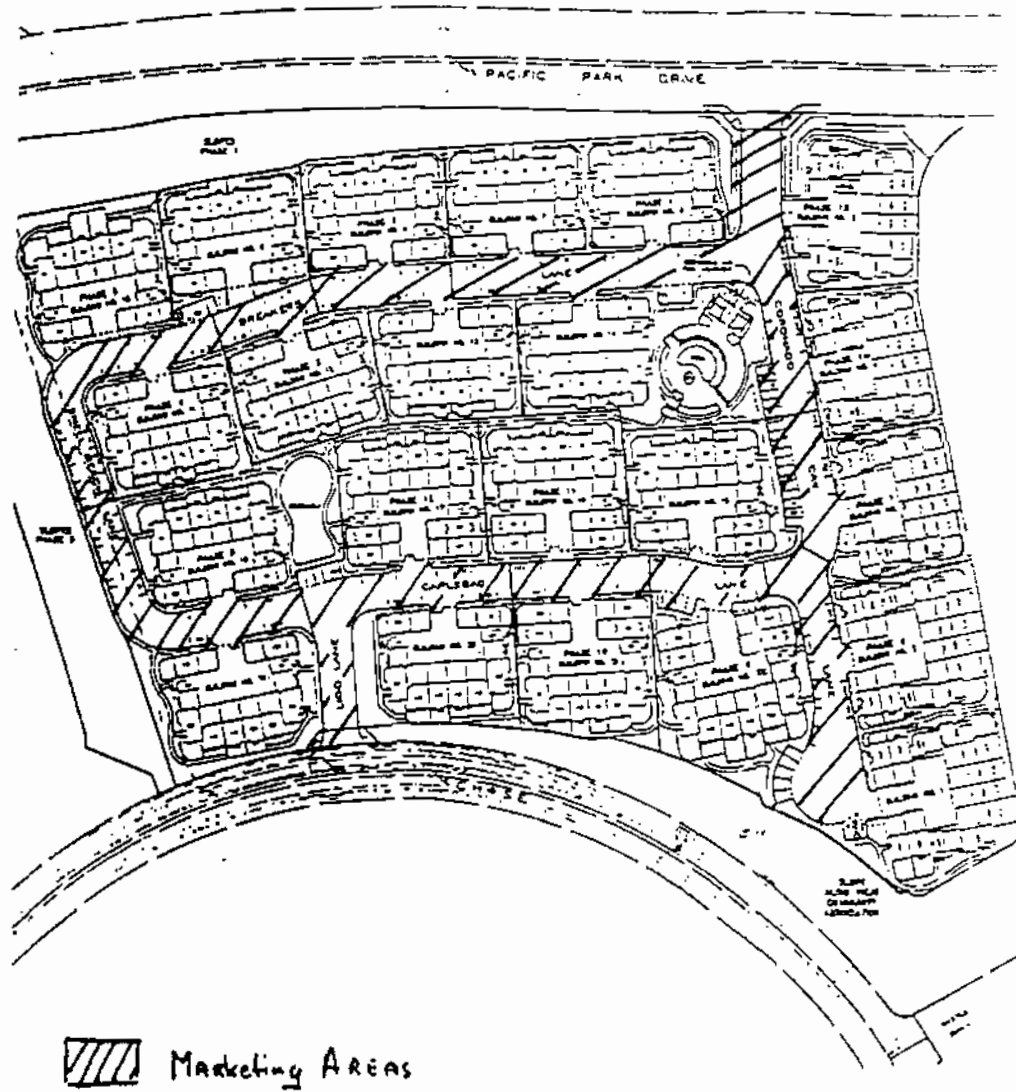
The portions of Parcel 1 of Lot Line Adjustment No. 94-022 identified as "Phase 1" and thirty (30) Condominiums consisting of Units 1 to 30, inclusive, and undivided thirty-thirtieths (30/30) interests in the Common Area as described on the Condominium Plan Recorded on SEPTEMBER 30, 1994 as Instrument No. 94-0590372, in Official Records of Orange County, California, which Condominium Plan encumbers a portion of Parcel 1 of Lot Line Adjustment No. 94-022, which was Recorded on July 22, 1994, as Instrument No. 94-0467077, of Official Records of Orange County, California

Schedule "4"  
to  
Declaration of Maintenance Covenants, Conditions  
and Restrictions and Reservation of Easements

Anticipated Location of Marketing Areas

Schedule "4"

SCHEDULE 4



CORONADO  
TRACT NO. 13961

RECORDING REQUESTED BY:  
FIRST AMERICAN TITLE INS. CO.  
AND WHEN RECORDED RETURN TO:

Morrison & Foerster  
1990 MacArthur Boulevard  
Irvine, California 92715-2440

Attention: Andrew P. Bernstein

DOC # 94-0592952  
03-OCT-1994 03:59 PM

Recorded in Official Records  
of Orange County, California  
Lee A. Branch, County Recorder  
Page 1 of 14    Fees: \$    49.00  
Tax: \$                    0.00

*FA 150209M PSC*

(Above Space for Recorder's Use Only)

NOTICE OF ANNEXATION  
AND  
SUPPLEMENTAL DECLARATION  
FOR  
DELEGATE DISTRICT NO. 77  
OF  
ALISO VIEJO COMMUNITY ASSOCIATION  
(A.V.P.A. 20/21)

THIS INSTRUMENT FILED FOR RECORD BY  
FIRST AMERICAN TITLE INSURANCE COMPANY AS AN  
ACCOMMODATION ONLY. IT HAS NOT BEEN EXAMINED AS TO  
ITS EXECUTION OR AS TO ITS EFFECT UPON THE TITLE



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NOTICE OF ANNEXATION  
AND  
SUPPLEMENTAL DECLARATION  
FOR  
DELEGATE DISTRICT NO. 77  
OF  
ALISO VIEJO COMMUNITY ASSOCIATION  
(A.V.P.A. 20/21)

THIS NOTICE OF ANNEXATION AND SUPPLEMENTAL  
DECLARATION (the "Notice of Annexation") is made this  
12<sup>th</sup> day of August, 1994 by Mission Viejo Company, a  
California corporation ("Declarant"), as owner.

R E C I T A L S:

A. On April 1, 1982, Aliso Viejo Company, a California corporation, Declarant's predecessor in interest by merger, executed that certain Declaration of Covenants, Conditions and Restrictions for Aliso Viejo Community Association (the "Community Declaration"). The Community Declaration was recorded on April 6, 1982 as Instrument No. 82-118353 in the Official Records of Orange County, California. Except as otherwise provided herein, all capitalized terms used in this Notice of Annexation shall have the meanings ascribed to them in the Community Declaration. The Community Declaration is binding upon all Owners of Lots and Condominiums covered by the Community Declaration, which Lots and Condominiums are located in the Planned Development known as the "Aliso Viejo Planned Community."

B. Declarant has agreed to sell to John Laing Homes (California), Inc., a California corporation ("Developer"), and Developer has agreed to purchase from Declarant, pursuant to that certain Agreement for the Purchase and Sale of Real Property between Declarant and Developer dated December 15, 1993, as amended (the "Purchase Agreement"), that certain real property located in the County of Orange, State of California more particularly described in Schedule "1" attached hereto and incorporated herein by this reference (the "Annexed Land"). The Annexed Land is part of the Annexable Area which Declarant is subdividing and improving as the Aliso Viejo Planned Community, in accordance with the Community Declaration.

C. As set forth in the Purchase Agreement, Developer has agreed to construct a Condominium Project on the Annexed Land ("Developer's Project") which is to be

constructed in accordance with the Community Declaration and the Development Plan.

D. Pursuant to Article III of the Community Declaration, Declarant now desires to add the Annexed Land to the Subject Property.

NOW, THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:

ARTICLE I  
ANNEXATION TO SUBJECT PROPERTY

1.1 Annexation of Annexed Land to Subject Property. Declarant, as Owner of the Annexed Land, hereby declares that the Annexed Land is hereby added to and made a part of the Subject Property and shall be subject to the Community Declaration. This Notice of Annexation constitutes a Notice of Annexation as described in Section 3.02 of the Community Declaration.

1.2 Membership in Community Association. The Owners of Condominiums in the Annexed Land shall automatically become Members of the Aliso Viejo Community Association (the "Community Association"), as provided in Section 4.02 of the Community Declaration.

1.3 Delegate District. Pursuant to the Purchase Agreement, Developer is forming a Sub-Association entitled "Coronado at Aliso Viejo Homeowners Association" (the "Developer Sub-Association"), and in connection with the formation of the Developer Sub-Association, Developer is recording a Supplemental Declaration in the Official Records of Orange County, California (the "Developer Supplemental Declaration"). That portion of the Annexed Land that is subject to the Developer Supplemental Declaration constitutes a single Delegate District, and such Delegate District has been designated Delegate District No. 77. As additional portions of the Annexed Land are made subject to the Developer Supplemental Declaration, Delegate District No. 77 shall expand to include such additional property, so that the boundaries of Delegate District No. 77 shall at all times coincide with the property that is subject to the Developer Supplemental Declaration. The Delegate representing Delegate District No. 77 shall be entitled to cast one (1) vote for each Condominium within his Delegate District, as provided in Section 4.03(c) of the Community Declaration.

1.4 Land Classifications.

(a) The Annexed Land is hereby designated as a Residential Area.

(b) Developer shall have the right from time to time to redesignate portions of the Annexed Land as Common Area in conjunction with the development of Developer's Project. Such redesignation shall be made by indicating in the Developer Supplemental Declaration that is Recorded in connection with Developer's Project the portions of the Annexed Land which will be used for the purposes set forth in the definition of "Common Area" included in the Community Declaration. Pursuant to Section 11.02(e) of the Community Declaration (but subject to Section 3.1 below), Declarant hereby assigns to Developer the right to redesignate portions of the Annexed Land as Common Area for the limited purposes set forth in this Section 1.4(b).

(c) The Purchase Agreement provides that Declarant shall landscape and improve that portion of the Annexed Land consisting of Parcel A of Lot Line Adjustment No. 94-022 (the "Community Association Lot"). The Purchase Agreement further provides that prior to the close of escrow for the purchase of a Condominium on the Annexed Land by a member of the homebuying public, Developer shall convey to the Community Association, by an instrument substantially in the form of the "Grant Deed of Association Property" attached to the Option Agreement as an exhibit, fee title to the Community Association Lot. Upon the conveyance of the Community Association Lot to the Community Association, the Community Association Lot shall become part of the Community Association Properties; provided however, as set forth in that certain "Declaration of Development Covenants and Restrictions Concerning A.V.P.A. 20/21" to be executed by Developer and Declarant and to be recorded upon the acquisition of the Annexed Land by Developer, Developer will be responsible for maintenance of the Community Association Lot until acceptance of the landscaping of the Community Association Lot by the Community Association. Upon the completion of the landscaping of the Community Association Lot by Declarant and the acceptance thereof by the Community Association, the Community Association will assume responsibility for the maintenance of the Community Association Lot, pursuant to the terms of the Community Declaration.

1.5 Commencement of Assessments. The rights and obligations of all Owners of Condominiums located within the Annexed Land with respect to payment of Common Assessments to the Community Association are set forth in Article IX of

the Community Declaration. Pursuant to Section 11.02(e) of the Community Declaration (but subject to Section 3.1 below), Declarant hereby assigns to Developer its right to be deemed "Declarant" for the purpose of determining the date upon which Common Assessments to the Community Association are to commence in accordance with Section 9.25 of the Community Declaration. Therefore, Common Assessments shall commence as to each Condominium in any portion of the Annexed Land for which a Final Subdivision Public Report has been issued by the California Department of Real Estate (the "DRE"), upon the first day of the first month following the month in which the Close of Escrow takes place for the sale of the first Condominium of the Annexed Land covered by such Final Subdivision Public Report, as provided in Section 9.25(a) of the Community Declaration.

1.6 Calculation of AFCA Units. For the purposes of Section 9.09 of the Community Declaration, each Condominium within the Annexed Land shall be charged with one (1) AFCA Unit.

1.7 Determination of Actual Market Value. This Section 1.7 shall govern the initial determination of the Actual Market Value ("AMV") of the Condominiums within the Annexed Land for the purposes of Section 9.12 of the Community Declaration. Pursuant to Section 11.02(e) of the Community Declaration (but subject to Section 3.1 below), Declarant hereby assigns to Developer its right to be deemed "Declarant" for the purpose of making the initial determination of the AMV of each Condominium within the Annexed Land, in accordance with Section 9.12 of the Community Declaration. Therefore, the AMV of each Condominium shall initially be the actual sales price of such Condominium by Developer to its first Owner, or, if not yet sold by Developer, the price at which Developer is offering to sell such Condominium. The AMV of each Condominium is subject to redetermination based upon the provisions of Section 9.13 through 9.16 inclusive of the Community Declaration.

1.8 Assignment of Certain Rights of Declarant. Pursuant to Section 11.02(e) of the Community Declaration (but subject to Section 3.1 below), Declarant hereby assigns to Developer the following rights of Declarant:

(a) The right under Section 3.04 of the Community Declaration to impose a Supplemental Declaration on the Annexed Land in connection with the creation of the Developer Sub-Association;

(b) The right under Section 10.03 of the Community Declaration to create and sell a Condominium Project on the Annexed Land; and

(c) The right under Section 11.02(c) of the Community Declaration to construct Improvements on the Annexed Land without the prior approval of the Community Association or the Master Architectural Committee.

1.9 Members' Easement of Use and Enjoyment. Every Member of the Community Association who owns a Condominium in the Annexed Land shall have the rights of use and enjoyment of the Community Association Properties set forth in Section 5.03(a) of the Community Declaration.

1.10 Equitable Servitudes. The covenants, conditions and restrictions of this Notice of Annexation and the Community Declaration are hereby imposed as equitable servitudes upon each Condominium within the Annexed Land, as the servient tenements, for the benefit of each and every other Lot or Condominium within the Subject Property as the dominant tenements.

1.11 Covenants Appurtenant. The provisions of this Notice of Annexation shall run with all of the Annexed Land, the Subject Property and the Community Association Properties, shall be binding upon all persons having or acquiring any interest in the Annexed Land, the Subject Property, the Community Association Properties, or any part thereof, shall inure to the benefit of and burden every portion of the Annexed Land, the Subject Property, the Community Association Properties, and any interest therein, and shall inure to the benefit of, be binding upon, and may be enforced by any Owner, Declarant, Developer, each successor in interest of Developer, the Community Association, and their successive owners and assigns. Except as otherwise expressly provided herein, all of the provisions of the Community Declaration are hereby incorporated by reference as if fully set forth herein.

## ARTICLE II SUPPLEMENTAL RESTRICTIONS

2.1 Effect of Supplemental Restrictions. Pursuant to Section 3.04 of the Community Declaration, the Annexed Land shall be held, used and enjoyed subject to the following limitations and restrictions set forth in this Article II, which supplement the restrictions set forth in the Community Declaration. To the extent that any of the following restrictions are more restrictive than the

restrictions in the Community Declaration or than provisions in the Development Plan, the restrictions in this Supplemental Declaration shall control.

2.2 Parking and Vehicular Restrictions. No Person shall park, store or keep any vehicle on any portion of the Annexed Land, except wholly within the parking areas designated therefor. No inoperable vehicle shall be stored anywhere on the Annexed Land. No Person shall park, store or keep anywhere on the Annexed Land, or on any public street abutting the Annexed Land, any inoperable vehicle or any large commercial-type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck, any recreational vehicle, camper unit, house car or motor home, or any other similar vehicle) or any vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board of Directors of the Community Association. The foregoing excludes camper trucks, pick-up trucks, vans and similar vehicles up to and including three-quarter (3/4) ton when used for reasonable daily transportation of residents of or visitors to the Annexed Land, subject to approval of such similarity and reasonableness by the Board of Directors of the Community Association. No Person shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Annexed Land. No parking shall be permitted which may obstruct free traffic flow, constitute a nuisance, create a safety hazard, or interfere with the easements reserved in the Community Declaration or in this Supplemental Declaration. Notwithstanding the foregoing, this Section 2.2 shall not be interpreted in such a manner as to permit any activity which is contrary to any applicable ordinance of any governmental agency having jurisdiction.

2.3 Nuisances. In addition to the restrictions on nuisances set forth in Section 10.06 of the Community Declaration, the following restrictions shall apply: No noxious or offensive activities shall be conducted within the Annexed Land. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of an Improvement and its contents, shall be placed or used on the Annexed Land. No loud noises, noxious odors, noisy or smokey vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or items which may unreasonably interfere with television or radio reception of any Person in the Annexed Land, shall be located, used or placed on any portion of the Annexed Land, or exposed to the view of other Persons without the prior written approval of the Master Architectural Committee. The Board of Directors of the Community Association shall have

the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Person shall permit or cause anything to be done or kept upon the Annexed Land which may increase the rate of insurance thereon, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Persons, or commit or permit any nuisance thereon or violate any law. Each Person shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Residence. Each Owner shall be accountable to the Community Association and other Persons for the conduct and behavior of children residing in or using his Residence and other Persons residing in or visiting his Residence. Any damage to the Community Association Properties, personal property of the Community Association, or property of another Person, caused by such children or other Persons, shall be repaired at the sole expense of the Owner with whom such children or other Persons are residing or visiting.

2.4 Outdoor Installations. No yard or deck covers, wiring, or installation of air conditioning, water softeners, or other machines shall be installed on the exterior of the Improvements on the Annexed Land or be allowed to protrude through the walls or roofs of the Improvements on the Annexed Land (with the exception of those items installed during the original construction of Improvements on the Annexed Land), unless the prior written approval of the Master Architectural Committee of the Community Association is secured. No clothing or household fabrics shall be hung, dried or aired on or over any Residence in such a way as to be visible from any other Residence. Outdoor patio or lounge furniture, plants and barbecue equipment may be maintained pursuant to rules and procedures of the Master Architectural Committee. The type and color of all exposed window coverings shall be subject to the prior written approval of the Master Architectural Committee. No fence or wall shall be erected, altered or maintained on the Annexed Land except with the prior written consent of the Master Architectural Committee. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Residence shall be commenced without the prior written approval of the Master Architectural Committee. Nothing shall be done in any Residence or in, on or to the Annexed Land which will or may tend to impair the structural integrity of any Improvement on the Annexed Land or which would structurally alter any such Improvement except as otherwise expressly provided herein or in the Community Declaration.



2.5 Business or Commercial Activity. No part of the Annexed Land shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such nonresidential purposes. The provisions of this Section 2.5 shall not preclude professional and administrative occupations without external evidence thereof, for so long as such occupations are conducted in conformity with all applicable governmental ordinances and are merely incidental to the use of the Residence as a residential home,

2.6 Rubbish Removal. No rubbish, trash or garbage or other waste material shall be kept or permitted upon the Annexed Land, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Annexed Land, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers shall be exposed to view only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). No lumber or grass, shrub or tree clippings, or plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Annexed Land except within an enclosed structure or if appropriately screened from view. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon the Annexed Land.

2.7 Utilities. All utilities shall be constructed and maintained underground.

2.8 Antennae. In addition to the restrictions on antennae set forth in Section 10.01 of the Community Declaration, no satellite dish antenna or "CB" antenna shall be erected or maintained on the Annexed Land.

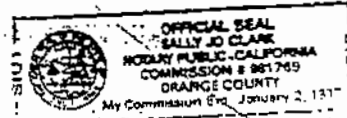
2.9 Maintenance. The entire Annexed Land shall at all times be kept in a clean and well-maintained condition. Any weeds thereon shall be promptly removed and all landscaped areas shall be well-groomed. In addition, no Improvement on any part of the Annexed Land shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event of damage or destruction to any such Improvement, such Improvement may be repaired or reconstructed, in accordance with previously approved plans and specifications submitted

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.

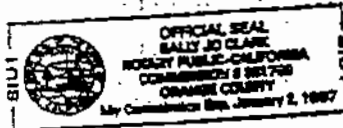
On August 13 1994, before me, Sally Jo Clark Notary Public  
personally appeared Wendy P. Givens + Peter M. Givens  
personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person(s) whose name(s)  
is/are subscribed to the within instrument and acknowledged  
to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s), or the entity  
upon behalf of which the person(s) acted, executed the  
instrument.

WITNESS my hand and official seal.

Sally Jo Clark



STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.



On \_\_\_\_\_, before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
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  
authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s), or the entity  
upon behalf of which the person(s) acted, executed the  
instrument.

WITNESS my hand and official seal.

\_\_\_\_\_

to the Master Architectural Committee (or Declarant, as the case may be) for its approval.

2.10 Rental of Condominiums. An Owner may rent his Condominium to a single Family provided that the Condominium is rented for a term greater than thirty (30) days, subject to all of the provisions of this Notice of Annexation and the Community Declaration.

2.11 Rights of Handicapped. Subject to the provisions of Article IV of the Community Declaration, each Owner shall have the right to modify his Condominium and the route over the Common Area leading to the front door of his Condominium, at his sole cost and expense, in order to facilitate access to his Condominium by Persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such Persons.

### ARTICLE III GENERAL PROVISIONS

3.1 Restriction on Transfer of Assigned Rights. The right of Developer to be deemed "Declarant" under the Community Declaration for the limited purposes set forth in Sections 1.4(b), 1.5, 1.7 and 1.8 above (collectively, the "Assigned Rights") shall be subject to the following restrictions: (a) the assignment of the Assigned Rights to Developer shall be effective only upon the acquisition of the Annexed Land by Developer, and (b) Developer and its permitted assigns shall have the right to re-assign the Assigned Rights in connection with a conveyance of the Annexed Land or a portion thereof to the assignee of the Assigned Rights; provided, however, that any such re-assignment shall be included in the grant deed to the assignee or shall otherwise be accomplished by a Recorded instrument, and provided further, that Declarant's prior written consent shall be required for any such reassignment.

3.2 Conformity with Development Plan. This Notice of Annexation is in conformity with the Development Plan currently on file with the DRE. Declarant certifies that this Notice of Annexation does not have the direct effect of increasing the current budgeted expenses of the Community Association by more than twenty percent (20%) or of substantially overburdening the Community Association Properties. This Notice of Annexation is being recorded prior to the third (3rd) anniversary of the original issuance of the most recently issued Final Subdivision Public Report from the DRE for any portion of the Annexable

Area, as described in Section 3.01(a) of the Community Declaration.

3.3. Amendment and Duration. This Notice of Annexation may be amended or repealed at any time only by complying with the requirements of Article XII, Section 12.02 of the Community Declaration. Unless amended or repealed as provided herein, the provisions of this Notice of Annexation shall continue and remain in full force and effect for so long as the Community Declaration remains in effect, in accordance with Article XII, Section 12.01 of the Community Declaration. The Annexed Land may be deleted by Declarant from coverage of this Notice of Annexation only by complying with the same procedure for deleting property from coverage of the Community Declaration, as set forth in Article III, Section 3.03 of the Community Declaration.

IN WITNESS WHEREOF, Declarant has executed this Notice of Annexation as of the date first above written.

MISSION Viejo COMPANY, a California corporation

By:

Name:

Title:

By:

Name:

Title:

Gregory P. Curran  
Name: Gregory P. Curran  
Title: DIVISION VICE PRESIDENT

Mark B. Johnson  
Name: Mark B. Johnson  
Title: ASSISTANT SECRETARY