RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
First Commercial Real Estate Financing)
1981 North Broadway, Suite 415)
Walnut Creek, California 94596)
Attn: Marvin T. Levin)
)
)

Space above this line for Recorder's use

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TRACT NO. 91-1004 FOR ROLLING OAKS ESTATES

As provided for in Article XII of the Declaration of Covenants, Conditions and Restrictions of Tract No. 91-1004 for Rolling Oaks Estates recorded June 5, 1996 in Book 1656, Page 118 in the Official Records of Tehama County, California, Section 12.1, Amendment of Declaration, the undersigned, being the legal and equitable owner of more than 51% of all of those entitled to vote with respect to any and all matters covered by said Declaration, does hereby amend the following paragraphs, to read as follows:

Section 2.11, Common Facility. "Common Facility" means the streets, two gates, benches, parking areas, trees, hedges, plantings, lawns, shrubs, landscaping, fences, berms, lighting fixtures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

Section 4.11, Animals, Paragraph A. No animals, reptiles, rodents, birds, fish, livestock, or poultry shall be kept on any lot or elsewhere within the Development except that domestic dogs, cats, not more than two horses, fish and birds, inside bird cages, may be kept as household pets within any Lot, if they are not kept, bred or raised for commercial purposes or in unreasonable quantities as to be determined by the Association. Each person bringing or keeping a pet upon the Development shall be liable to other Owners, their family members, guests, invitees, tenants, and contract purchasers, and their respective family members, guests, and invitees for any damage to person or property proximately caused by any pet brought upon or kept upon the Development by the person or by members of his or her family, guests, or invitees.

This Amendment is being executed in counterparts, each of which will be deemed an original binding agreement to the Amendment, notwithstanding that each homeowner does not necessarily sign the same counterparts.

Declarant has executed this instrument as of the 19th day of May 2003.

FIRST COMMERCIAL REAL ESTATE FINANCING,
a California corporation

By: ______________________
Marvin T. Levin, Chairman

STATE OF CALIFORNIA)
)
COUNTY OF Contra Costa)

On May 19, 2003 before me, Joji R. Sayo, Notary Public, personally appeared Marvin T. Levin, 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.

JOJI R. SAYO
COMM. 1328408
NOTARY PUBLIC - CALIFORNIA
CONTRA COSTA COUNTY
My Comm. Expires Nov. 4, 2005

Joji R. Sayo
Notary Signature

[SEAL]

F-7047

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

Ford, Donegan & Associates
2010 N. Fine Avenue, Suite 103
Fresno, California 93727

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
TRACT NO. 91-1004
FOR
ROLLING OAK ESTATES

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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

This Declaration is made on the 23rd day of January, 1996, by **FIRST COMMERCIAL REAL ESTATE FINANCING, a California corporation**, hereinafter referred as the "Declarant".

RECITALS

A. Declarant is the owner of the real property described as Lots 1 through 53, inclusive, of Tract No. 91-1004, commonly known as ROLLING OAK ESTATES, filed for record in the office of the County Recorder of Tehama County, California, on January 23, 1996 in Book Y of Maps at Pages 24 through 30, inclusive, hereinafter referred to as the "Real Property". Declarant, in order to promote the efficient preservation of the values and amenities in and on the Real Property, has established a general plan, set forth in this Declaration, for the subdivision, improvement, and development of the Real Property, in each and every Lot and parcel on the Real Property, and any additional real property that may be annexed to this Declaration and desires to secure the harmonious and uniform development of the Real Property in accordance with the plan.

B. The "First Restated Declaration of Covenants, Conditions and Restrictions Of Red Bluff Northwest Road And Property Owners Association executed on December 20, 1994, by the Red Bluff Northwest Road And Property Owners Association, which were recorded on January 6, 1995, in Book 1560, Page 150, of the Official Records of Tehama County, California, hereinafter referred to as the "Original Declaration", by this reference is incorporated herein as though fully set forth and affects all of the Real Property. In the event of any conflict between the provisions of the Original Declaration and any provisions of this Declaration, the provisions of the Original Declaration shall prevail.

ARTICLE I
DECLARATION

A. Declarant declares that the Real Property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used, sold, improved and occupied subject to the following declarations, limitations, restrictions, easements, covenants, conditions, servitudes, liens, and charges, all of which are declared and agreed to be imposed as equitable servitudes in furtherance of a planned development as described in California Civil Code §§1350 through 1372, or comparable superseding statutes, for the subdivision, improvement, protection, maintenance, and sale of dwelling units within the Real Property and all of which are declared and agreed to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the Real Property. All of the limitations, restrictions, easements, reservations, covenants, conditions, servitudes, liens, and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title, or interest in the Real Property, are for the benefit of the Real Property, and shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code §1353. In the event California Civil Code Section 1353 is amended or superseded by another, similar provision of the California statutes, this Declaration shall be deemed amended, without the necessity of further Owner approval, to correspond to the amended or successor Civil Code provision.

ARTICLE II
DEFINITIONS

Unless otherwise expressly provided in this Declaration, the following words and phrases, when used herein, shall have the ensuing specified meanings:

2.1 **ARCHITECTURAL COMMITTEE** - "Architectural Committee" means the committee of persons appointed and acting pursuant to Subsection 11.2 of this Declaration, entitled "**APPOINTMENT OF ARCHITECTURAL COMMITTEE.**"

2.2 **ARTICLES** - "Articles" means the Associations Articles of Incorporation and any amendments thereto.

2.3 **ASSESSMENT** - "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Lot in accordance with the provisions of **ARTICLE VII** of the Declaration, entitled "**ASSESSMENTS.**"

2.4 **ASSOCIATION** - "Association" means the **ROLLING OAK ESTATES HOMEOWNERS ASSOCIATION**, a California nonprofit mutual benefit corporation, and its successors and assigns, the Members of which shall be the Owners of Lots in the Development.

2.5 **ASSOCIATION RULES** - "Association Rules" means the rules, regulations and policies regulating the use and enjoyment of the Common Area which are from time to time adopted by the Board of Directors.

2.6 **BOARD OF DIRECTORS** - "Board of Directors" or "Board" means the Board of Directors of the Association.

2.7 **BUDGET** - "Budget" means a written, itemized estimate of the income and Common Expenses of the Association in performing its functions under this Declaration.

2.8 **BYLAWS** - "Bylaws" means the Association's Bylaws and any amendments thereto.

2.9 **COMMON AREA** - "Common Area" means all real property, if any, owned by the Association for the common use and enjoyment of the Owners as well as certain non-exclusive easements which are appurtenant to each Lot, as that term is described, in Subsection 2.18, below, and for which the Association is responsible to maintain, repair and replace, and shall include the non-exclusive easements designated as Old Mission Drive, Happy Valley Trail, Deer Crest Trail, Eagle Valley court, Reservoir Easement, Parking Easement, Reservoir Access Easement and Gate Easement as shown on the Subdivision Map, as that term is described in Subsection 2.28, below, together with that certain easement over a portion or property which is contiguous to the Development, said easement comprising a portion of Old Mission Drive and being more particularly described in EXHIBIT "A" which is attached hereto and by this reference made a part hereof as though fully set forth herein, and any other plot of land conveyed to the Association and designated as "Common Area". Unless the context clearly indicates a contrary intent, any reference in this Declaration to the "Common Area" shall also include any Common Facilities located thereon.

2.10 **COMMON EXPENSE** - "Common Expense" means any use of common funds authorized by **ARTICLE VII** of the Declaration, entitled "**ASSESSMENTS**", and by **ARTICLE VIII** of the Bylaws, entitled "**POWER AND DUTIES OF THE BOARD**," and includes without limitation:

(a) All expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities or any portion of any Lot that the Association is obligated to maintain or repair.

(b) All Expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors.

(c) Any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and the Common Facilities or any portion of any Lot that the Association is obligated to maintain or replace, and for nonpayment of Assessments.

(d) The use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.

2.11 **COMMON FACILITY** - "Common Facility" means the reservoir, streets, access driveway to reservoir, gates, benches, docks, parking areas, trees, hedges, plantings, lawns, shrubs, landscaping, fences, berms, lighting fixtures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

2.12 **COUNTY** - "County" means the County of Tehama, California, the County in which the Development is located and its various departments, divisions, employees and representatives.

2.13 **DECLARANT** - "Declarant" means FIRST COMMERCIAL REAL ESTATE FINANCING, a California corporation, and its successors and assigns, if such successors and assigns are assigned to the rights of the Declarant pursuant to Subsection 3.10 of the Declaration, entitled "**ASSIGNMENT OF DECLARANT'S RIGHTS**," or if such successor or assign is a mortgagee acquiring Declarant's interest in the Development by foreclosure or deed in lieu of foreclosure.

2.14 **DECLARATION** - "Declaration" means this Declaration of Covenants, Conditions, and Restrictions as it may be amended, modified or supplemented from time to time.

2.15 **GOVERNING DOCUMENTS** - "Governing Documents" is a collective term that means and refers to the Declaration, the Articles and the Bylaws.

2.16 **IMPROVEMENT** - Improvement includes, but is not limited to, the construction, installation, alteration or remodeling of any buildings, walls, roofs, foundations, decks, fences, swimming pools, landscaping, landscape structures, skylights, solar heating equipment, spas, antennas, utility lines or any structure of any kind. In no event shall the term "Improvement" be interpreted to include projects which are restricted to the interior of any residence.

2.17 **INVITEES** - "Invitees" means any persons within the Development at the express or implied invitation of an owner for business purposes, for mutual advantage, or for purely social purposes.

2.18 **LOT** - "Lot" means any parcel of real property designated by a number on the Subdivision Map for any portion of the Properties, excluding the Common Area. When appropriate within the context of the Declaration, the term "Lot" shall also include the Residence and other improvements constructed or to be constructed on a Lot.

2.19 **MEMBER** - "Member" means every person or entity holding a membership in the Association.

2.20 **MORTGAGE: MORTGAGEE** - "Mortgage" means a mortgage or deed of trust encumbering a Lot or other portion of the Development. A "Mortgagee" shall include the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage. "Institutional Mortgagee" is a Mortgagee that is a bank or savings and loan association or Mortgage company or other entity chartered or licensed under Federal or State laws whose principal business is lending money on the security of real property or investing in such loans, or any insurance company or any Federal or State agency or instrumentality, including, without limitations, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. A "First Mortgage", or "First Mortgagee" is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Lot or other portions of the Development.

2.21 **OWNER** - "Owner" means each person or entity holding a record ownership interest in a Lot in the Development, including Declarant, and any contract buyer, providing said buyer is in possession under a recorded contract of sale, as well as, except where the context otherwise requires, the family, guests, tenants and invitees of an Owner. "Ownership" shall not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation.

2.22 **PARTY FENCES** - "Party Fences" means any improvements that are constructed on the property line of any two (2) adjoining Lots, a portion of which is located on each of the two (2) adjoining Lots.

2.23 **PRIVATE** - "Private" is used as descriptive of certain portions of the Common Area, such as, but not limited to, streets, roadways, parking areas and utility easements, traditionally recognized as being public in nature.

2.24 **PROJECT:DEVELOPMENT** - "Project" or "Development" means the Property that is to be developed as well as improved and the improvements on the Property.

2.25 **PROPERTY** - "Property" means the Real Property described in the Recitals, the Common Area, and any such additional real property as may later be annexed to the Development.

2.26 **RESIDENCE** - "Residence" means a private, single family dwelling constructed or to be constructed on a Lot.

2.27 **SUBDIVISION MAP** - "Subdivision Map" shall mean and refer to the recorded final Subdivision Map for the Development described in the Recitals.

ARTICLE III
PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS

3.1 **PERSONS SUBJECT TO GOVERNING DOCUMENTS.**

A. All present and future Owners, tenants and occupants of Lots within the Development shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one (1) or more of such classes of persons, i.e., Owners, tenants, invitees, etc. The acceptance of a deed to any Lot, the entering into a lease, sublease or contract of sale with respect to any Lot, or the occupancy of any residence shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of the Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

3.2 **NON-EXCLUSIVE EASEMENTS.**

A. Every Owner has a non-exclusive easement of use, enjoyment, ingress, egress, and support in, to, and throughout the Common Area as well as any improvements or Common Facilities on these areas.

B. Each such non-exclusive easement shall be appurtenant to the respective Lot and shall pass with the title to the Lot. Non-exclusive easements shall be subject to the following rights and restrictions:

1. The right of the Association to limit the number of guests, to adopt and to enforce the Association Rules.
2. Subject to the provisions of Subsection 10.3 of the Declaration, entitled "**RESTRICTION ON CERTAIN CHANGES,**" the right of the Association to borrow money, to improve, repair, or maintain the Common Area.
3. The right of the Association to assign, rent, license or otherwise designate and control use of any assigned parking and storage spaces within, and any other Common Facilities situated upon, the Common Area and charge reasonable fees for admission and use.

4. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the common area and common facilities and in aid thereof, to mortgage said property; provided, however, that the rights of any such Mortgagee in said properties shall be subordinate to the rights of the Owners hereunder; and further provided that any such indebtedness shall be considered an expense of the Association for purposes of the Special Assessment provisions of Subsection 7.7 of the Declaration, entitled "**SPECIAL ASSESSMENTS - PURPOSE OF AND PROCEDURE FOR LEVYING.**"
5. The right of the Association to suspend the right of an Owner to use any facility in the Common Area as provided in Subsection 5.6 of the Declaration, entitled "**RIGHT TO IMPOSE SANCTIONS FOR VIOLATION OF DECLARATION.**"
6. The right of the Association to adopt and enforce Association Rules concerning the control and use of any private streets, roadways and paved areas located upon or across the Common Area, including the right to regulate the kind of vehicles and their speed as well as the parking of vehicles upon such private streets and roadways. Declarant or the Association is authorized to delegate to a municipality or other governmental entity or to contract with any private security patrol company to exercise its authorized rights in connection with such private streets, roadways, and parking areas.
7. The streets within the Development shall also be subject to any emergency vehicle access easements and/or any public or private utility easements as shown upon and described by the Subdivision Map.

3.3 **BLANKET UTILITY EASEMENT.**

A. There is hereby created a blanket easement upon, across, over and under all of the Properties for ingress, egress, installation, replacing, repairing and maintaining all sidewalks and utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system, if any. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on said Properties except as initially designed and approved by the Declarant or thereafter approved by the Association's Board of Directors.

3.4 **RIGHTS OF ENTRY OR USE.**

A. Each Lot or the Common Area, as the case may be, shall be subject to the following right of entry and use:

1. The right of the Declarant or its designees to enter upon any portion of the Development to construct the improvements to the Property and to make repairs and remedy construction defects, provided that such entry shall not interfere with the use or occupancy of any occupied Lot unless authorized by its Owner, which authorization shall not be unreasonably withheld.
2. The right of the Association, or its agents, to enter any Lot to cure any violation or breach of the Declaration or the Bylaws or the Association Rules, provided that at least thirty (30) days prior written notice of such violation or breach, except in cases of emergency, has been given to the Owner, and further provided, that within the thirty (30) day period such Owner had not acted to cure such violation or breach. The Association shall be entitled to levy a special assessment for its costs of effecting such cure against the Owner in accordance with the procedures in Subsection 7.7 of the Declaration, entitled "**SPECIAL ASSESSMENTS-PURPOSE OF AND PROCEDURE FOR LEVYING.**" The rights of entry and cure shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not its Owner is present.
3. The right of the Association, its officers, agents, employees and any contractor selected by the Association to enter in or cross over the Common Area and any of the Lots to perform its obligations and duties under the Declaration, including obligations or duties with respect to construction, maintenance and repair of the Common Area, watering, planting, cutting, removing, and otherwise caring for landscaping, cleaning, repairing, replacing and otherwise maintaining or causing to be maintained the underground utility lines serving each Lot. The rights shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not its Owner is present.

4. The right, BUT NOT THE OBLIGATION, of any Owner or Owner's representatives, to enter the Lot of any other Owner for purposes of performing installations, alterations or repairs to mechanical or electrical services, including installation of television antenna and related cables, which are reasonably necessary to the use and enjoyment of his or her Lot, provided request for entry is made in advance and that entry is at a time convenient to the Owner whose Lot is being entered upon. In case of emergency the right of entry shall be immediate.
5. The right, BUT NOT THE OBLIGATION, of the Association and Owners, or their representatives, of adjoining Lots of entry upon and access to slopes and drainage ways located upon a Lot when such access is essential for the maintenance or stabilization of slopes or drainage, or both, on such adjoining Lots, provided request for entry is made in advance and that entry is at a time convenient to the Owner whose Lot is being entered upon. In case of emergency the right of entry shall be immediate.

3.5 <u>MINOR ENCROACHMENTS.</u>

A. Each Lot and its Owner shall have and is granted an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of structures, or any other cause as long as the encroachment remains. However, in no event shall a valid easement for encroachment exist in favor of an Owner if the encroachment occurred due to willful misconduct of the Owner. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owner of each Lot agrees that minor encroachments over adjoining Lots and the Common Area shall be permitted and there shall be valid easements for the maintenance of the encroachments as long as they shall exist.

3.6 <u>POWER TO GRANT EASEMENTS</u>

A. Declarant or the Association shall have the power to grant and convey in the name of all the Owners as their attorney-in-fact or in the name of the Association as to any property to which the Association holds title, to any Owner or other party easements and rights-of-way in, on, over, or under the Common Area. For the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasipublic improvements or facilities; and each purchaser, in accepting a deed to a Lot, expressly consents to such easements and rights-of-way and authorizes and appoints the Association and Declarant, as long as Declarant owns one (1) or more Lots, as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. However, no such easements can be granted if it would permanently interfere with the use, occupancy, or enjoyment by any Owner of his or her Lot unless approved by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of Members and their first mortgagees.

3.7 <u>PARTY FENCE EASEMENTS.</u>

A. Each Lot that shares a Party Fence with an adjoining Lot and its Owner is declared to have an easement appurtenant, and the same is granted by Declarant, on, over, and upon such adjoining Lot for such Party Fence, including the right to enter upon such adjoining Lot to service and maintain said easement and to service, maintain, repair, or replace the improvements constituting a Party Fence. The entry shall be at reasonable times, after prior notice, except that in case of emergency the right of entry shall be immediate. Excluding any maintenance obligation or duty of the Association, each Lot and its Owner shall be responsible for the maintenance, repair and reconstruction of that portion of the Party Fence which is located upon his or her Lot. No Owner shall alter the shape, size or construction or use any materials different from those used in the initial construction of any such Party Fence without the written consent of the Association.

3.8 <u>OTHER EASEMENTS.</u>

A. Each Lot and its Owner as well as the Association, as the case may be, is declared to be subject to all easements, dedications, and rights-of-way granted or reserved in, on, over, and under the Property and each Lot as shown on the Subdivision Map.

3.9 <u>EMERGENCY ACCESS AND RIGHT-OF-WAY.</u>

A. The Property, each Owner, and the Association, as the case may be, is declared to be subject to any emergency vehicle access easements and public right-of-way easements over the private street and driveways which shall remain open at all times.

3.10 **PUBLIC SERVICE EASEMENTS**.

A. There shall be and declarant hereby reserves and covenants for itself and all future Owners within the Development, easements for public services, including, but not limited to, the right of the police and fire departments to enter upon any part of the Common Area for the purpose of carrying out their official duties.

3.11 **DELEGATION OF USE**.

A. Any Owner may delegate his or her rights of use and enjoyment of the Development to the Members of his or her family, guests, tenants, employees and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules subject, however, to the Declaration. However, if an Owner has sold his or her Lot to a contract purchaser or has leased or rented it, the Owner, Members of the Owner's family, guests, tenants, employees, and invitees shall not be entitled to use and enjoy any of such rights in the Development while the Owner's Lot is occupied by the contract purchaser or tenant. Instead the contract purchaser, or tenant, while occupying such Lot, shall be entitled to use and enjoy such rights and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an Owner during the period of his or her occupancy. Each Owner shall notify the Secretary of the Association of the names of any contract purchasers or tenants of such Owner's Lot. Each Owner, contract purchaser, or tenant also shall notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any right of use and enjoyment and the relationship that each such person bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in the Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Lot shall require compliance by the tenant or contract purchaser with all of the covenants, conditions and restrictions contained in the Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of the Declaration to the same extent that such right of action exists against such Owner.

3.12 **ASSIGNMENT OF DECLARANT'S RIGHTS**.

A. Nothing in the Declaration shall limit the right of Declarant to complete construction of improvements to the Common Area and to Lots owned by Declarant or to alter them or to construct additional improvements as Declarant deems advisable before completion and sale of the entire Development. The rights of Declarant in the Declaration may be assigned by Declarant to any successor to all or any part of any Declarant's interest in the Development, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor or to a Mortgagee acquiring Declarant's interest in the Development by foreclosure or by deed in lieu of foreclosure.

ARTICLE IV
COVENANTS AND USE RESTRICTIONS

4.1 **RESIDENTIAL USE**.

A. With the exception of Lot 18, which may have one(1) commercial road-side advertising sign erected on it, Lots shall be used for residential purposes only, and no part of the Development shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes. However, for a period of three (3) years from the date of recordation of the Declaration, Lots owned by Declarant may be used by Declarant or its designees as models, sales offices, and construction offices for the purposes of developing, improving, and selling Lots in the Development.

4.2 **LEASING**.

A. An Owner is permitted to lease or rent Owner's Lot. However, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all terms and provisions of the Declaration, the Articles, the Bylaws and the Association Rules; and any lease or rental agreement shall comply with Subsection 3.9 of the Declaration, entitled "**DELEGATION OF USE**", and shall specify that failure to abide by such provisions shall be a default under the lease or rental agreement.

4.3 **MAINTENANCE - OWNER RESPONSIBILITY.**

A. Except as provided by Subsection 3.7 of the Declaration, entitled "**PARTY FENCE EASEMENTS**", each Owner of a Lot shall be responsible for maintaining the structures located upon his or her Lot, including the equipment and fixtures in the structure and its walls, roof, ceilings, windows and doors in a clean sanitary, workable and attractive condition. However, each Owner has complete discretion as to the choice of furniture, furnishings, and interior decorating; except that windows can be covered only by drapes, shutters, or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each Owner also shall be responsible for maintenance, repair, and replacement of all plumbing, electrical, heating, air conditioning, and gas lines, conduits, apparatus, and equipment servicing his or her Lot and repair, replacement, and cleaning of the windows and glass of his or her structure. In addition, each Owner shall be responsible for the repair and maintenance of any damage to the improvements on his or her Lot occasioned by the presence of wood-destroying pests or organisms. If an Owner is required to make any repair or if the Owner desires to construct any improvement or install any fixture or equipment that will effect the exterior appearance of the Lot and/or any structure on the Lot, the prior written approval of the Architectural Committee must first be obtained. However, such approval need not be obtained to make emergency repairs, provided that the structure so effected is restored to its original condition at the Owner's expense.

B. Each Owner shall also be responsible for the maintenance of all the exterior landscaping located on his or her Lot. Nothing in the Declaration withstanding, the above referenced Owners shall maintain the landscaping on his or her Lot in a safe, neat and orderly manner.

4.4 **MINIMUM SQUARE FOOTAGE REQUIREMENTS.**

A. Each Residence constructed on any Lot shall have a fully enclosed floor area, exclusive of roofed or unroofed porches, decks, terraces, garages, carports or other outbuildings, of not less than one thousand eight hundred square feet (1,800 sq.ft.).

4.5 **OFFENSIVE CONDUCT; NUISANCE.**

A. No noxious or offensive activities including, but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the Development. Nothing shall be done on or within the Development that may be or may become an annoyance or nuisance to the residents of the Development, or that in any way interferes with the quiet enjoyment of occupants of Lots. Unless otherwise permitted by the Association Rules, no Owner shall serve food or beverages, cook, barbecue or engage in similar activities except within such Owner's Lot.

4.6 **PARKING RESTRICTIONS; USE OF GARAGES.**

A. Unless otherwise permitted by the Association or this Subsection 4.5, no vehicle,boat or trailer shall be parked or left on any street or Lot in the Development, unless it is for the purpose of loading, unloading or construction activity, if visible from a street or Lot within the subdivision.

B. All driveways and garages shall be maintained in a neat and orderly condition and all garage doors shall remain closed except as is necessary to permit ingress and egress for vehicles or for the purpose of cleaning or working in the garage or the surrounding area. Any garages shall be used for the parking of vehicles only and shall not be converted for living, business or recreational activities if doing so would preclude the parking of vehicles in same.

C. The Association may, in accordance with Vehicle Code §22658.2, or comparable superseding statutes, install a sign at each vehicular entrance to the Development containing a statement that public parking is prohibited and that all vehicles not authorized to park in the Development will be removed at the Owner's expense. The sign shall contain the telephone number of the local traffic law enforcement agency and shall be not less than 17" x 22" in size with lettering not less than one inch (1") in height.

D. No motor vehicle shall be constructed, reconstructed or repaired within the Development and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored in the Development, unless screened from view from any street or Lot; provided, however, that the provisions of this section shall not apply to emergency vehicle repairs.

E. In addition and in compliance with the above cited Vehicle Code, the Association may cause the removal of any vehicle wrongfully parked on the property, including a vehicle owned by an occupant. If the identity of the vehicle owner is known or readily ascertainable, the Association, within a reasonable time, must notify the owner by first class mail of said removal. If the identity of the owner is not known or ascertainable, the Association must send a written report of the removal by mail to the California Department of Justice in Sacramento, if the vehicle has not been returned to the owner within one hundred twenty (120) hours. Immediately after the vehicle has been removed, the Association must notify the local traffic law enforcement agency of said removal. The notice must include a description of the vehicle, the license plate number, and the address from where the vehicle was removed. However, the vehicle may be removed without notice if it is parked in a marked fire lane, within fifteen (15) feet of a fire hydrant or if it occupies without proper authority a parking space designated for the handicapped, or if it interferes with an entrance or exit of the Development.

4.7 **SIGNS.**

A. Except as provided for in Subsection 4.1 of the Declaration, entitled "**RESIDENTIAL USES**",no advertising signs or billboards shall be displayed on any Lot or posted within or upon any portion of the Common Area without the written approval of the Association, except that Owners may display on their Lots any signs required by legal proceedings or a single "For Rent," "For Lease" or "For Sale" sign of reasonable dimensions and design. In addition, such signs as may be used by the Declarant or its designees for the purpose of developing, selling, and improving Lots within the Development shall be permitted, but only for a period of time not to exceed the date on which the last Lot is sold by Declarant or three (3) years from the date of recordation of the Declaration, whichever is sooner. In exercising its rights under this provision, Declarant shall not unreasonably interfere with the use of the Common Area by any Owner.

4.8 **ANTENNA AND EXTERNAL FIXTURES.**

A. No television or radio poles, antennas, flagpoles, clotheslines, basketball standards or other external fixtures, other than those originally installed by Declarant or approved by the Association and any replacements, shall be constructed, erected or maintained on or within the Lot or any structures on it, except when screened from view from any street or Lot in the Development. No wiring, insulation, air conditioning or other machinery or equipment, other than that originally installed by Declarant or approved by the Association and any replacements, shall be constructed, erected or maintained on or within the Lot including any structures on it. The location of common antenna or connection facilities, if any, for any cable television serving more than one Lot shall be as designated by the Association or the Architectural Committee, and each Lot and its Owner shall be subject to the right of other Owners or the Association to install, use and maintain such common antenna or facilities.

4.9 **FENCES.**

A. No fences, ornamental screens or walls of any nature shall be erected or maintained on or around any portion of any Lot except those that are installed in accordance with the original construction of the Development, their replacements, or those authorized and approved by the Association or the Architectural Committee.

4.10 **GAS OR LIQUID STORAGE.**

A. No tank for the storage of gas or liquid shall be installed on or in the Development unless such installation is done by Declarant or has been approved by the Association or the Architectural Committee.

4.11 **ANIMALS.**

A. No animals, reptiles, rodents, birds, fish, livestock, or poultry shall be kept on any Lot or elsewhere within the Development except that domestic dogs, cats, fish and birds, inside bird cages, may be kept as household pets within any Lot, if they are not kept, bred, or raised for commercial purposes or in unreasonable quantities as to be determined by the Association. The Association can prohibit the keeping of any animal that in the sole and exclusive opinion of the Association constitutes a nuisance to any other Owner. Each person bringing or keeping a pet upon the Development shall be liable to other Owners, their family members, guests, invitees, tenants, and contract purchasers, and their respective family members, guests, and invitees for any damage to person or property proximately caused by any pet brought upon or kept upon the Development by the person or by Members of his or her family, guests, or invitees.

4.12 **USE OF VEHICLES.**

A. No boat, truck in excess of three-quarter (¾) tons in gross weight, trailer, van, camper, recreational vehicle, or tent shall be used as a living area while located within the Development. However, trailers or temporary structures for use incidental to the initial construction of the Development or the initial sales of Lots may be maintained within the Development, provided that such use does not unreasonably interfere with any Owners' use of the Common Area. Such trailers or structures will be promptly removed upon completion of all initial construction and all initial sales.

4.13 **TRASH DISPOSAL.**

A. No trash, garbage, rubbish or other waste material shall be allowed to accumulate on any Lot unless stored in appropriate sanitary, covered disposal containers located within an enclosed area adjacent to the Owner's residence and screened from view from any street or neighboring Lot. Except on the scheduled day for trash pickup, these receptacles may be located in the places specifically designated for such purposes. Any extraordinary accumulation of rubbish, trash, garbage or debris, such as, but not limited to, debris generated upon vacating the premises or during the construction of modifications and improvements, shall be removed from the Lots to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed of in a manner inconsistent with this section.

4.14 **OUTSIDE LAUNDERING AND DRYING**

A. No exterior clotheslines shall be erected or maintained, unless they are screened from the view of any street or Lot in the Development. and there shall be no exterior drying or laundering of clothes on balconies, patios, porches, or other outside areas.

4.15 **MACHINERY AND EQUIPMENT**

A. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private residence or appurtenant structures within the Development.

4.16 **MONUMENTS.**

A. Monuments installed in the Development by the Declarant shall be maintained by the Association and shall not be altered or removed by anyone without the written approval of the Association.

4.17 **COMPLIANCE WITH LAW.**

A. Nothing shall be done or kept in any Lot or in the Common Area that might increase the rate of, or cause the cancellation of, insurance for the Development, or any portion of the Development, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Lot that violates any law, ordinance, statute, rule, or regulation of any local, county, state, or federal body. No Owner shall allow his or her furniture, furnishings, or other personalty to remain within any portion of the Common Area except as may otherwise be permitted by the Association.

4.18 **INDEMNIFICATION.**

A. Each Owner shall be liable to the remaining Owners for any damage to the Common Area or to Association-owned property that may be sustained by reason of the negligence of that Owner, that Owner's family members, contract purchasers, tenants, guests, or invitees, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association. Each Owner by acceptance of his or her deed, agrees personally and for family members, contract purchasers, tenants, guests, and invitees, to indemnify each and every other Owner, and to hold him harmless from and defend him against, any claim of any person for personal injury or property damage occurring within the Lot of that particular Owner, except to the extent that such injury or damage is covered by liability insurance in favor of the Association or other Owner or the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other person temporarily visiting his or her Lot.

4.19 **UNALLOCATED TAXES.**

A. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Regular Assessments imposed pursuant to Subsection 7.5 of the Declaration, entitled "**REGULAR ASSESSMENTS**," and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

4.20 **LEGAL REMEDIES FOR OWNER NONCOMPLIANCE.**

A. The objective of the Declaration is to promote and seek voluntary compliance by Owners and Tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action, the Owner or Tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or Tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or Tenant of his or her appeal rights.

ARTICLE V
PROVISIONS PROMULGATING ASSOCIATION ACTION

5.1 **INCORPORATION.**

A. The Association is a California nonprofit mutual benefit corporation. At the recording of the first Lot sale to an Owner, the Association shall be charged with the duties and invested with the powers set forth in the Articles, the Bylaws, and the Declaration.

5.2 **ACTION THROUGH DESIGNATED OFFICERS.**

A. Except as to the matters requiring the approval of Owners as set forth in the Declaration, the Articles, or the Bylaws, the affairs of the Association including the exercise of the powers and duties, shall be conducted by the Board, such officers as the Board may elect or appoint, or such persons or entities with delegated authority under the provisions of Subsection 5.7 of the Declaration, entitled "**RIGHT TO DELEGATE POWERS AND DUTIES**."

5.3 **STATEMENT OF BOARD POWERS.**

A. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the General Nonprofit Mutual Benefit Corporation Law of California, subject only to such limitations on the exercise of its powers as are set forth in the Articles, the Bylaws and the Declaration. It shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under the Declaration, the Articles, and the Bylaws and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the acts enumerated in Subsections 5.4 through 5.7 of the Declaration.

5.4 **ASSESSMENT RIGHTS.**

A. The Association shall establish, fix, and levy assessments against the Owners and collect and enforce payment of such assessments, in accordance with the provisions of the Declaration.

5.5 **THE RIGHT TO ESTABLISH ASSOCIATION RULES.**

A. The Association may adopt, amend and repeal Association Rules as it considers appropriate. The Association Rules shall regulate the use and enjoyment of the Common Area. A copy of the Association Rules as adopted, amended, or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. If any provision in the Declaration, the Articles, or the Bylaws is inconsistent with or materially alters any Association Rule, the Declaration, the Articles, or the Bylaws shall control to the extent of any such inconsistency.

5.6 **RIGHT TO IMPOSE SANCTIONS FOR VIOLATION OF DECLARATION.**

A. In addition to any other enforcement rights described in the Declaration and/or the Bylaws, or authorized by law and subject to any restrictions on the Association's enforcement rights, including any due process requirements, imposed by the Declaration, the Bylaws, or by law, the Association may take any of the following actions against any person or entity whose act or failure to act violates or threatens to violate any provision of the Declaration, the Bylaws or Association Rules:

1. Impose monetary penalties, including late charges of interest,
2. Suspend voting rights in the Association,
3. Suspend use privileges for the Common Area, and
4. Commence a legal action for damages, injunctive relief, or both.

B. The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Association. Any legal action may be brought in the name of the Association on its own behalf and on behalf of any Owner who consents, and the prevailing party in such action shall be entitled to recovery costs and reasonable attorneys fees. The Association may take more than one (1) of the foregoing enforcement sanctions against any one (1) violation or threatened violation, provided that a suspension of use privileges shall not exceed thirty (30) days, unless suspension is for delinquent assessments, and a monetary penalty shall not exceed Fifty Dollars ($50.00), excluding late charges imposed for delinquent assessments, for any one (1) violation. The Association, in its sole discretion, may resolve or settle any dispute, including any legal action under such terms and additions as it considers appropriate.

C. The Association shall have the power to adopt a schedule of reasonable fines and monetary penalties for violations of the terms of the Declaration and the Bylaws, as well as any rules adopted pursuant to same, provided that such schedule is distributed to each Member by personal delivery or first class mail.

D. If any Member who is being disciplined so requests, the Board must meet in executive session and the Member is entitled to attend.

E. The Association may not cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his or her Lot except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessment fees levied by the Association.

F. The enforcement of monetary penalties is subject to the restrictions described in Subsection 7.7 of the Declaration, entitled "**SPECIAL ASSESSMENTS - PURPOSE OF AND PROCEDURE FOR LEVYING.**"

G. If any Owner fails to cure a default within sixty (60) days after written notice to that Owner, the Association shall give the notice required in Subsection 10.7 of the Declaration, entitled "**DEFAULT NOTICE REQUIREMENT**," to the Mortgagee of record.

5.7 **RIGHT TO DELEGATE POWERS AND DUTIES.**

A. The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

1. To make expenditures for capital additions or improvements chargeable against the reserve funds;
2. To conduct hearings concerning compliance by an Owner or his or her tenant, lessee, guest or invitee with the Declaration, Bylaws or rules and regulations promulgated by the Board;
3. To make a decision to levy monetary fines, impose special assessments against individual Lots, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;
4. To make a decision to levy annual or special assessments; or
5. To make a decision to bring suit, record a claim of lien or institute foreclosure proceedings for default in payment of assessments.

5.8 **DUTIES.**

A. In addition to the duties described in the Articles or Bylaws, the Association shall have the duties set forth in Subsections 5.9 through 5.15 of the Declaration.

5.9 **MANAGEMENT AND MAINTENANCE OF COMMON AREA.**

A. The Association shall manage and maintain in good condition and repair the Common Area, including, but not limited to, the facilities, improvements, landscaping, any private driveways other than those driveways located on Lots, private streets, drainage and other personal or real property acquired by or subject to the control of the Association. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any shrub or other vegetation from, or plant any shrub, or other vegetation upon the Common Area without express approval of the Association.

5.10 **CONTRACTING FOR GOODS AND SERVICES.**

A. The Association shall enter into such contracts for services or materials as may be necessary to perform its duties including contracts with Declarant, subject to the provisions of those Sections in the Declaration that have application thereto.

5.11 **PAYMENT OF TAXES AND ASSESSMENTS.**

A. The Association shall pay all real and personal property taxes and assessments and all other taxes levied against the Association, the Common Area, or the personal property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

5.12 **SECURING INSURANCE COVERAGE.**

A. The Association shall obtain and maintain the insurance described in Subsections 8.1 through 8.3 of the Declaration.

5.13 **PREPARATION AND DISTRIBUTION OF FINANCIAL STATEMENTS, REPORTS AND COPIES OF GOVERNING INSTRUMENTS.**

A. The Association shall prepare and distribute the following financial statement, reports, and copies of governing instruments as indicated:

1. A balance sheet rendering as of an accounting date that is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Lot, hereinafter referred to as the "Accounting Date", and an operating statement for the period commencing with the date of closing of the first sale and ending on the Accounting Date. The operating statements shall include a schedule of the total assessments received or receivable. Copies of the balance sheet and operating statement shall be distributed to each Owner and any Mortgagee that has requested a copy within sixty (60) days after the Accounting Date.
2. A proforma operating budget for each fiscal year shall be distributed not less than forty-five (45) days nor more than sixty (60) days before the beginning of such fiscal year, consisting of at least the following:
   a. The estimated revenues and expenses on an accrual basis;
   b. A summary of the Association's reserves based upon the most recent review or study conducted under California Civil Code §1365.5, or comparable superseding statutes, which summary shall be printed in bold type and include all of the following:
      (1) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component that the Association is obligated to maintain, hereinafter collectively referred to as the "Major Components";
      (2) As of the end of the fiscal year for which the study is prepared:
         (i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the Major Components;
         (ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain Major Components; and
         (iii) The percentage of the amount in b.(1), above, that the amount in b.(2), above, represents.
   c. A statement as to whether the Board has determined or anticipates that the levy of one (1) or more special assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves for them.
   d. A general statement addressing the procedures used for the calculation establishing those reserves to defray the future repair, replacement, or additions to the Major Components that the Association is obligated to maintain.
   e. A general statement regarding the Member's right to have copies of the minutes of meetings of the Board of Directors and how and when these minutes may be obtained.
   f. Instead of distributing the proforma operating budget, the Board may elect to distribute a summary of the budget to all of its Members with a written notice that the budget is available at the business office of the Association or at another suitable location within the boundaries of the Development and that copies will be provided on request at the expense of the Association. The notice must be in at least ten (10) point, bold type and must appear on the front page of the summary of the budget. Any Member who requests a copy of the budget shall be provided a copy by the Association by first class United States mail at the Association's expense within five (5) days of the date the Association received the request.
   g. The summary of the Association's reserves disclosed pursuant to this Subsection 5.13A.2. shall not be admissible as evidence to show improper financial management of the Association.

3. An annual report consisting of a balance sheet rendering as of the last day of the fiscal year, an operating statement for the fiscal year and a statement of changes in financial position for the fiscal year. A copy of the annual report shall be distributed to each Owner and any Mortgagee that has requested a copy within one-hundred twenty (120) days after the close of the fiscal year. In any fiscal year in which the gross income of the Association exceeds Seventy Five Thousand Dollars ($75,000), a copy of the review of the annual report prepared by a licensee of the California State Board of Accountancy in accordance with generally accepted accounting principles shall be distributed with the annual report. If the annual report is not reviewed by an independent accountant, the report shall be accompanied by the certificate of an authorized officer of the Association that the report was prepared from the books and records of the Association without independent audit or review.
4. A statement of the Association's policies and practices in enforcing its remedies against Owners for delinquent, regular or special assessments including the recording and foreclosing of liens against a delinquent Owner's Lots. A copy of this statement shall be distributed to each Owner and any Mortgagee that has requested a copy within sixty (60) days prior to the beginning of each fiscal year.
5. Copies of the Declaration, the Articles, Bylaws, Association Rules, and the statement regarding delinquent assessments as described in Subsection 7.13 of the Declaration, entitled "**ESTOPPEL CERTIFICATE**," shall be provided any Owner within ten (10) days of the mailing or delivery of a written request. The Board may impose a fee to provide these materials not to exceed the Association's reasonable cost in preparing and reproducing the materials.

5.14 **ENFORCEMENT OF BONDED OBLIGATIONS.**

A. If the Association is the obligee under a bond or other arrangement, hereinafter referred to as the "Bond," to secure performance of a commitment of the Declarant or its successors or assigns to complete the Common Area improvements not completed at the time the California Commissioner of Real Estate issues a final subdivision public report for the Development, 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 improvement for which a notice of completion has not been filed by the later of sixty (60) days after the completion dates specified for that improvement in the "planned construction statement" appended to the Bond, or thirty (30) days after the expiration of any written extension given by the Association.

B. If the Board fails to consider and vote on the action to enforce the obligations under the Bond, or if the Board decides not to initiate action to enforce the obligations under the Bond, then on receipt of a petition signed by Owners representing not less than five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of Owners for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the Bond. The Board shall give written notice of the meeting to all Owners entitled to vote in the manner provided in the Declaration or in the Bylaws for the notices of special meetings of Owners. The meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt of the petition. At the meeting the vote in person or by proxy of the majority of the Owners entitled to vote, other than Declarant, in favor of taking action to enforce the obligations under the Bond shall be considered the decision of the Association and the Board shall implement this decision by initiating and pursuing appropriate action in the name of the Association.

C. The Association shall act in a reasonably prompt manner to exonerate Declarant and its surety under any Bond in favor of the Association, provided such exoneration is appropriate.

5.15 **OTHER DUTIES.**

A. The Association shall perform such other acts as may be reasonably necessary to exercise its powers or perform its duties under any of the provisions of the Declaration, the Articles, the Bylaws, Association Rules or Board resolutions.

5.16 **LIMITATIONS ON AUTHORITY OF BOARD OR ASSOCIATION.**

A. Except with the assent of a simple majority of the Owners , entitled to vote, other than Declarant, either by written consent without a meeting, pursuant to Section 7513 of the California Corporations Code, or comparable superseding statutes, or by a vote taken at a duly called or held meeting of the Association at which a quorum is present, the required quorum for such Owner action being fifty-one percent (51%) of the voting rights of all Owners other than the Declarant , the Board shall not take any of the following actions:

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

2. Sell, during the fiscal year, property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year;
3. Pay compensation to Members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse a Member for expenses incurred in carrying on the business of the Association; or
4. Enter into a contract with a third person to furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:
    a. A management contract, the terms of which have been approved by the Federal Housing Administration or the Veterans Administration;
    b. A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided the term does not exceed the shortest term for which the supplier will contract at the regulated rate;
    c. Prepaid casualty or liability insurance policies not to exceed three (3) years duration provided the policy permits for short rate cancellation by the insured;
    d. Lease agreements for equipment not to exceed five (5) years duration provided the Declarant does not have a direct or indirect ownership interest of ten percent (10%) or more and any lessor under such agreements;
    e. Agreements for cable television services and equipment or satellite dish television services and equipment not exceeding five (5) years in duration provided the supplier is not an entity in which the declarant has a direct or indirect ownership interest of ten percent (10%) or more; and
    f. Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services not exceeding five (5) years' duration, provided that the supplier or suppliers are not entities in which the subdivider has a direct or indirect ownership interest of ten percent (10%) or more.
    g. Agreements for a term not to exceed three(3) years in duration which are subject to termination by the Association, without cause, penalty or other obligation, after being in force for no longer than one(1) year, upon the giving of a ninety(90) day written notice of termination to all of the other parties to such Agreement.

B. Notwithstanding anything herein to the contrary, but subject to subsection 5.16.C., below, the Board shall not institute any significant legal proceeding, including any arbitration or judicial reference proceeding, against any person without providing the Members of the Association with at least one hundred and twenty(120) days' prior written notice of the Association's intention to institute legal proceedings, hereinafter referred to as the "Notice". The notice shall describe the purpose of the proceeding, the parties to the proceeding, the anticipated cost to the Association, including attorney fees, in processing the proceeding, the source of funds to process the proceedings, reserves, special or regular assessments, and suggested information that should be disclosed to third(3rd) parties, such as, but not limited to, prospective purchasers and lenders, while the proceeding is being prosecuted. For purposes herein, "Significant Legal Proceeding" shall mean any legal proceeding in which it reasonably could be anticipated that any of the following events might occur:

1. The levee of a special assessment to fund all or any of the proceedings;
2. The expenditure of funds from the Association reserves in connection with the proceeding in an amount in excess of five percent(5%) of the then current reserves;
3. The amount of the claim is in excess of Twenty Thousand Dollars($20,000.00); or
4. A material adverse effect on the ability to sell and/or refinance the lots within the Development during the period the proceeding is being prosecuted.

C. The Notice shall not be required to commence and pursue any action to collect delinquent assessments as described in subsection 7.14 of the Declaration, entitled "ASSOCIATION'S POWERS TO ESTABLISH ASSESSMENT LIEN", or to enforce any Common Area completion bond as described in subsection 5.14 of the Declaration, entitled, "ENFORCEMENT OF BONDED OBLIGATIONS". Furthermore, if the Board in good faith determines that there is insufficient time to provide prior notice to the Members, as required herein, before the expiration of any applicable statute of limitations or before the loss of any other significant right of the Association, the Board may take the necessary steps to commence the proceeding to preserve the rights of the Association, provided that as soon as is reasonably practical thereafter, and not later than thirty(30) days following the commencement of the proceeding, the Board shall provide the Members with notice as required in subsection 5.16.B, above.

D. Before instituting any of the above mentioned proceedings or any actions for declaratory or injunctive relief, the Board is authorized and encouraged, but not required, to make a good faith attempt to mediate the dispute.

E. Recognizing that Arbitration is discretionary and is not mandatory, nevertheless, in an effort to preserve and promote a harmonious atmosphere which will be conducive to an open and congenial Development community, while at the same time avoiding or reducing the substantial costs and expenditure of time that are often associated with litigation, it is earnestly recommended that the following procedure be utilized.

F. The Board, hereinafter referred to as the "Complaining Party", shall send to the other party, hereinafter referred to as the "Responding Party", a thirty(30) day written notice of the nature of the dispute, the facts giving rise to its claim and its, his or her intent to initiate litigation, hereinafter referred to as the "Litigation Notice".

G. The Litigation Notice shall name a mediator. The Complaining Party shall be obligated to pay any fee to initiate mediation, however the cost of mediation, including any attorney's fees, shall ultimately be borne as determined by the parties if the mediation results in a settlement of the dispute. If the Responding Party does note agree with the Complaining Party's choice of a mediator, the parties shall ask that the American Arbitration Association pick a mediator from it's panel within ten(10) days from the Responding party's receipt of the Mediation Notice. Within thirty(30) days after the mediator is chosen, the parties shall schedule and attend a mediation session and made a good faith effort to resolve their dispute. If the mediation session does not resolve the dispute or if the Responding party refuses to attend, the dispute shall be submitted to, and conclusively determined by, arbitration in accordance with subsections 5.16F through 5.16L below, provided, however, the provisions of this subsection 5.16G shall not preclude any party from seeking injunctive or other provisional or equitable relief in order to preserve the status quo of the parties pending resolution of the dispute and, the filing of an action seeking injunctive or other provisional relief shall not be construed as a waiver of that party's arbitration rights.

H. The arbitrators shall be selected and the arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

I. The arbitration shall be conducted in Tehama County, California.

J. The parties shall submit to the arbitration all written, documentary, or other evidence, and oral testimony as is reasonably necessary for a proper resolution of the dispute. Copies of all written submittals shall be provided to the arbitrator(s) and the parties on each side. The Arbitrator(s) shall conduct such hearings as (s)he/they consider necessary; may require the submission of briefs or points and authorities; and may submit written questions to the parties. the parties shall respond to such questions in writing. If a question is addressed to less than all of the parties, copies of the question and the answer thereto shall be served on the other parties.

K. At the hearing, any relevant evidence may be presented by any party and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence shall be admitted or excluded at the sole discretion of the arbitrator(s).

L. Except as provided above, those arbitration procedures set forth in the California Statutes, which are in effect at the time any arbitration is commenced, shall apply to said arbitration.

M. The arbitration shall proceed with due dispatch and a decision shall be rendered within sixty(60) days after appointment of the arbitrator(s). The arbitrator(s)' decision shall be in writing and in a form sufficient for entry of a judgment in any court of competent jurisdiction in the state of California.

N. Any decision of the arbitrator(s) shall be subject to the limitations set forth in the immediately succeeding paragraph:

1. The arbitrator(s)' decision shall pertain, and shall be limited to, the granting of damages not to exceed any party's actual out-of-pocket expenses and the costs of undertaking any repairs, maintenance or reconstruction relating to the dispute and the award of any injunction or other equitable relief. In no event shall the arbitrator(s)' award include any component for punitive or exemplary damages. Costs of the arbitration proceeding shall be borne as determined by the arbitrator(s).

5.17 **LIMITATION ON LIABILITY OF OFFICERS AND DIRECTORS.**

A. No director or officer of the Association, collectively and individually referred to as the "Released Party," shall be personally liable to any of the Association's Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

B. Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

C. No person who suffers bodily injury, including, without limitation, emotional distress or wrongful death, as a result of the tortious act or omission of a volunteer member of the Board or volunteer officer of the Association shall recover damages from such Board member or officer if all of the following conditions are satisfied:

1. The Board member or officer is an Owner of no more than two Lots;
2. The act or omission was performed within the scope of the volunteer 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;
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 or more policies of insurance that include coverage for general liability of the Association and individual liability of the officers and directors of the Association for negligent acts or omissions in their official capacities, with minimum coverage for both types of insurance being not less than one million dollars($1,000,000.00).

D. The payment of actual expenses incurred by a Board member or officer in the execution of that person's Association duties shall not affect that person's status as a volunteer Board member or officer for the purposes of this section. However, any director or officer who receives direct or indirect compensation from the Declarant or from a financial institution that acquired a Lot within the Properties as the result of a judicial or nonjudicial foreclosure proceeding is not a volunteer.

E. The provisions of this subsection 5.17 are intended to reflect the protections accorded to volunteer directors and officers of community associations under Civil Code §1365.7. In the event Civil Code section 1365.7 is amended or superseded by another, similar provision of the California statutes, this subsection 5.17 shall be deemed amended, without the necessity of further Owner approval, to correspond to the amended or successor Civil Code provision.

5.18 **DELIVERY OF DOCUMENTS AND INSPECTION OF ASSOCIATION BOOKS AND RECORDS.**

A. The Declarant and its successors and assigns, shall, commencing no later than ninety(90) days after the close of escrow on the sale of the first(1st) Lot in the Development, other than to the Declarant, deliver, or caused to be delivered, as soon as they are readily obtainable, one(1) copy of any of the documents listed in subsection 5.18B, below, that have application to the Development, to the governing body of the Association, at the Association office or at such other location as the governing board may from time to time designate by written notification to the Declarant, provided that such obligation shall terminate upon the earliest to occur of the following events:

1. The conveyance of the last Lot in the Development to an Owner other than the Declarant, covered by a Public Report; or
2. Three(3) years from the date of expiration of the most recent Public Report covering the Development or any portion thereof.

B. The documents to be delivered, if applicable, are:

1. The recorded subdivision map or maps for the Development.
2. The deeds and easements executed by the subdivider conveying the common area or other interest to the Association.
3. The recorded covenants, conditions and restrictions for the subdivision, including all amendments and annexations thereto.
4. the Association's filed Articles of Incorporation, if any, and all amendments thereto.
5. The Association's Bylaws and all amendments thereto.
6. All Architectural Guidelines and all other rules regulating the use of an Owner's interest in the subdivision or use of the Common Area which have been promulgated by the Association.
7. The plans approved by the local agency or county where the subdivision is located, for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy.
8. All notice of completion certificates issued for Common Area improvements, other than residential structures.
9. Any bond or other security device in which the Association is the beneficiary.
10. Any written warranty being transferred to the Association for Common Area equipment, fixtures, or improvements.
11. Any insurance policy procured for the benefit of the Association, its governing Board or the Common Area.
12. Any lease or contract to which the Association is a party.
13. The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the members, of the governing body and of committees of the governing body of the Association.
14. Any other instrument that is not described above, which established or defines the common, mutual, or reciprocal rights or responsibilities of members of the Association.

C. Any Owner, or that Owner's duly appointed representative, shall have access to any of those documents listed in subsection 5.16B, above, the Association's membership register, including mailing addresses and telephone numbers, books of account, and minutes from any meeting of the Owners, the Board, with the exception of any minutes from executive sessions of the Board, or any committee of the Board in order to inspect and copy such records and/or documents, for any purpose reasonably related to his or her interest as an Owner. Access shall be at any reasonable time at the office of the Association or such other place within the Development as the Board prescribes. The Board shall establish rules regarding the notice the Owner must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied, and the charges imposed by the Association for copying records requested by an Owner.

5.19 **LITIGATION.**

A. Subject to the provisions in subsection 5.16 of the Declaration, entitled "LIMITATIONS OF AUTHORITY OF BOARD OR ASSOCIATION", and California Civil Code Section 1354, or comparable superseding statutes, the Board of Directors has the authority to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation or administrative proceedings in matters pertaining to:

1. The enforcement of the governing documents;
2. Damage to the Common Area;
3. Damage to any separate interests which the Association is obligated to maintain or repair; or
4. Damage to a separate interest which arises out of, or is integrally related to, the Common Area or a separate interest that the Association is obligated to maintain or repair.

ARTICLE VI
PROVISIONS DECLARING MEMBERSHIP AND VOTING RIGHTS

6.1 **MEMBERSHIP APPURTENANT TO OWNERSHIP.**

A. Each Owner, including Declarant, shall be a Member of the Association. Membership shall be appurtenant to each Lot, and the holding of an ownership interest in a Lot shall be the sole qualification for membership, provided that no Owner shall hold more than one (1) membership even though such Owner owns an interest in more than one (1) Lot. Membership shall terminate automatically when the Owner no longer holds any ownership interest in any Lot. Membership may not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to a Lot and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall transfer automatically the appurtenant membership to the transferee. Any party that holds an interest in a Lot merely as security for a performance of an obligation shall not be a Member of the Association.

B. Each Member of the Association shall have the right, duties, and obligations set forth in the Declaration, the Articles, Bylaws, and Association Rules.

6.2 **VOTING.**

A. Except as otherwise provided in the Declaration, the Articles or the Bylaws and subject to the provisions of Subsection 6.3 of the Declaration, entitled "**TWO CLASS SYSTEM: WEIGHTED VOTES,**" all matters requiring the approval of Owners shall be deemed approved if Owners holding a majority of the total voting power of all Owners assent to them by written consent or if approved at any duly called regular or special meeting at which a quorum is present, either in person or by proxy, by Owners holding a majority of the voting power of all Owners present, either in person or by proxy.

6.3 **TWO CLASS SYSTEM: WEIGHTED VOTES.**

A. The Association shall have two (2) classes of voting membership as follows:

1. **Class A:** Class A Owners are all Owners, with the exception of Declarant. Each Class A Owner shall be entitled to one (1) vote for each Lot in which he or she owns an interest. If more than one (1) Owner owns an interest in the Lot, only one (1) vote may be cast with respect to that Lot.
2. **Class B:** The Class B Owner shall be the Declarant who will be entitled to three (3) votes for each Lot owned in the Development. Class B membership shall cease and be irreversibly converted to Class A membership on the occurrence of one (1) of the following events, whichever occurs earliest:
   a. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
   b. On the second anniversary of the original issuance of the Final Subdivision Public Report for the Development by the Commissioner of the California Department of Real Estate.

B. As long as two (2) classes of voting memberships exist, any action by the Association that requires approval by the Owners shall require approval by the designated percentage of voting power in each class, except the action described in Subsection 5.14 of the Declaration, entitled "**ENFORCEMENT OF BONDED OBLIGATIONS.**"

C. Voting rights shall vest either at the time assessments are levied against the Owner's Lot or as provided in a subsidization plan approved by the California Department of Real Estate.

D. Voting for the Members of the Board shall be by secret written ballot, and the Members shall be entitled to exercise cumulative voting rights as provided in Subsection 6.5 of the Declaration, entitled "**CUMULATIVE VOTING.**"

6.4 **JOINT OWNERSHIP VOTES.**

A. The vote that is attributed to each Lot may not be cast on a fractional basis. If the Lot has more than one (1) Owner and the Owners are unable to agree as to how the vote should be cast, the vote shall be forfeited on the matter in question. If one (1) Owner cast the vote attributed to a Lot, the vote shall conclusively bind all of the Owners of that Lot. If more than one(1) Owner cast the vote attributed to a Lot in any manner in which one (1) vote could be cast for that Lot, the votes cast by such Owners shall not be counted and shall be considered void.

6.5 **CUMULATIVE VOTING.**

A. The election of Members to the Board may be by cumulative voting as described herein, provided an Owner has placed a candidate's name in nomination prior to the voting and given notice at the meeting prior to the voting of the Owner's intention to cumulate votes. If any Owner has given such notice, then all Owners shall have the right to cumulate their votes for candidates in nomination. Under cumulative voting, each Owner either in person or by proxy, may give a single candidate the number of votes equal to the number of directors to be elected multiplied by the number of votes the Owner is entitled to exercise under the Declaration, or the Owner may distribute these cumulated votes among any two (2) or more candidates as the Owner desires. The candidates receiving the highest number of votes up to the number of Board members to be elected shall be elected. Unless the entire Board is removed by a vote of the Owners, an individual director may not be removed prior to the expiration of his or her term if the votes against removal would have been sufficient to elect that director if cast cumulatively at an election in which the same total number of votes where cast and all directors authorized at the time of the most recent election of that director were being elected. These cumulative voting provisions do not apply to the election of special directors by Owners other than Declarant under the provisions set forth in the Bylaws.

ARTICLE VII
ASSESSMENTS

7.1 **ASSESSMENTS - AGREEMENT TO PAY.**

A. The Declarant covenants and agrees for each Lot owned by it in the Development that is expressly made subject to assessments as set forth in the Declaration, and each Owner by acceptance of a deed covenants and agrees for each Lot owned, to pay to the Association the regular and special assessments levied in accordance with the provisions of the Declaration, and to allow the Association to enforce any assessment lien established in accordance with the provisions of the Declaration by nonjudicial proceedings under a power of sale or by any other means authorized by law.

7.2 **DECLARANT'S LIMITED EXEMPTION FROM ASSESSMENT DURING CONSTRUCTION.**

A. Notwithstanding the provisions of Subsection 7.1 of the Declaration, entitled "**ASSESSMENTS - AGREEMENT TO PAY,**" any Lot having no structural improvements for human occupancy shall be exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the structural improvement. The exemption may include, but is not limited to:

1. Roof replacement;
2. Exterior maintenance;
3. Walkway and carport lighting;
4. Refuse disposal;
5. Cable television; and
6. Domestic water supplied/supply to living units.

B. The foregoing exemptions shall be in effect until the earliest of the following events:

1. Recordation of a Notice of Completion of the structural improvements;
2. Occupation or use of the Lot; or
3. Completion of all elements of the residential structures that the Association is obligated to maintain.

C. The Declarant and any Owner of a Lot are exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a Common Facility that is not complete at the time assessments commence. This exemption from the payment of assessments shall be in effect until the earliest of the following events:

1. A Notice of Completion of the Common Facility has been recorded; or
2. The Common Facility has been placed into use.

7.3 **ASSESSMENTS AS PERSONAL OBLIGATION OF OWNER.**

A. Each assessment or installment, together with any late charge, interest, collection costs, and reasonable attorneys fees, shall be the personal obligation of the Owner at the time such assessment or installment becomes due and payable. If there is more than one (1) Owner of a particular Lot, each Owner shall be jointly and severally liable. The personal obligation for any delinquent assessments or installments and related sums shall not pass to an Owner's successor in interest unless expressly assumed by the successor in interest. No Owner may be relieved from the obligation to pay assessments or installments by waiving the use of enjoyment of all or any portion of the Common Area or the Owner's Lot, or by abandoning the Lot.

7.4 **SCOPE OF ASSESSMENT AUTHORITY**

A. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Members of the Association, to improve, replace, repair, operate, and maintain the Common Area, the landscaping, the improvements and personal property, wherever located within the Development, that are owned or maintained by the Association, to provide funds necessary for the performance of the duties of the Association as set forth in the Declaration, and to further any other purpose that is for the common benefit of the Owners and their use and enjoyment of the Property.

7.5 **REGULAR ASSESSMENTS.**

A. Not more than ninety (90) days nor less than sixty (60) days before the beginning of each fiscal year of the Association, the Board shall meet for the purposes of establishing a regular annual assessment for the forthcoming fiscal year. At such meeting, the Board shall review the preliminary proforma operating budget prepared in accordance with the provisions of Subsection 5.13 of the Declaration, entitled "**PREPARATION AND DISTRIBUTION OF FINANCIAL STATEMENTS, REPORTS AND COPIES OF GOVERNING INSTRUMENTS**," any written comments received from Members and Mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate, the Board, subject to the restrictions described in this provision and having either complied with Subsection 5.13A.2. of the Declaration or obtained the approval of a majority of the votes at a meeting of the Members at which a quorum is present, shall establish the regular assessment for the forthcoming fiscal year. The Board may not establish a regular assessment for any fiscal year that is more than one hundred twenty percent (120%) of the regular assessment for the prior fiscal year, except the Association's first fiscal year if it is less than twelve (12) months, without the approval by vote or written consent of the Owners holding fifty-one percent (51%) of the voting rights of each class of Owners if there are two (2) classes, or if there is one (1) class, the approval by vote or written consent of the Owners holding fifty-one percent (51%) of the voting rights of all the Owners and the Owners, other than Declarant, holding fifty-one percent (51%) of the voting rights of all the Owners other than the Declarant.

B. Unless the Association is exempt from federal or state income taxes, including without limitation an exemption under Internal Revenue Code §528 and Revenue and Taxation Code §23701t, or comparable superseding statutes, all reserve funds, to the extent possible, shall be designated and accounted for as capital contributions to the Associations and the Board shall take such steps as may be reasonably necessary under federal and state tax laws to prevent the reserve funds from being taxed as income of the Association, including, if necessary, maintaining the reserve funds in segregated accounts and not commingling the funds with general operating funds.

C. Notwithstanding any other provisions in the Declaration to the contrary, the Board may not impose a regular assessment for any fiscal year more than twenty percent (20%) above the regular assessment for the Association's preceding fiscal year without the approval of a majority of the votes at a meeting of the Members at which a quorum is present.

D. The foregoing restriction on assessment increases does not apply to increases necessary for emergency situations. An emergency situation is one of the following:

1. An extraordinary expense required by an order of court.
2. An extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain when a threat to personal safety on the Property is discovered.
3. An extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro-forma operating budget required under California Civil Code §1365, or comparable superseding statutes, provided that before the imposition or collection of any assessment under this subparagraph the Board must pass a resolution containing written findings as to the necessity of the extraordinary expenses involved and why the expense was not or could not have been reasonably foreseen in the budget process, and shall distribute the resolution to the Members with the notice of assessment.

7.6 **RESERVE FUNDS.**

A. Each annual regular assessment shall include a portion for reserves in such amount as the Board in its discretion deems appropriate to meet the cost of the future repair, replacement, or additions to the Major Components that the Association is obligated to maintain and repair. Reserve funds shall be deposited in a separate account and the signatures of at least two (2) persons who shall either be Members of the Board or one officer who is not a Member of the Board and a Member of the Board, shall be required to withdraw money from the reserve account. Reserve accounts may not be expended for any purpose other than repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of Major Components that the Association is obligated to maintain.

B. Notwithstanding the foregoing, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short term cash flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within three (3) years of the date of the initial transfer, provided that the Board on the making of a finding supported by documentation that a delay is in the best interest of the Development, may delay the restoration until the time that the Board reasonably determines to be necessary. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required. This special assessment shall not be subject to the assessment increase restrictions set forth in Subsection 7.8 of the Declaration entitled "**RESTRICTING AMOUNT OF SPECIAL ASSESSMENTS**," and California Civil Code §1366(b), or comparable superseding statutes.

C. At least once every three (3) years, the Board shall cause a study of the reserve account requirements to be conducted if the current replacement value of the Major Components that the Association is obligated to repair, replace, restore or maintain is equal to or greater than one-half (1/2) of the gross budget of the Association for any fiscal year. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

D. The study shall, at a minimum, include:

1. Identification of the Major Components that the Association is obligated to repair, replace, restore or maintain that, as of the date of the study, have a remaining useful life of less than thirty (30) years;
2. Identification of the probable remaining useful life of the components identified in Subsection 7.6(D)1., above, as of the date of the study;
3. An estimate of the cost of repair, replacement, restoration or maintenance of each Major Component identified in Subsection 7.6(D)1., above during and at the end of its useful life; and
4. An estimate of the total annual contribution necessary to defray the costs to repair, replace, restore, or maintain each Major Component during and at the end of its useful life after subtracting total reserve funds as of the date of the study.

E. As used herein, "Reserve Accounts" means money that the Board has identified for use to defray the future repair or replacement of or additions to, those Major Components that the Association is obligated to maintain; and "Reserve Account Requirements" means the estimated funds that the Board has determined are required to be available at a specified time to repair, replace, or restore those Major Components that the Association is obligated to maintain.

7.7 **SPECIAL ASSESSMENTS - PURPOSE OF AND PROCEDURE FOR LEVYING.**

A. Subject to the restrictions described in Subsection 7.8 of the Declaration, entitled "**RESTRICTING AMOUNT OF SPECIAL ASSESSMENTS**," the Board may levy a special assessment if the Board, in its discretion, determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including the maintenance of appropriate reserves, for a particular fiscal year for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacement of capital improvements or otherwise. The Board shall determine the amount necessary to meet the estimated expenses, and if the amount is approved by the majority vote of the Board, it should become a special assessment. The Board, in its discretion, may levy the entire assessment immediately or levy it in installments over a period it considers appropriate. Unless the Association is exempt from federal or state income taxes including, without limitation, any exemption under Internal Revenue Code §528 and Revenue and Taxation Code §23701t, or comparable superseding statutes, the Board shall take such steps as may be reasonably necessary to prevent the special assessment from being included in the Association's income for federal and state income tax purposes, including, if necessary, depositing the funds in a segregated account, not commingling the funds with any other funds of the Association, and using the funds solely for the purpose for which they were levied.

B. After compliance with the due process requirements in the Bylaws, the Board may impose a monetary penalty and levy a special assessment against a particular Lot to reimburse the Association for costs incurred in repairing damage to the Common Area, or any improvements of personal Property located thereon, for which the Owner was allegedly responsible, or in bringing the Owner or the Owner's Lot into compliance with the Declaration, the Articles, or Bylaws, provided, however, this special assessment may not become a lien against the Owner's Lot that is enforceable by a power of sale under Civil Code §§2924, 2924b, and 2924c, or comparable superseding statutes. This restriction on enforcement is not applicable to late payment penalties for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys fees, or delinquent assessments.

7.8 **RESTRICTING AMOUNT OF SPECIAL ASSESSMENTS.**

A. The Board may not levy any special assessment that, either by itself or in the aggregate with other special assessments levied for that fiscal year, would be in excess of five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the approval of a majority of the votes at a meeting of the Members at which a quorum is present.

B. The foregoing restriction shall not apply to an assessment levied against a particular Lot to reimburse the Association for costs incurred in bringing the Owner or the Lot into compliance with the Declaration, the Articles, Bylaws, or Association Rules.

C. In addition, the foregoing restriction on assessment increases does not apply to increases necessary for emergency situations. An emergency situation is one of the following:

1. An extraordinary expense required by an order of court;
2. An extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain when a threat to personal safety on the Property is discovered; or
3. An extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro-forma operating budget in compliance with Subsection 5.13 A.2., above , provided that before the imposition or collection of any assessment under this subparagraph, the Board must pass a resolution containing written findings as to the necessity of the extraordinary expenses involved and why the expense was not or could not have been reasonably foreseen in the budget process, and shall distribute the resolution to the Members with the notice of assessment.

D. The foregoing restrictions on Assessment increases shall not apply to any special assessment levied to restore reserve funds under the provisions of California Civil Code §1365.5(c), or comparable superseding statutes.

7.9 **ALLOCATION OF ASSESSMENTS.**

A. Subject to the provisions of Subsection 7.2 of the Declaration, entitled "**DECLARANT'S LIMITED EXEMPTION FROM ASSESSMENT DURING CONSTRUCTION**," the regular and special assessments levied by the Board shall be allocated among the Lots as follows:

1. Except as otherwise provided herein, an assessment shall be allocated among each Lot subject to the assessment by dividing the total amount of the assessment by the total number of Lots subject to the assessment.

B. Special assessments levied against a particular Lot to reimburse the Association for costs incurred in bringing the Owner of the Lot into compliance with the Declaration, the Articles, Bylaws, or Association Rules shall not be subject to these allocation provisions.

7.10 **ASSESSMENT PERIOD.**

A. Unless the Board determines otherwise, the Association's fiscal year shall be a calendar year, and the regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of that year, provided that the first regular assessment period for all Lots shall commence on the first day of the calendar month following the date of the closing of the first conveyance of a Lot, and shall terminate on December 31 of that year. The regular assessment shall be payable in equal monthly installments unless the Board adopts some other method for payment. The first regular assessment and all special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other method for payment.

7.11 **NOTICE OF INCREASE IN ASSESSMENTS.**

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

7.12 **DUE DATES, LATE CHARGES, AND INTEREST.**

A. At least ten (10) days prior to the commencement of any regular or special assessment, the Board shall give each Owner written notice of the amount of assessment, and the due date, or due dates if paid in installments, and the amount of each installment. The notice need only be given once for any assessment paid in installments. Unless the Board specifies otherwise, the installment due date shall be the first day of each month.

B. Any assessment payment, including any installment payment, shall become delinquent if payment is not received by the Association within fifteen (15) days after its due date. There shall be a late charge of ten percent (10%) or Ten Dollars ($10.00), which ever is greater. A late charge may not be imposed more than once on any delinquent payment, but it shall not eliminate or supersede any charges imposed on prior delinquent payments.

C. Interest also shall accrue on any delinquent payment at the rate of twelve percent (12%) per annum. Interest shall commence thirty (30) days after the assessment becomes due.

7.13 **ESTOPPEL CERTIFICATE.**

A. Within ten (10) days of the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information:

1. Whether, to the knowledge of the Association, the Owner or the Owners' Lot is in violation of any of the provisions of the Declaration, the Articles, Bylaws, or Association Rules;
2. The amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year the request is received;
3. The Association's current regular and special assessments and fees as well as the amount of any assessments levied against the Owner's Lot that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that as of the date of the statement are or may be made a lien against the Owner's Lot as provided by the Declaration, the Articles, Bylaws, or Association Rules; and
4. Any change in the Association's current regular and special assessments and fees that have been approved by the Board, but have not become due and payable as of the date disclosure is provided pursuant to this Subsection 7.13.

B. The Board may charge the Owner a fee to recover its reasonable costs in preparing the statement. Any prospective purchaser or Mortgagee of the Owner's Lot may rely on the information on this written statement, provided that reliance may not extend to any violation of the Declaration, the Articles, or Bylaws of which the Association does not have actual knowledge.

7.14 **ASSOCIATION'S POWERS TO ESTABLISH ASSESSMENT LIEN.**

A. The Association has the right to collect and enforce assessments. In addition to the enforcement powers described in Subsection 5.6 of the Declaration, entitled "**RIGHT TO IMPOSE SANCTIONS FOR VIOLATION OF DECLARATION,**" and subject to the restriction on the enforcement of monetary penalties described in Subsection 7.7 of the Declaration, entitled "**SPECIAL ASSESSMENTS - PURPOSE OF AND PROCEDURE FOR LEVYING,**" the Association may enforce delinquent assessments, including delinquent installments, by suing the Owner directly on the debt established by the assessment, or by establishing a lien against the Owner's Lot as provided in Subsection 7.15 of the Declaration, entitled "**CREATION OF ASSESSMENT LIEN,**" and foreclosing the lien through other judicial proceedings or nonjudicial proceedings under power of sale as provided in Subsection 7.16 of the Declaration, entitled "**FORECLOSURE UNDER ASSESSMENT LIEN.**" The Association may commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien against the Owner's Lot for the delinquent assessment. In any action instituted by the Association to collect delinquent assessments, accompanied late charges, or interest, the prevailing party shall be entitled to recovery costs and reasonable attorneys fees.

7.15 **CREATION OF ASSESSMENT LIEN.**

A. A delinquent assessment or installment, together with any accompanying late charges, interest costs, including reasonable attorneys fees, and penalties as may be authorized under the Declaration shall become a lien on the Lot against which the assessment was levied on the recordation of a Notice of Delinquent Assessment in the office of the county recorder of the county in which the Lot is located. The notice shall describe the amount of the delinquent assessment or installment, the related charges authorized by the Declaration, the description of the Lot, the name of the Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association, or any employee or agent of the Association authorized to do so by the Board.

B. Unless the Board considers the immediate recording of the notice to be in the best interest of the Association, the notice shall not be recorded until fifteen (15) calendar days after the Association has delivered a written notice of default and demand for payment. If the delinquent assessment or installment and related charges are paid or otherwise satisfied, the Association shall record a Notice of Satisfaction and Release of Lien.

7.16 **FORECLOSURE UNDER ASSESSMENT LIEN.**

A. The Board may enforce an assessment lien established under Subsection 7.15 of the Declaration, entitled "**CREATION OF ASSESSMENT LIEN,**" by filing an action for a judicial foreclosure or, if the notice of delinquent assessment contained the name and address of the trustee authorized by the Association to enforce the lien by nonjudicial foreclosure, by recording a Notice of Default in the form described in Civil Code §2924c(b)(1) to commence a nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted in accordance with the requirements of Civil Code §§2924, 2924b, 2924c, 2924f, 2924g, 2924h and 2924j that apply to nonjudicial foreclosures of mortgages or deeds of trust. The sale shall be conducted by the trustee named in the Notice of Delinquent Assessment or by a trustee substituted in accordance with the provisions of Civil Code §2934a. The Association may bid on the Lot at the sale, and may hold, lease, mortgage and convey the acquired Lot. If the default is cured before the sale, or before completing a judicial foreclosure, including payment of all costs and expenses incurred by the Association, the Association shall record a Notice of Satisfaction and Release of Lien, and, on receipt of a written request by the Owner a Notice of Recision of the Declaration of Default and Demand for Sale. The provisions of this Subsection 7.26 are intended to reflect the procedures delineated in all of the California Civil Code sections cited in said Subsection. In the event that any or all of the cited sections are amended or superseded by another or comparable provision of the California statutes, this Subsection 7.16 shall be deemed amended, without the necessity of further Owner approval, to correspond to the amended or comparable Civil Code section.

7.17 **TRANSFER OF LOT BY SALE OR FORECLOSURE.**

A. The following rules shall govern the Association's rights to enforce its Assessment collection remedies following the sale or foreclosure of a Lot.

1. Except as provided in Subsection 10.2 of the Declaration, entitled, "**SUBORDINATION,**" the sale or transfer of any Lot shall not affect any Assessment lien duly recorded with respect to that Lot before the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

2. The Association's assessment lien shall be extinguished as to all delinquent sums, late charges, interest, and costs of collection incurred before the sale or transfer of a Lot under a foreclosure or exercise of a power of sale by the holder of a prior encumbrance, but not under a deed-in-lieu of foreclosure. A "prior encumbrance" means any first mortgagee or other mortgage or lien recorded before the Association's assessment lien.

3. Except as provided in Subsection 10.2 of the Declaration, entitled, "**SUBORDINATION,**" no sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall relieve the new Owner of that Lot from liability for any assessments thereafter becoming due or from the lien thereof.

4. Any assessments, late charges, interest, and associated costs of collection that are lost as a result of a sale or transfer covered by this Subsection 7.17 shall be deemed to be a Common Expense collectible from the Owners of all of the Lots including the person who acquires the Lot and his or her successors and assigns.

5. No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Association's right to maintain an action against the foreclosed previous Owner of the Lot personally to collect the delinquent assessments, late charges, interest, and associated costs of collection incurred by said Owner prior to the sale or transfer.

6. Subsection 7.16, above, and this Subsection 7.17 are intended to reflect the California law concerning community association assessment lien priority in effect as of the effective date of the Declaration. In the event that the applicable California laws are revised and the statute(s) addressing assessment lien priority apply to the Association, this Subsection 7.17 and the above Subsection 7.16 may be revised by action of the Board to conform to the new statutory provisions concerning this subject without submitting same to a vote of the Owners.

ARTICLE VIII
INSURANCE

8.1 **LIABILITY INSURANCE.**

A. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any manager, the Declarant and the Owners and occupants of Lots, and their respective family members, guest, invitees, and the agents and employees of each, against any liability incident to the ownership or use of the Common Area or any other Association-owned or maintained real or personal property and including, if obtainable, a cross liability or severability of interest indorsement insurance insuring each insured against liability to each other insured. The limits of such insurance shall not be less than Two Million Dollars ($2,000,000.00) covering all claims for debt, personal injury, and Property damage arising out of a single occurrence. Such insurance shall include liability, liability for non-owned and hired automobiles, liability for Property of others, and any other liability or risk customarily covered with respect to Developments similar in construction, location, and use.

8.2 **FIRE AND CASUALTY INSURANCE.**

A. The Association shall obtain and maintain a master or blanket policy of fire and casualty insurance coverage for the full insurable value of all of the improvements within the Common Area, unless the Board determines, in its sole discretion, that such insurance is not necessary. The form, content, and term of the policy and it's endorsements and the issuing company must be satisfactory to all institutional First Mortgagees. If more than one (1) institutional First Mortgagee has a loan of record against a Lot in the Development, the policy and endorsements shall meet the maximum standards of the various institutional First Mortgagees represented in the Development. To the extent available, the policy shall contain an agreed amount endorsement or a contingent liability from operation of building laws endorsement or their equivalent; an extended coverage endorsement; theft, vandalism, malicious mischief coverage; a special form endorsement; and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall provide amounts of coverage as shall be determined by the Board. The policy shall name as insured, the Association, the Owners and Declarant, as long as Declarant is the Owner of any Lot, and all Mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the Trustee described in Subsection 8.3 of the Declaration, entitled "**PROVISION APPOINTING TRUSTEE.**"

8.3 **PROVISION APPOINTING TRUSTEE.**

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

8.4 **PROVISION TO ADJUST LOSSES.**

A. The Association is authorized to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Subsection 8.1 of the Declaration, entitled "**LIABILITY INSURANCE,**" and Subsection 8.2 of the Declaration, entitled "**FIRE AND CASUALTY INSURANCE**". The Association is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute the releases in favor of any insurer.

8.5 **DIRECTOR AND OFFICER LIABILITY INSURANCE.**

A. To the extent insurance is available, the Association shall purchase and maintain insurance in an amount up to One Million Dollars ($1,000,000.00) on behalf of any Director, Officer or Member of a committee of the Association, collectively hereinafter referred to as the "Agents," against any liability asserted against or incurred by the Agents in such capacity or arising out of the Agents' status as such, regardless of whether the Association would have the power to indemnify the Agents against such liability under applicable law.

8.6 **WORKER'S COMPENSATION, DEMOLITION AND OTHER ASSOCIATION INSURANCE.**

A. The Association may and, if required by an Institutional First Mortgagee, shall, purchase and maintain demolition insurance in adequate amounts to cover the razing, in case of total or partial destruction of the Development and a decision not to rebuild, as well as a blanket policy of flood insurance.

B. The Association shall also purchase and maintain workers' compensation insurance, to the extent it is required by law, for all employees of uninsured contractors of the Association.

C. The Association shall also purchase and maintain fidelity bonds and/or insurance, in an amount not less than one hundred and fifty percent (150%) of each year's estimated annual operating expenses and reserves, containing an endorsement of coverage of any person who may serve without compensation, sufficient to meet the requirements of any Institutional First Mortgagee.

D. The Association shall also purchase and maintain such insurance on personal property owned by the Association, together with any other insurance, that it deems necessary or that is required by any Institutional First Mortgagee.

8.7 **OWNER'S LIABILITY INSURANCE.**

A. An Owner may carry whatever personal liability and Property damage liability insurance with respect to his or her Lot that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable to the Board and to any institutional first Mortgagee.

8.8 **INSURANCE REVIEW AND NOTICE.**

A. The Association shall periodically, but in no event less than annually, review all insurance coverage maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly. After the completion of said review or upon issuance of a renewal of insurance, whichever is the first to occur, the Association shall notify the Owners of the amount and type of insurance carried by the Association, hereinafter referred to for the purposes of this Subsection 8.6, as the "Insurance Notice." The Insurance Notice shall include a statement as to whether the Association is or is not insured to the levels which would satisfy the requirements of California Civil Code section 1365.9, or comparable superseding statutes, and if not so insured, that Owners may be individually liable for the entire amount of any judgment obtained as the result of a cause of action in tort arising solely by reason of the Owner's having an ownership interest in the Common Area. If the Association is insured to the above referenced levels, the Insurance Notice shall contain a statement to the effect that the Owner's individual liability shall extend only to any proportional share of Assessments levied to pay the amount of the above referenced judgment which exceeds the limits of the Association's insurance and for which proportion the Owner may be responsible.

8.9 **COMMON AREA - RECONSTRUCTION.**

A. If there is a total or partial destruction of any of the improvements in the Common Area the improvements shall be promptly rebuilt, unless, within ninety (90) days from the date of destruction, Owners then holding at least seventy-five percent (75%) of the total voting power of each class of Owners present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two (2) reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at the meeting.

B. If the improvements are to be rebuilt, the Owners of all Lots shall be obligated to contribute such funds as shall be necessary to pay their proportionate share of the cost of rebuilding or reconstruction, over and above the available insurance proceeds. The proportionate share of each such Owner or Owners shall be divided equally to each Lot. If any Owner fails to pay his or her proportionate share, the Association may levy a Special Assessment against the Lot or such Owner, which may be enforced under the lien provisions contained in Subsections 7.15 and 7.16 of the Declaration, entitled "**CREATION OF ASSESSMENT LIEN**" and "**FORECLOSURE UNDER ASSESSMENT LIEN**," respectively, or in any other manner provided in the Declaration.

8.10 **DAMAGE OR DESTRUCTION OF RESIDENCES.**

A. If all or any portion of any Residence is damaged or destroyed by fire or other casualty it shall be the duty of the Owner of said Residence to rebuild, repair or reconstruct said Residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

B. Any Owner who has suffered damage shall apply to the Architectural Committee for approval of plans for the reconstruction, rebuilding, or repair of his or her Residence. Application for such approval shall be made in writing together with full and complete plans, specifications, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Architectural Committee shall grant such approval only if the design proposed by the Owner would result in a finished Residence in harmony with the exterior design of other Residences within the Properties.

C. The Owner or Owners of any damaged Residence(s) and the Architectural Committee shall be obligated to proceed with all due diligence hereunder to discharge their respective obligations. Unless a waiver or modification of these time requirements is obtained from the Architectural Committee in accordance with Subsection 11.5 of the Declaration, entitled "**VARIANCES**," the Owner(s) shall commence reconstruction or removal of the damaged or destroyed structure within six (6) months after the damage occurs and complete reconstruction within eighteen (18) months after the damage occurs.

ARTICLE IX
CONDEMNATION

9.1 **CONDEMNATION**

A. Subject to Subsection 10.5 of the Declaration, entitled, "PRIORITY", if an action for condemnation of all or any portion of the Common Area is proposed or threatened by any authority having the right and power of eminent domain, the Association or its designees, acting as the attorney-in-fact of all of the Owners under an irrevocable power of attorney, which each Owner, by acceptance of a deed to any Lot in the Development, covenants and agrees to the granting of said irrevocable power and attorney to the Board, shall represent the Owners and each of them, in any condemnation proceedings or negotiations, settlements and/or agreements with the condemning authority.

B. The proceeds of any such condemnation shall be applied and/or distributed in the following manner:

1. Those amounts, if any, necessary to restore or replace that portion of the Common Area affected by the condemnation.
2. From the remaining funds, if any, those amounts necessary for the payment of any and all fees and/or expenses relating to such condemnation that were incurred by the Association.
3. To the Owners and to their respective mortgagees, as their interests may appear, any balance remaining after the disbursement of the amounts necessary to comply with Subsection 9.1B.1. and 2., above. The Owners' portion of any proceeds shall be distributed in accordance with the same ration as that used to determine Regular Assessments.

ARTICLE X
PROTECTION OF MORTGAGEES

10.1 **MORTGAGE PERMITTED.**

A. Any Owner may encumber his or her Lot with a Mortgage.

10.2 **SUBORDINATION.**

A. Any lien created or claimed under the provisions of the Declaration is expressly made subject and subordinate to the rights of any first Mortgage that encumbers all or a portion of the Development or any Lots made in good faith and for value; and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. If any Lot is encumbered by a first Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in the Declaration for assessments, or installments of assessments, shall not operate to effect or impair the lien of the Mortgage. On foreclosure of the Mortgage, the lien for assessments or the installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure purchaser taking title to the Lot free of the lien for assessment or installments that have accrued up to the time of the foreclosure sale. In taking title to the Lot the foreclosure purchaser shall be obligated to pay only assessments or other charges levied or assessed by the Association that became due or payable on or after the foreclosure purchaser acquired title to the Lot. The subsequently levied assessment or other charges may include previously unpaid assessments, provided all Owners including the foreclosure purchaser and his or her successor and assigns are required to pay their proportionate share as provided in this clause.

10.3 **RESTRICTION ON CERTAIN CHANGES.**

A. After the conveyance of a Lot to an Owner other than the Declarant, unless at least sixty-seven percent (67%) of the total voting power, other than Declarant, or of the first Mortgagees of Lots have given their prior written approval, neither the Association nor the Owners shall be entitled:

1. By act or admission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. However, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association shall not be deemed a transfer within the meaning of this clause;
2. To change the method of determining the obligations, assessments, dues or other changes that may be levied against an Owner;
3. By act or admission to change, waive or abandon the provisions of the Declaration or the enforcement of them, pertaining to architectural design or control or the exterior appearance of Lot structures, the exterior maintenance of Lot structures, the maintenance of the Common Area walks or common fences and driveways, or the maintenance of lawns and planting within the Property;
4. To fail to maintain insurance on insurable Association Property, including any Common Area improvements, on a current replacement cost basis an amount not less than one hundred percent (100%) of the insurable value, based on current replacement cost; or
5. To use hazard insurance proceeds for losses to any Association Property, including Common Area improvements, for other than the repair, replacement, or reconstruction of such Property.

10.4 **MORTGAGEES' RIGHT TO EXAMINE BOOKS AND RECORDS.**

A. Institutional first Mortgagees shall have the right to examine the books and records of the Association and the right to require the submission of financial data concerning the Association including annual audit reports, budgets, and operating statements as furnished to the Owners.

10.5 **PRIORITY IN DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS.**

A. Subsection 9.1 of the Declaration entitled "CONDEMNATION" notwithstanding, no Owner, or any other party, shall have priority over any right of Institutional First Mortgagees of Lots pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Lots or Common Area. Any provision to the contrary in the Declaration or in the Bylaws or other documents relating to the Development is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected Institutional First Mortgagees, naming such Mortgagees as their interests may appear.

10.6 **STATUS OF AMENITIES.**

A. All amenities, such as, but not limited to, parking, service areas, private streets, entrance gates, access driveway to reservoir, docks, and Common Area shall be available for use by Owners and all such amenities with respect to which regular or special assessments for maintenance may be levied shall constitute Common Area. All such amenities shall be owned in fee by the Owners in undivided interests or by the Association or consist of mutual or reciprocal easement rights appurtenant to the Lots, free of encumbrances except for any easements granted for public utilities or for other public purposes consistent with the intended use of such Property by the Owners or by the Association.

10.7 **DEFAULT NOTICE REQUIREMENT.**

A. If any Owner is in default under any provision of the Declaration or under any provision of the Articles, the Bylaws, or the Association Rules, and the default is not cured within sixty (60) days after the written notice to that Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that a sixty (60) day period has expired.

10.8 **PAYMENT BY MORTGAGEES.**

A. Mortgagees of Lots may, jointly or severally, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area improvements or other insured Property of the Association and, upon making any such payments, such Mortgagees shall be owed immediate reimbursement from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon request of any Mortgagee the Association shall execute and delivery to such Mortgagee a separate written agreement embodying this provision.

10.9 **LIEN NOT INVALIDATED.**

A. No breach of any provision of the Declaration shall invalidate the lien of any Mortgage made in good faith and for value; but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee sale, or otherwise.

10.10 **MORTGAGEE NEED NOT CURE BREACH.**

A. Any Mortgagee who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure any breach of the Declaration that is non-curable or the type that is not practical or feasible to cure.

10.11 **STATUS OF LOAN TO FACILITATE RESALE.**

A. Any first Mortgage given to secure a loan to facilitate the resale of a Lot after acquisition by foreclosure or by deed in lieu of foreclosure or by any assignment in lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protection of the Mortgages under the Declaration.

10.12 **RIGHT TO APPEAR AT MEETINGS.**

A. Because of its financial interest in the Development, any Mortgagee may appear, but cannot vote, at meetings of Owners and Board to draw attention to violations of the Declaration that have not been corrected or that have been made the subject of remedial proceedings or assessments.

10.13 **RIGHT TO FURNISH INFORMATION.**

A. Any Mortgagee can furnish information to the Board concerning the status of the Mortgage.

10.14 **RIGHT OF FIRST REFUSAL INAPPLICABLE TO MORTGAGEE.**

A. No right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey the Owner's Lot shall be granted to the Association without the written consent of any Mortgagee of the Lot. Any right of first refusal or option to purchase a Lot that may be granted to the Association, or other person, firm, or entity, shall not impair the rights of the first Mortgagee:

1. To foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage;
2. To accept a deed, or assignment, in lieu of foreclosure in the event of default under the Mortgage; or
3. To sell or lease a Lot acquired by the Mortgagee.

10.15 **REQUIREMENTS OF THE VETERANS ADMINISTRATION.**

A. So long as there are Class B memberships pursuant to Subsection 6.3 of the Declaration entitled "**TWO-CLASS SYSTEM: WEIGHTED VOTES**," the following actions require prior approval of the Veterans Administration: annexation of additional properties; dedication; mortgage or sale of Common Area; special assessments; and amendment of the Declaration.

10.16 **LIMITATION ON TERM OF MANAGEMENT CONTRACT.**

A. Any agreement between the Association and Declarant pursuant to which the Declarant agrees to provide services, and any agreement for professional management by a manager shall provide for termination by either party without cause or payment of a termination fee on thirty (30) days written notice and shall have a maximum contract term of one (1) year, provided that the Association can renew any such contract on a year-to-year basis. If the Development is professionally managed, the Association shall not terminate professional management and assume self-management without the consent of sixty-seven percent (67%) of the voting rights of each class of Owners, or of all Owners if only one (1) class exists and of fifty-one percent (51%) of the First Mortgagees.

10.17 **CONTROL IF MORTGAGEE PROTECTION CONFLICT WITH OTHER PROVISIONS.**

A. In the event of any conflict between any of the provisions of Subsections 10.1 through 10.17 of the Declaration and any other provisions of the Declaration, the provisions of Subsections 10.1 through 10.17 of the Declaration shall control.

ARTICLE XI
ARCHITECTURAL CONTROL

11.1 **ESTABLISHMENT OF ARCHITECTURAL COMMITTEE.**

A. Except as to construction of improvements by Declarant, no Improvement of any kind shall be commenced, erected or maintained within the properties, nor shall any exterior addition to or change or alteration be made in or to any Residence until the plans and specifications showing the nature, color, kind, shape, height, including front, side and rear elevations, materials, and location of the same shall have been submitted to and approved in writing by the Association's Architectural Committee as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation.

11.2 **APPOINTMENT OF ARCHITECTURAL COMMITTEE.**

A. The Architectural Committee, hereinafter referred to as the "Committee", shall be composed of not less than three (3) nor more than five (5) Members. The Declarant shall appoint all of the original members of the Architectural Committee, and any replacements, none of whom need be Owners in the Development. Said original appointees, and any replacements, shall be subject to removal at any time by the Declarant. The initial appointees, and any replacements, shall hold office until the first (1st) anniversary of the original issuance of a Final Subdivision Public Report by the California Commissioner of Real Estate. Thereafter, Declarant may appoint a majority of the members of the Committee, and any replacements, until ninety percent (90%) of the Lots have been sold and deeds to them recorded in favor of Owners other than Declarant or until the fifth (5th) anniversary of the original issuance of a Final Subdivision Public Report. After one (1) year from the date of issuance of a Final Subdivision Public Report, the Owners shall have the power to appoint one (1) member of the Committee, whose power shall continue until ninety percent (90%) of the Lots have been sold and deeds to them recorded in favor of Owners or until the fifth (5th) anniversary of the original issuance of a Final Subdivision Public Report. Thereafter, the Owners shall have the power to appoint all of the members of the Committee. A majority of the Committee may designate a representative to act on its behalf. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant hereto.

11.3 **SUBMISSION OF PLANS; ACTION BY COMMITTEE.**

A. When a proposed work of Improvement is submitted to the Architectural Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, finds that all of the following provisions have been satisfied:

1. The Owner's plans and specifications:
   a. conform to the Declaration and to the Architectural Rules in effect at the time said plans are submitted to the Committee;
   b. will result in the construction of an Improvement that is in harmony with the external design of other structures and/or landscaping within the Development; and
   c. will not interfere with the reasonable enjoyment of any other Owner or his or her Lot;

2. The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standard prevailing within the Development together with the overall plan and scheme of the subdivision as well as the purpose of the Declaration.

B. Though it is recognized that the Committee's determination to approve or disapprove an Improvement will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith. Factors commonly considered by the Committee in reviewing proposed Improvements include the quality of workmanship and materials proposed for the Improvement project; the harmony of the proposed Improvement's exterior design, finish materials, and color with that of the existing structures; and the proposed location of the improvement in relation to existing topography, finished grade elevations, roads, Common Areas, and other structures.

C. The Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable in the context of a particular Lot, even if the same or a similar Improvement/component has previously been approved for use at another location or locations within the Development. Factors that may cause the Committee to reject a proposal that was previously approved at another site include: poor drainage; unique topography; visibility from roads, Common Areas, or other Lots; proximity to other residences or Common Facilities; or prior adverse experience with the product or design of the proposed Improvement or any component thereof.

11.4 **ARCHITECTURAL RULES**.

A. The Architectural Committee may, subject to review by the Board of Directors, from time to time adopt, amend and repeal rules and regulations to be known as "Architectural Rules." Said rules shall interpret and implement the provisions of the Declaration by setting forth the standards and procedures for the review and approval of proposed Improvements and guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended for use within the Properties, provided that said rules shall not be in derogation of the minimum standards required by the Declaration. In the event of any conflict between the Architectural Rules and the Declaration, the Declaration shall prevail.

11.5 **VARIANCES**.

A. The Architectural Committee shall be entitled to allow reasonable variances with respect to this Subsection 11.5 of the Declaration or any restrictions specified in **ARTICLE IV** of the Declaration, entitled "**COVENANTS AND USE RESTRICTIONS**," in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided that the following conditions are met:

1. If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise apply under the Declaration, the Committee must conduct a hearing on the proposed variance after giving at least ten (10) days' prior written notice to the Board and to all Owners of Residences within one hundred (100) feet of the property for which the variance applies. The Owners receiving notice of the proposed variance shall have thirty (30) days in which to submit to the Board or Committee written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the thirty (30) day comment period has expired; and
2. The Committee must make a good faith determination that:
    a. The requested variance does not constitute a material deviation from the overall plan and scheme of development within the Properties or from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance;
    b. The variance relates to a requirement hereunder that it is unnecessary or burdensome under the circumstances; or
    c. The variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Residence, Common Area or Owner within the Properties.

11.6 **ESTOPPEL CERTIFICATE**.

A. Within thirty (30) days after written demand is delivered to the Board of Directors or the Architectural Committee by any Owner, and upon payment to the Association of a reasonable fee, as fixed from time to time by the Board, the Board or the Committee shall execute an estoppel certificate, executed by any two (2) of its members, certifying, with respect to any Residence owned by the applicant Owner, that as of the date thereof, either:

1. All Improvements made and other work completed by said Owner with respect to the Residence comply with the Declaration; or
2. That such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the bases of such noncompliance. Any purchaser from the Owner, or anyone deriving any interest in said Residence through the Owner, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

ARTICLE XII
AMENDMENT OF DECLARATION

12.1 **AMENDMENT OF DECLARATION**.

A. Before the close of the first sale of a Lot in the Development to a purchaser other than Declarant, the Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of record of an instrument amending or revoking the Declaration.

B. After the close of the first sale of a Lot in the Development to a purchaser, other than Declarant, the Declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than fifty-one percent (51%) of the voting rights of each class of Owners or if a single class of Owners is then in effect, by the vote or written consent of not less than:

1. fifty-one percent (51%) of all the votes; and
2. fifty-one percent (51%) of the votes excluding Declarant. However, if any provision of the Declaration requires a greater or lesser percentage of the voting rights of any class of Owners in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Owners shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency, or entity is required under the Declaration with respect to any amendment or revocation of any provision of the Declaration no such amendment or revocation shall be come effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to the Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder of the County.

12.2 **CONTROL IF AMENDMENT PROVISIONS CONFLICT WITH MORTGAGEE PROTECTION OR OTHER PROVISIONS.**

A. To the extent any provisions of Subsections 12.1 through 12.5 of the Declaration conflict with the provisions of Subsections 10.1 through 10.17 of the Declaration or any other provisions of the Declaration, except those contained in Subsection 12.3 of the Declaration, entitled "**COMPLIANCE WITH BUSINESS AND PROFESSIONS CODE §11018.7**," the provisions of Subsections 10.1 through 10.17 of the Declaration or the other provisions shall control.

12.3 **COMPLIANCE WITH BUSINESS AND PROFESSIONS CODE §11018.7.**

A. All amendments or revocations of the Declaration shall comply with all applicable provisions of California Business and Professions Code §11018.7.

12.4 **RELIANCE ON AMENDMENTS.**

A. Any amendments made in accordance with the terms of the Declaration shall be presumed valid by anyone relying on them in good faith.

12.5 **CONFORMING WITH MORTGAGEE REQUIREMENTS.**

A. It is the intent of Declarant, that the Declaration, the Articles and the Bylaws of the Association, and the Development in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a Lot in the Development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and the Veterans Administration. The Association and each Owner shall take any action or shall adopt any resolutions required by Declarant or any Mortgagee to conform the Declaration or the Development to the requirements of any of these entities or agencies.

ARTICLE XIII
GENERAL PROVISIONS

13.1 **HEADINGS.**

A. The headings used in the Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of the Declaration.

13.2 **SEVERABILITY OF PROVISIONS.**

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

13.3 **CUMULATIVE REMEDIES.**

A. Each remedy provided for in the Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in the Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

13.4 **VIOLATIONS AS NUISANCE.**

A. Every act or omission in violation of the provisions of the Declaration shall constitute a nuisance and, in addition to all other remedies set forth, may be abated or enjoined by Owner, any member of the Board, the manager, or the Association.

13.5 **NO DISCRIMINATORY RESTRICTIONS.**

A. No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing or occupancy of his or her Lot on the basis of race, sex, marital status, national ancestry, color, or religion.

13.6 **OWNER'S ACCESS TO BOOKS.**

A. Any Owner may, at any reasonable time and upon reasonable notice to the Board or Manager, at his or her own expense, cause an audit or inspection to be made of the books and financial records of the Association.

13.7 **LIBERAL CONSTRUCTIONS.**

A. The provisions of the Declaration should be liberally construed to effectuate its purpose. Failure to enforce any provision of the Declaration shall not constitute a waiver of the right to enforce the provisions thereafter.

13.8 **NOTIFICATION OF SALE.**

A. Concurrently with the consummation of the sale of any Lot under circumstances where the transferee becomes an Owner of the Lot, or within five (5) business days thereafter, the transferee shall notify the Association in writing of such sale. Such notification shall set forth the name of the transferee and his or her Mortgagee and transferor, the common address of the Lot purchased by the transferee, the transferee's and the Mortgagee's mailing address and the date of sale. Before the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board, or the Manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to the transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Association. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or his or her transferor if the Association has received no notice of transfer as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or upon personal delivery to any occupant of the Lot over the age of twelve (12) years.

13.9 **NUMBER; GENDER.**

A. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine and neuter shall each include the masculine, feminine, or neuter as the context requires.

13.10 **INCORPORATION OF EXHIBITS.**

A. All exhibits referred to are attached to the Declaration and incorporated by reference.

13.11 **EASEMENT RESERVED AND GRANTED.**

A. Any easements referred to in the Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to the Declaration and any deed to any Lot.

13.12 **BINDING EFFECT.**

A. The Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors, and assigns of the Owners.

13.13 **NO FIXED TERM.**

A. The Declaration shall continue in full force and effect until the Declaration is revoked pursuant to Subsection 12.1 of the Declaration, entitled "**AMENDMENT OF DECLARATION.**"

13.14 **CONFLICTS WITH OTHER DOCUMENTS.**

A. If there are conflicts or inconsistencies between the Declaration and either the Articles of Incorporation or the Bylaws of the Association, the terms and provisions of the Declaration shall prevail.

13.15 **NO REPRESENTATIONS OR WARRANTIES**.

A. No representations or warranties of any kind, express or implied, have been given or made by the Declarant, or its agents or employees, in connection with the properties, 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 Common Interest development, except as specifically and expressly set forth in the Declaration and except as may be filed by the Declarant from time to time with the California Department of Real Estate. .

Declarant has executed this instrument as of the 31st day of May, 1996.

FIRST COMMERCIAL REAL ESTATE FINANCING,
a California corporation

BY: ____________________

Paul D. Menzies, President

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF Contra Costa } SS.

On 5/31/96, before me, Judith L. Daniels a Notary Public in and for said County and State, personally appeared

Paul D. Menzies

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 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 on behalf of which the person(~~s~~) acted, executed the instrument.

Judith L. Daniels
Signature of Notary

(Seal)

PWR1
THE GREAT SEAL OF THE STATE OF CALIFORNIA
EUREKA
JUDITH L. DANIELS
Comm. # 1022013
NOTARY PUBLIC CALIFORNIA
Contra Costa County
My Comm. Expires Mar. 31, 1998
PWR1

CONSENT OF LIENHOLDERS AND SUBORDINATION OF LIEN

The undersigned Beneficiary under that certain Deed of Trust dated February 13, 1995, recorded February 24, 1995, in Book 1568, Page 293 of Official Records of Tehama County, California, consents to all of the provisions contained in the attached Declaration of Covenants, Conditions and Restrictions executed by First Commercial Real Estate Financing, a California corporation, as Declarant, hereinafter referred to as the "Declaration", and agrees that the lien of the above-referenced Deed of Trust shall be junior and subordinate and subject to the Declaration.

Dated: May 31, 1996

Sunrise Investment Properties Limited Liability Company,
a Nevada limited liability company

BY: ______________________

BY: V. P. CHEMERIS, MANAGER

ACKNOWLEDGEMENT

STATE OF CALIFORNIA } SS.
COUNTY OF Contra Costa

On 5/31/96, before me, Judith L. Daniels a Notary Public in and for said County and State, personally appeared Vladimir P. Chemeris 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 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 on behalf of which the person(s) acted, executed the instrument.

______________________ (Seal)
Signature of Notary

JUDITH L. DANIELS
Comm. # 1022013
NOTARY PUBLIC CALIFORNIA
Contra Costa County
My Comm. Expires Mar. 31, 1998

END OF DOCUMENT

Recording Requested by and Mailed to:
RED BLUFF NORTHWEST ROAD AND
PROPERTY OWNERS ASSOCIATION
15255 OLD MISSION DRIVE
RED BLUFF, CA 96080

FIRST RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS OF
RED BLUFF NORTHWEST ROAD AND PROPERTY OWNERS ASSOCIATION

The Declaration of Covenant, Conditions, and Restrictions executed by Red Bluff Northwest Road Association, a limited partnership ("Declarant"), and recorded on December 22, 1976 in Book 703, page 464, of the official Records of Tehama County, California ("Original Declaration") and the Amendment to Declaration of Restrictions and Road Maintenance Agreement executed by Red Bluff Northwest Road Association, a limited partnership, recorded March 10, 1977, in Book 709, page 573, official Records of Tehama County, California which affects all of the properties described herein as Exhibit A attached hereto and commonly known as RED BLUFF NORTHWEST is hereby amended and restated in its entirety to read as follows:

ARTICLE I

DEFINITIONS

"Assessment" means any Regular and/or Special Assessment made or assessed by the Association against an Owner and his or her Lot in accordance with the provisions of Article III of this Declaration.

"Association" means a California nonprofit 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 California Civil Code section 1351(a).

"Association Rules" means the rules, regulations, and policies adopted by the Board of Directors of the Association, pursuant to the articles of this Declaration, as the same may be in effect from time to time.

"Board of Directors" or "Board" means the Board of Directors of the Association.

"Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

"Declaration" means this instrument, as it may be amended from time to time.

"Governing Documents" is a collective term that means and refers to this Declaration and to the Articles of Incorporation, and the Bylaws.

"Lot" means any parcel of real property designated by a number on the Subdivision Map (for any portion) of the Properties, excluding the Common Area. When appropriate within the context of this Declaration, the term "Lot" shall also include the Residence and other improvements constructed or to be constructed on a Lot.

"Member" means every person or entity who holds a membership in the Association in accordance with the provisions of Article III of the Restated Bylaws of the Association.

"Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot.

(l) The use of each parcel shall be subject to the clearance requirements of Section 4291 of the California Publics Resources Code.

*** (m) Trees: In no event shall there be any clear cutting of more than fifty percent (50%) of any parcel.

(n) Each private driveway shall be constructed to a maximum grade of 15% and to a width sufficient to allow the ingress and egress of fire equipment to the dwelling and improvement area of the lot. Driveways shall be maintained in such a manner as to allow year around access to fire equipment.

(o) Building permits must be obtained for the construction of all awnings, porches, carports, garages, storage sheds, etc., erected on any lot in connection with a permanent dwelling or mobilehome, all construction to be in compliance with the Tehama County Code.

(p) Every dwelling residence placed or constructed upon the parcels, including mobile a modular homes, shall meet the following requirements:

(1) They shall be not less than 24 feet wide and shall contain not less than 960 square feet of fully enclosed floor area devoted to living purposes, exclusive of roofed or unroofed porches, terraces, garages, carports and other outbuildings.
(2) All areas beneath the ground floor level, except for cantilevered porches and decks, shall be enclosed in a manner adequate to screen from view foundation blocks, piers, posts, understructure and open area beneath the dwelling. Said screening shall be completed within 90 days after construction of the dwelling is completed or dwelling is placed upon the property or approval of extension by the Board of Directors.

Article II. 3 CC&R's Violation

a) Any Red Bluff Northwest Road and Property Owner Association member may request that the Board investigate a possible violation of the CC&R's. This shall be done in writing to any Board member and shall include the name of the person sending the letter, the lot where the possible violation is located, the specific CC&R paragraph number involved and any evidence of the alleged violation.

b) The Board shall investigate the allegation and, if it finds probability of a violation, shall schedule a Hearing.

c) The Board shall notify the owner of the parcel in question as to the possible violation, and to the time and place of a Hearing on the subject. The owner shall be given notice at least 15 days before the Hearing. Notification shall be by letter and a certificate of mailing obtained from the Post Office.

d) The Hearing shall be held with a quorum of Board members and will be held in Red Bluff Northwest. The owner may respond to the allegation orally or in writing, use witnesses and present evidence.

e) The Board shall inform the owner of its decision in the matter within three days of the Hearing.

If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as may exist by virtue of the California Civil Code section 1354 or otherwise by law.
The failure of any owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Article II. 4 Powers and Authority of the Association

Powers Generally. The Association shall have the responsibility of managing and maintaining the Common Area and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in the management of its properties and discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners.

Article II. 5 Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in this article hereof.

Article II. 6 Limitation on Liability of Association's Directors and Officers.

(a) Claims Regarding Breach of Duty. No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Association's Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and enforcement of the Governing Documents.

(b) Other Claims Involving Tortuous Acts and Property Damage. No Released Party shall be responsible to any Owner or to any member of his or her family or any of his or her tenants, guests, servants, employees, licensees, invites or any other person for any loss or damage suffered by reason of theft or otherwise of any article, vehicle or other item of personal property which may be stored by such Owner or other person or for any injury to or death of any person or loss or damage to the property of any person caused by fire, explosion, the elements or any other Owner or person within the Properties, or by any other cause, unless the same is attributable to his or her own willful or wanton act or gross negligence. It is the intent of this subparagraph to provide volunteer directors and officers with protection from liability to the full extent permitted by California Civil Code section 1365.7, or comparable superseding statute, and to the extent this provision is inconsistent with said section, the Civil Code shall prevail.

ARTICLE III

ASSESSMENTS

Article III. 1 Assessments Generally

(a) Covenant to Pay Assessments. Each Owner of one or more Lots, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association (i) Regular Assessments, (ii) Special Assessments, and (iii) Special Individual Assessments. Each such Assessment shall be established and collected as hereinafter provided.

(b) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the Person who was the Owner of the Lot at the time the Assessment was levied. Each Owner who acquires title to a Lot (whether at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot so purchased which become due and payable after the date of such sale, and shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. Any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner against whom assessed.

(c) Creation of Assessment Lien. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such Assessment is made. Any lien for unpaid Assessments created pursuant to the provisions of this article may be subject to foreclosure as provided in this article III.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Lot or other property owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or by abandonment or non-use of his or her Lot or any other portion of the Properties.

Article III. 2 Regular Assessments.

(a) Preparation of Annual Budget: Establishment of Regular Assessments. Not less than 45 nor more than 60 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated

Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs or replacement of the Common Area) by preparing a budget satisfying the requirements of Article XI of the Bylaws.

(b) Establishment of Regular Assessment by Board or Membership Approval Requirements. The total annual expenses estimated in the Association's budget shall become the aggregate Regular Assessment for the next succeeding fiscal year, provided that, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association.

(c) Allocation of Regular Assessment. The total estimated Common Expenses, determined in accordance with subparagraph (a), above, shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Acres within the Properties owned by the assessed Owner to the total number of Acres subject to Assessments.

(d) Mailing Notice of Assessment. The Board of Directors shall mail to each Owner at the street address of the Owner's Lot, or at such other address as the Owner may from time to time designate in writing to the Association, a statement of the amount of the Assessments for the next succeeding year no less than 45 days prior to the beginning of the next year.

(e) Payment of Assessments. The total Assessments levied against each Owner and his or her Lot shall be all due and payable to the Association on or before March 1st of each year.

Article III. 3 Collection of Assessments; Enforcement of Liens.

(a) Delinquent Assessments. If any payment of a Regular Assessment or lump sum or installment payment of any Special Assessment assessed to any Owner is not paid within 15 days after the same becomes due, such payment shall be delinquent and the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law from and after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code sections 1366(c) and 1366.1 or comparable superseding statutes.

(b) Effect of Nonpayment of Assessments.

1. Creation and Imposition of a Lien for Delinquent Assessments. As more particularly provided in California Civil Code section 1367 or comparable superseding statute, the amount of any delinquent Assessments, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Lot of the Owner so assessed only when the Association causes to be recorded in the Office of the County Recorder of the County, a Notice of Delinquent Assessment executed by an authorized representative of the Association, setting forth (1) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this article III and California Civil Code section 1366, (2) the legal description of the Owner's Lot against which the Assessment and other sums are levied, (3) the name of the Owner of Record of such Lot, (4) the name and address of the Association. Upon payment in full of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.

2. Remedies Available to the Association to Collect Assessments. The Association may initiate a legal action against the Owner personally obligated to pay the delinquent Assessment, foreclose its lien against the Owner's Lot or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be by judicial foreclosure.

ARTICLE IV

AMENDMENT OF DECLARATION

This declaration may be amended or revoked in any respect by the vote or assent by written ballot of the holders of not less then 51 percent of the Owners entitled to vote and holding at least 51 percent of the voting power of the Association. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

ARTICLE V

GENERAL PROVISIONS

Article V. 1 Term

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then owners of the lots or parcels containing more than fifty one (51) percent of the voting power required for action taken to change said covenants in whole or in part.

Article V. 2 Enforcement

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

Article V. 3 Severability

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

CERTIFICATE OF SECRETARY

The undersigned, Secretary of the corporation known as RED BLUFF NORTHWEST ROAD AND PROPERTY OWNERS ASSOCIATION, does hereby certify that the above and foregoing First Restated Declaration of Covenants, Conditions, and Restrictions consisting of 6 pages, were duly adopted by written ballot of the Members of said Association on the 20th day of December 1994.

Franklin F. Kemry

(signature)

FRANKLIN F. KEMRY

(printed name)

By Franklin F. Kemry

(Secretary)

STATE OF CALIFORNIA
COUNTY OF TEHAMA

On JAN. 6, 1995 before me, JEANNIE BRYNGELSON a Notary Public in and for said County and State, personally appeared FRANKLIN F. KEMRY 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

Signature Jeannie Bryngelson

GBP1
JEANNIE BRYNGELSON
COMM. #1008497
NOTARY PUBLIC - CALIFORNIA
TEHAMA COUNTY
My Comm. Expires Nov. 19, 1997
GBP1

EXHIBIT A

All that portion of the following described property lying westerly of the west line of Interstate No. 5:
IN TOWNSHIP 28 NORTH, RANGE 4 WEST, MOUNT DIABLO BASE AND MERIDIAN:

All of Section 13; the East half of Southeast quarter, the Southeast quarter of Northeast quarter, and South half of Northeast quarter of Northeast quarter of Section 14; the East half of Section 23; all of Section 24; the East half, the North half of the Northwest quarter and the South half of the Southwest quarter of Section 26; all of Section 25, all that portion of the North half and of the North half of Southeast quarter lying North and East of the Southern Pacific Railroad right of way of Section 35; the North half and that portion of the Southwest quarter lying North and East of the Southern Pacific Railroad Right of Way of Section 36.

All that portion of Section 34 lying North and East of the Central Pacific Railroad Right of Way.

EXCEPTING THEREFROM one-half of all oil, gas or minerals that may be on, in or under said lands or any part thereof below a depth of 500 feet from the surface thereof, including one-half of rentals and other income from leases thereof, as reserved by Bruce M. Boyd, in deed recorded May 9, 1965 in Book 527, page 293, Official Records.

All of the above described real property is commonly known as RED BLUFF NORTHWEST.