

When Recorded Mail to:

DAOM CORPORATION
Spear Street Tower
Suite 2301
One Market Plaza
San Francisco, California 94105

This instrument is a true and correct
of the original instrument recorded in the
office of the Recorder of the County of Santa
Clara, State of California

on February 29, 1980
Recorder's Serial No. 06661631
Title Insurance and Trust Company
BY Cornelia Heller

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP
FOR WOODSBOROUGH HOMES ASSOCIATION

TABLE OF CONTENTS

	Page
RECITALS	1
DECLARATION	1
ARTICLE I DEFINITIONS	2
ARTICLE II PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS	5
ARTICLE III USE RESTRICTIONS	9
ARTICLE IV <i>Amended (Page 12)</i> THE ASSOCIATION	16
ARTICLE V MEMBERSHIP AND VOTING RIGHTS	25
ARTICLE VI ASSESSMENTS	29
ARTICLE VII COLLECTION OF ASSESSMENTS: LIENS	32
ARTICLE VIII INSURANCE	34
ARTICLE IX DESTRUCTION OF IMPROVEMENTS	37
ARTICLE X CONDEMNATION	40
ARTICLE XI PARTITION	40
ARTICLE XII NON-SEVERABILITY OF COMPONENT INTERESTS IN A CONDOMINIUM	41

TABLE OF CONTENTS (Cont'd)

		Page
ARTICLE XIII	TERM OF DECLARATION	42
ARTICLE XIV	PROTECTION OF MORTGAGEES	42
ARTICLE XV	AMENDMENTS	46
ARTICLE XVI	ARCHITECTURAL CONTROL	48
ARTICLE XVII	GENERAL PROVISIONS	51

THIS DECLARATION ("Declaration") is made this 20th day of February, 1980, by the DAON CORPORATION, a Delaware corporation.

RECITALS

1. Declarant is the owner of certain real property located in the City of Santa Clara, County of Santa Clara, State of California, described in Exhibit 'A' attached hereto and made a part hereof.

2. The real property is a Project within the meaning of California Civil Code Section 1350(3) and is subject to the provisions of the California Condominium Act (Title VI, Page IV, Section 1350 - 1360, inclusive) and it is the desire and intention of the Declarant to subdivide and develop the real property described herein into Condominiums pursuant to the Condominium Plan attached hereto as Exhibit 'B' and incorporated herein by reference, and to impose on said real property mutual beneficial restrictions under a general plan or scheme of improvement for the benefit of all the subject Units and of the subject Common Area and the future owners of said Units and Common Area.

DECLARATION

Declarant declares that the real property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in California Civil Code Sections 1350 - 1360 for the subdivision, improvement, protection, maintenance, and sale of condominiums within the real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the real property. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the real property, and shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code Section 1355.

ARTICLE I

DEFINITIONS

1. The "Articles" shall mean the Articles of Incorporation of the Association, as said Articles may be amended from time to time.
2. The "Association" shall mean and refer to a California nonprofit corporation, its successors and assigns.
3. The "Board" shall mean the Board of Directors of the Association.
4. The "By-Laws" shall mean the By-Laws of the Association, as such By-Laws may be amended from time to time.
5. "City" shall mean the City of Santa Clara.
6. "Common Area" shall mean and refer to all of the Development which is not included within any Unit, as shown on the Condominium Plan. Common Area shall include but shall not be limited to, Restricted Common Area, all facilities and improvements located within the Common Area including recreational facilities, driveways, open spaces, planted and landscaped areas, roofs, foundations, stairs, walkways, storm drainage pipelines, catch basins, sanitary sewer lines, manholes, cleanouts, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, bearing walls and columns and girders to the unfinished surfaces thereof, regardless of location, and all other improvements which may be placed upon or located in the Common Area.
7. A "Condominium" shall mean an estate in real property as defined in Section 783 of the California Civil Code consisting of an undivided interest as a tenant-in-common in the Common Area of the Development, together with a fee interest in a Unit (defined below) shown and described on the Condominium Plan and any and all easements appurtenant thereto, if any.
8. The "Condominium Plan" shall mean the Condominium Plan recorded pursuant to Section 1351 of the California Civil Code respecting the Development, and any amendments thereto, which Condominium Plan is attached as Exhibit 'B'.

9. "County" shall mean the County of Santa Clara.

10. The "Declarant" shall mean Daon Corporation, a Delaware corporation, its successors and assigns, if such successors and assigns acquire or hold record title to all or any portion of the Development for development purposes.

11. The "Development" means the entire parcel of real property, divided or to be divided into Condominiums, including all structures and improvements on it. The Development is a statutory condominium "project" as defined in California Civil Code Section 1350(3).

12. "Single Family" shall mean one or more persons each related to the other by birth, marriage, or legal adoption, or a group of not more than four (4) persons not all so related, together with their domestic servants, who maintain a common household in a Unit.

13. A "Member" shall mean every person or entity who holds a membership in the Association.

14. A "Mortgage" shall mean a Mortgage or Deed of Trust encumbering a Condominium or other portion of the Development. A "Mortgagee" shall include the beneficiary under a Deed of Trust. An "institutional" Mortgagee is a Mortgagee that is a bank or savings and loan association, or established mortgage company or other entity chartered under Federal or state laws, any corporation or insurance company, or any Federal or state agency.

15. The term "Open Space" shall mean the Condominium defined as Unit 431 which shall be conveyed to and owned by the Association in fee simple, and which shall be used by the Association as premises for the Association's on-site manager. The Open Space shall be conveyed to the Association prior to or coincidental with the first transfer of a Condominium by Declarant. The conveyance by Declarant to the Association will contain a deed restriction providing for an automatic reversion of Title to the Open Space to Declarant in the event of a sale or other transfer of the Open Space by the Association. The Open Space shall not carry voting rights nor shall it be subject to assessments.

16. An "Owner" means each person or entity holding a record ownership interest in a Condominium, including Declarant. "Owner" shall not include persons or entities who hold an interest in a Condominium merely as security for the performance of an obligation or as a contract purchaser.

17. The terms "Patio" and "Balcony" as used in this Declaration and on the Condominium Plan, refer to those portions of the Common Area (defined and delineated herein and on said Condominium Plan as a portion of the Restricted Common Area) shown on the Plan as Patio and Balcony and an exclusive appurtenant easement for the use and possession of which shall be granted to the adjoining Unit.

18. The term "Parking Stall" as used in this Declaration and on the Condominium Plan refers to that portion of the Common Area referred to and shown on the Condominium Plan as the individual Common Area referred to and shown on the Condominium Plan as the individual covered Parking Spaces and designated and numbered sequentially as P-1 through P-478, inclusive. An exclusive right for the use and possession of one or more Parking Stalls shall be assigned by the Declarant to each Unit Owner, at the time of conveyance of title to their Unit.

19. The term "Restricted Common Area" as used herein and on the Condominium Plan shall mean any portion of the Common Area, the exclusive use of which is restricted to a particular Unit. Restricted Common Area shall include the Patios and Balconies as defined herein. Each Patio and Balcony shall be granted as an exclusive easement appurtenant to the Unit which it adjoins. Said grant of exclusive easement shall be specifically designated in each individual Condominium Grant Deed. Restricted Common Area shall also include any Parking Stall(s) or storage area(s) contained in the Common Area which the Declarant, pursuant to its authority herein contained, has assigned the exclusive use to a particular Unit Owner.

20. A "Unit" means the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Development, such Units and their respective elements being more particularly described in Exhibit 'B'. The boundaries of a Unit are shown and described on the Condominium Plan, attached as Exhibit 'B'. In interpreting Deeds and plans the existing physical boundaries of a Unit

or of a Unit reconstructed in substantial accordance with the original plans shall be conclusively presumed to be boundaries rather than the description expressed in the Deed or plans, regardless of minor variance between boundaries shown on the plans or in the Deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference is made in this Declaration, in the Condominium Plan, in any Deed or elsewhere to a Unit, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements, and to any and all exclusive easements appurtenant to such Unit over Common Area, if any.

ARTICLE II

PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS

1. Ownership of Condominium; Exclusive Easements.
Ownership of each Condominium within the Development shall include a Unit, the respective interest in the Common Area as specified in Exhibit 'B' (which undivided interest may not be altered or changed so long as the prohibition against severability of component interests in a Condominium remains in effect as hereinafter provided), a membership in the Association and any exclusive easement or easements appurtenant to such Unit over the Restricted Common Area, including easements for Patios, Balconies, Parking Stalls and storage areas, as applicable, all as described in this Declaration, in the Deed to the Unit or in the Condominium Plan.

2. Owners Non-Exclusive Easements of Enjoyment, Etc.
Every Owner of a Condominium and the Association shall have a non-exclusive easement of use and enjoyment in and to and throughout the Common Area of the Development and for ingress, egress and support over and through the Common Area and a non-exclusive easement of use and enjoyment of the Open Space; provided, however, that such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to Units over the Restricted Common Area, if any. The foregoing notwithstanding, each stairway providing access to a Unit or Units shall be reserved for the exclusive use and enjoyment of the Owner(s) of the Unit(s) directly served by such stairways, along with their family members, contract purchasers, lessees, renters, guests and invitees. Each such easement shall be appurtenant

to and pass with the title to every Unit, subject to the following rights and restrictions:

(a) The right of the Association to limit the number of guests, and to adopt Association rules and regulations regulating the use and enjoyment of the Common Area and Open Space.

(b) The right of the Association to borrow money for the purpose of improving the Common Area and Open Space.

(c) The right of Declarant or its designees to enter upon the Development for purposes of construction of the Development and for purposes of making repairs and remedying construction defects; provided such entry shall not interfere with the use of any occupied Unit unless authorized by the Unit Owner.

(d) The right of the Association, or its agents, after giving the Owner of a Unit twenty-four (24) hours prior notice, to enter any Unit to perform its obligations under this Declaration, including obligations with respect to construction, maintenance or repair for the benefit of the Common Area, the Open Space, or the Owners in common, or to make necessary repairs that the Unit Owner has failed to perform. The right shall be immediate in case of an emergency originating in or threatening such Unit, and the obligation can be performed whether or not the Owner is present.

(e) The right of any Owner, or his representatives, to enter the Unit of any other Owner for purposes of performing permissible installation, alterations or repairs to mechanical or electrical services, including installation of television antennae and related cables, provided requests for entry are made in advance and that such entry is at a time convenient to the Owner whose Unit is being entered; and in the case of an emergency, such right of entry shall be immediate.

(f) The right of the Association to charge reasonable fees for the use of the Open Space and for any available storage areas and uncovered parking stalls, if any.

3. Delegation of Use. Any Owner may delegate his rights of use and enjoyment, including easements, in the Development to the members of his family, his guests and

invitees, to his lessees, tenants and contract purchasers, and to such other persons as may be permitted by this Declaration, the By-Laws and the Association rules and regulations, subject, however, to said Declaration, By-Laws and Association rules and regulations. Each Owner shall notify the Secretary of the Association of the names of any contract purchasers lessees or tenants of such Owner's Condominium. Each Owner, lessee, tenant or contract purchaser shall also notify the Secretary of the Association of the names of all persons to whom such Owner, lessee, tenant or contract purchaser has delegated any rights of enjoyment in the Development and the relationship which each such person bears to such Owner, lessee, tenant or contract purchaser. Any rights of enjoyment delegated pursuant hereto are subject to suspension to the same extent that rights of Owners are subject thereto in the manner provided in Article IV of this Declaration.

4. Minor Encroachments. If any portion of the Common Area encroaches upon any of the Units, a valid easement for such encroachment and for the maintenance of same, so long as it remains, shall and does exist, and, pursuant to this Declaration, all Units are made subject to such easements. In the event that any structure containing a Unit is partially or totally destroyed and then rebuilt and minor encroachments result, a valid easement for such minor encroachments, and for the maintenance of same so long as same shall remain, shall and does exist, and pursuant to this Declaration, all Units and the Common Area are made subject to such easements for minor encroachments.

5. Easements Granted by Association. The Association shall have the power to grant and convey to any third party easements and rights of way, in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder overhead or underground 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 quasi-public improvements or facilities, and each purchaser, in accepting a Deed to a Condominium, expressly consents hereto; provided, however, that no such easements may be granted if same would interfere with the use, occupancy or enjoyment by any Owner of his Unit and any exclusive easements over Common Area appurtenant thereto, if any.

6. Easements. There are hereby specifically reserved for the benefit of the Unit Owners, in common and for each Owner severally, as their respective interest shall obtain, the easements, reciprocal negative easements, secondary easements, and rights-of-way as particularly identified in this Declaration.

(a) There is reserved for the benefit of each Condominium as dominant tenement, an easement for utility services over, under and through the Development, Common Area, and each other Unit, jointly as the servient tenement.

(b) The Association shall have an easement appurtenant to the Common Area and all other Units through each Unit for the maintenance and repair of the Common Area and Open Space.

(c) Each Unit and Unit Owner shall have an exclusive easement, and such exclusive easement is hereby granted, for the use, possession and enjoyment of the Patio or Balcony, if any, immediately adjacent to said Unit as delineated on the Plan. Said exclusive easements shall be subject, however, to the right of the Association to enter in and upon said Patio or Balcony for the purpose of maintaining and repairing the same pursuant to this Declaration and enforcing the terms hereof, provided that unless an emergency exists, every reasonable effort will be made to notify the Unit Owner at least twenty-four (24) hours prior to said entry.

(d) Each Unit and Unit Owner shall have the exclusive use, possession and enjoyment of the Parking Stall or Stalls bearing the number or numbers to be designated by the Declarant. Said exclusive use shall be subject, however, to the right of the Board to enter in and upon said Parking Stalls for the purpose of maintaining and repairing the same and any other portion of the Common Area pursuant to this Declaration and enforcing the terms hereof, provided that unless an emergency exists, every reasonable effort will be made to notify the Unit Owner at least twenty-four (24) hours prior to said entry.

(e) Each Unit and Unit Owner shall have the exclusive use, possession and enjoyment of the storage area or areas, if any, bearing the number or numbers to be designated by the Declarant and/or by the Association. Said exclusive use shall be subject, however, to the right of the

Board to enter in and upon said storage areas for the purpose of maintaining and repairing the same pursuant to this Declaration and enforcing the terms hereof, provided that unless an emergency exists, every reasonable effort will be made to notify the Unit Owner at least twenty-four (24) hours prior to said entry.

(f) Pacific Telephone and Telegraph Company is hereby authorized to enter any Unit whenever installation, maintenance, removal of any telephone service requires such entry; provided, however, that reasonable notice of such entry be given to the Owner of such Unit, except in an emergency. The Pacific Telephone and Telegraph Company shall have the right to install, move, remove or run lines in or on any portion of the Common Area including the interior and exterior of any buildings as required to maintain telephone service within the Development, in the Pacific Telephone and Telegraph Company's reasonable discretion. This authorization may not be amended or terminated without the written consent of the Pacific Telephone and Telegraph Company as long as the Development remains a Condominium Project.

(g) Pacific Gas and Electric Company is hereby authorized to enter any Unit whenever installation, maintenance or removal of gas and/or electric service requires such entry; provided, however, that reasonable notice of such entry be given to the Owner of such Unit, except in an emergency. The Pacific Gas and Electric Company shall have the right to install, move, remove or run gas and/or electrical lines in or on any portion of the Common Area including the interior and exterior of any buildings as required to maintain gas and electric service within the Development, in the Pacific Gas and Electric Company's reasonable discretion. This authorization may not be amended or terminated without the written consent of the Pacific Gas and Electric Company as long as the Development remains a Condominium Project.

ARTICLE III

USE RESTRICTIONS

1. Residential Use. Units shall be used for residential purposes only, for a Single Family, provided, however, that until the last Unit is sold by Declarant, Units owned by Declarant may be used by Declarant or its designees as

uels, sales offices and construction offices for the purpose of developing, improving and selling Condominiums in the Development. Nothing herein shall prevent an Owner from leasing or renting his Condominium to a Single Family; provided, however, that any lease or rental agreement shall be in writing and any lessee or renter thereof shall abide by and be subject to all terms and provisions of this Declaration, the Articles, By-Laws, and the Association rules, and any lease or rental agreement shall specify that failure to abide by such provisions shall be a default under said lease or rental agreement; and provided further that with the exception of a Mortgagee in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or acceptance of a Deed or other arrangement in lieu of foreclosure, no Owner shall rent, lease or let his Unit for transient or hotel purposes.

2. Commercial Use. Excepting as otherwise expressly provided in this Declaration, including Section 1 of this Article III, no part of the Development shall ever be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

3. Interior Maintenance. Each Owner of a Condominium shall be responsible for maintaining his Unit, including the equipment and fixtures therein and the interior walls, ceilings, windows and doors thereof, in a clean, sanitary, workable and attractive condition, reserving to each Owner, however, complete discretion as to the choice of furniture, furnishings, and interior decorating; provided, however, windows can be covered only by drapes or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each Owner shall also be responsible for repair, replacement and cleaning of the windows and glass of his Unit, both exterior and interior. Unless otherwise provided in this Declaration, each Owner shall clean and maintain areas which are subject to exclusive easements appurtenant to any of the Units over the Common Area.

4. Restricted Common Area Maintenance. There shall be no use or occupancy of any Parking Stall, Patio, Balcony or storage area of the Common Area, except by the Owner of a Unit, or such Owner's guests, tenants and lessees. No person, agent, employee, guest, tenant or lessee of a Unit Owner shall park in any Parking Stall except such Parking

Stall or Parking Stalls as has been assigned to such Unit Owner or in designated visitor parking areas. There shall be no obstruction of any part of the Common Area.." Nothing shall be stored in the Common Area (except within specifically reserved storage areas) without the prior consent of the Board. No storage closet, locker or facility of any kind shall be built, placed, or kept in any Parking Stall without the prior approval of the Architectural Committee.

5. Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted upon or in the Development, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of the Development or within five hundred (500) feet below the surface of the Development. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Development.

6. Offensive Conduct, Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, shall be carried on, upon, or within the Development, nor shall anything be done thereon which may be or become an annoyance or nuisance to the residents of the Development, or which shall in any way interfere with the quiet enjoyment of occupants of Condominiums. Unless otherwise permitted by the Association, no Owner shall serve food or beverages, cook, barbeque, or engage in similar activities, except within such Owner's Unit, excepting within those portions of the Common Area subject to exclusive easements appurtenant to such Owner's Unit, if any.

7. Parking Restrictions. Unless otherwise permitted by the Association, no automobile shall be parked or left in any street or on any property subject to this Declaration other than on or within an assigned or appurtenant Parking Stall or space. No boat, trailer, recreational vehicle, camper, truck, or commercial vehicle shall be parked or left on any street or any part of the Development; provided, however, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association rules. Parking Stalls shall be used for the parking of automobiles only and shall not be converted for living or recreational activities.

8. Signs. No signs of any kind shall be displayed to the public view on or from any Condominium or on or from the Common Area without the approval of the Association, excepting such signs as may be used by the Declarant or its designees for a period of three (3) years from and after the date of recordation of this Declaration for the purpose of developing, selling and improving Condominiums within the Development. Notwithstanding the foregoing, one sign of not more than sixteen (16) inches by sixteen (16) inches and not to exceed two (2) square feet, advertising a Condominium for sale or for rent, may be placed within each Unit or within the Common Area immediately adjacent thereto by the Owners thereof, the location and design thereof to be subject to approval by the Architectural Committee.

9. Antennae, External Fixtures, Etc. No television or radio poles, antennae, flag poles, clothesline or other external fixtures other than those originally installed by Declarant or approved by the Association and any replacement thereof, shall be constructed, erected or maintained on or within the Common Area or Open Space, including any structures thereof. No wiring, insulation, air conditioning or other machinery or equipment other than that originally installed or installed by Declarant or approved by the Architectural Committee, if any, and any replacements thereof, shall be constructed, erected or maintained on or within the Common Area, including any structures thereof. Each Owner shall have the right to maintain television or radio antennae within completely enclosed portions of his Unit; provided, however, that if cable television is or becomes available to such Owner his right to maintain television antennae within completely enclosed portions of his Unit shall forthwith terminate unless the Association continues to authorize the maintenance thereof.

10. Awnings, Etc. No awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of or elsewhere within the Development except such as are installed in accordance with the original construction of the Development, and any replacement thereof, or as are authorized and approved by the Architectural Committee.

11. Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any Condominium or elsewhere within the Development except that domestic

dogs which do not exceed twenty (20) pounds in weight, cats, fish and birds inside bird cages, may be kept as household pets within any Unit, provided they are not kept, bred or raised therein for commercial purposes, or in unreasonable quantities. All pets must be maintained on leash while in the Common Areas of the Association. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of all dogs, cats and birds to two (2) per Condominium. The Association shall have the right to prohibit maintenance of any animal which constitutes, in the sole and exclusive opinion of the Board after notice and a hearing held pursuant to Article IV, Section 3(a)(ii) hereof, a nuisance to any other Owner. Each person bringing or keeping a pet upon the Development shall be absolutely liable to each and all other Owners, their family members, guests, invitees, lessees, renters and contract purchasers, and their respective family members, guests, invitees for any damage to persons or property caused by any pet brought upon or kept upon the Development by such person or by members of his family, his guests or invitees.

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

13. Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No Owner of a Condominium shall permit or cause any trash or refuse to be kept on any portion of the Development subject to this Declaration other than in the receptacles customarily used therefor located in places specifically designated for such purpose.

14. Outside Drying and Laundering. No exterior clothesline shall be erected or maintained and there shall be no exterior drying or laundering of clothes on Patios, Balconies, porches or other areas.

15. Structural Alterations. No substantial structural alterations to the interior of any Unit shall be made and no plumbing or electrical work within any bearing or common walls, if any, shall be made by any Owner without the prior written consent of the Architectural Committee.

16. Exterior Alterations. No Owner shall, at his expense or otherwise, make any alterations or modifications to the exterior of the buildings, railings or walls situated within the Development without the prior written consent of the Architectural Committee and the holder of any Mortgage or Deed of Trust then of record whose interest may thereby be affected and in accordance with Article XVII hereof.

17. Compliance with Laws, Etc. Nothing shall be done or kept in any Unit or in the Common Area or Open Space which might increase the rate of, or cause the cancellation of, insurance on the Development, or any portion thereof, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Unit which is in violation of any law, ordinance, statute, rule or regulation of any local, county, state or Federal body. No Owner shall allow furniture, furnishings or other personal belongings of such Owner to remain within any portion of the Common Area or Open Space excepting portions thereof subject to exclusive easements over Restricted Common Area appurtenant to such Owner's Unit, if any, and excepting as may otherwise be permitted by the Association.

18. Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Area which may be sustained by reason of the negligence of said Owner, members of the Owner's family, the Owner's contract purchasers, lessees, renters, guests or invitees, to the extent that any such damage shall not be covered by insurance. Each Owner does further, by acceptance of their Deed, agree for themselves and for the members of their family, their contract purchasers, lessees, renters, guests or invitees, to indemnify each and every other Owner, and to hold him or her harmless from, and to defend him or her against, any claim of any person or persons for personal injury or property damage occurring within the Unit of that particular Owner and any exclusive easements over the Restricted Common Area appurtenant thereto, if any, unless said injury or damage occurred by reason of the negligence of any other Owner or person temporarily visiting in said Condominium or portion of the Restricted Common Area subject to an exclusive easement appurtenant thereto, if any.

19. Owner's Obligation for Taxes. To the extent allowed by local law, all Units, including their pro rata undivided interest in the Common Area, and the membership of an Owner in the Association, shall be separately assessed

and taxed so that all taxes, assessments and charges which may become liens prior to first mortgages under local law shall relate only to the individual Units and not to the Condominium Development as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the County Assessor of said County against his Condominium and against his personal property.

20. Future Construction. Nothing in this Article or elsewhere in this Declaration shall limit the right of Declarant, its successors and assigns, to complete construction of improvements to the Common Area, the Open Space, and to Units owned by Declarant or to alter the foregoing or to construct such additional improvements as Declarant deems advisable prior to completion and sale of the entire Development. The rights of Declarant hereunder and elsewhere in this 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 document transferring such interest to such successor.

21. Enforcement. The failure of any Owner to comply with the provisions of this Article III, or with any other provision of this Declaration or the Articles or By-Laws shall give rise to a cause of action in the Association and any aggrieved Owner for the recovery of damages, or for injunctive relief, or both.

22. Adult/Family Areas. The Development is specifically designed to accommodate families with children only in such Family Area or Areas as may be designated on the Condominium Plan. Except in the Family Area, no person under sixteen (16) years of age shall be a resident of the Development; provided, however, that persons, not exceeding two (2) in number, under that age may be guests of Owners of Units not situated in the Family Area for a period of time not to exceed ninety (90) days in any one calendar year. Provided, further, that in the event that any Unit Owner of a Unit not situated in the Family Area should give birth to a child, such Unit Owner shall be entitled to continue to reside in such Unit with such child until the second birthday of such child. The Board shall give an Owner sixty (60) days prior notice of the Association's intent to enforce the provisions of this Article III, Section 22. The recreation facilities situated in the Family Area shall be restricted

for the preferential use of Owners, tenants and children in the Family Area. The recreation facilities not situated in the Family Area shall be restricted to use by Owners, tenants and guests over the age of sixteen (16) years, in accordance with the Rules of the Association.

ARTICLE IV

THE ASSOCIATION

1. Formation. The Association shall be incorporated as a nonprofit corporation under the laws of the State of California and, upon the close of the first Condominium sale to an Owner, shall be and become charged with the duties and invested with the powers set forth in the Articles, the By-Laws and this Declaration, including, but not limited to, control and maintenance of the Common Area, the Open Space, and any Common Area facilities.

2. Association Action; Board of Directors and Officers. Except as to matters expressly requiring the approval of Members as set forth in this Declaration, the Articles or the By-Laws, the affairs of the Association shall in all instances be conducted by the Board and such officers as the Board may elect or appoint, such election or appointment to be in accordance with the By-Laws, as the same may be amended from time to time. Except as otherwise expressly provided in this Declaration, the Articles or the By-Laws, all matters requiring the approval of Members shall require the vote or written assent of a majority of each class of membership during the time that there are two outstanding classes of membership. At such time as there are no longer two outstanding classes of membership, and except as otherwise expressly provided in this Declaration, the Articles or the By-Laws, all matters requiring the approval of Members shall be deemed approved if Members holding a majority of the total voting rights assent thereto by written consent or otherwise as provided herein or in the By-Laws or if approved by a majority vote of a quorum of Members at any regular or special meeting called or otherwise as provided herein or in the By-Laws.

3. Powers and Duties of Association.

(a) Powers. The Association shall have all the powers of a nonprofit corporation organized under the General

Nonprofit Corporation Law of California, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the By-Laws, 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, including, without limitation the following:

(i) Assessments. The Association shall have the power to establish, fix and levy assessments against the Owners of Condominiums and to enforce payment of such assessments, all in accordance with the provisions of this Declaration; provided, however, the approval of Members shall be required as to the amounts of all regular and special assessments except as otherwise hereinafter specifically provided.

(ii) Right of Enforcement. The Association shall have the power and authority from time to time in its own name and on its own behalf, or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits at law for damages or in equity to restrain and enjoin any breach or threatened breach of any provisions of this Declaration or of the Articles or By-Laws, or of the Association rules adopted pursuant to this Section 3 of this Article IV, or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of said provisions. In addition to the foregoing remedies, the Association, after a hearing, which shall only be held after giving an Owner not less than seven (7) days' notice regarding the scheduled date of such hearing, shall have the right to suspend the voting rights, suspend use privileges of the Common Area or assess monetary penalties against any Owner or other person entitled to exercise such rights or privileges by reason of any violation of this Declaration or the Articles, By-Laws, Association rules, or Board resolutions, provided, however, that:

a. Any such suspension of use privileges may not exceed a period of thirty (30) days for any one violation; and

b. Any such monetary penalty shall not exceed Twenty-Five Dollars (\$25) for any one violation.

F 167 404

Each suspended or fined Owner, Renter or other person shall have the right to appeal such action by filing with the Board written notice of his intention to appeal. Such action imposing such fine or suspension shall thereupon become ineffective until the fine or suspension shall thereafter be unanimously approved by all Board members at a duly called and held regular or special meeting of the Board at which all such Board members are present and the Owner, or other person to be fined or suspended shall have the right to appear, to be represented by counsel and to be heard thereat. Except as provided in this section, the Association does not have the power or authority to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of such Owner's Condominium if the Owner does not comply with provisions of this Declaration or of the Articles or By-Laws, or the Association rules of operation for the Open Space and Common Area and facilities, except when the loss or forfeiture is the result of court judgment or an arbitration decision or a foreclosure or sale under a power of sale based on failure of the Owner to pay assessments levied by the Association.

(iii) Delegation of Powers. The Association acting by and through the Board shall have the authority to delegate its powers, duties and responsibilities to committees, officers or employees, including a professional managing agent (sometimes hereinafter referred to as the "Manager"). Any agreement for professional management of the Condominium Project shall be terminable with or without cause and without payment of a termination fee on thirty (30) days' written notice and the term of any such agreement shall not exceed one (1) year although such agreement may be renewed from year to year by the Board. Except as otherwise provided herein, in the event that any first mortgagee or lender proposing to make a first mortgage loan to a Unit Owner requires that the Development be professionally maintained, or managed, the Board shall engage a professional manager and shall not terminate professional management and assume self-management of the Development without the consent of seventy-five percent (75%) of all first Mortgagees.

(iv) Association Rules. The Association shall have the power to adopt, amend and repeal such rules and regulations as it deems reasonable (hereinafter sometimes referred to as the "Association Rules"). The Association Rules shall govern the use of the Common Area and Open Space by an Owner, the family members of an Owner, or by any

guest, invitee, tenant, lessee, or contract purchaser, or their respective family members, guests or invitees; provided, however, that the Association Rules shall not be inconsistent with or materially alter any other provisions of this Declaration, the Articles or By-Laws. A copy of the Association Rules as the same may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, the Articles or By-Laws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the By-Laws to the extent of any such inconsistency.

(b) Duties of the Association. In addition to the powers delegated to it by the Articles or in the By-Laws and without limiting the generality thereof, the Association acting by and through the Board, or by and through persons or entities described in Paragraph (a) (iii) above, if applicable, shall have the obligation to conduct all business affairs of common interest to all Owners, and to perform each of the following duties:

(i) Operation and Maintenance of Common Area and Open Space. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and Open Space and all facilities, improvements and landscaping thereon and thereof, and all other property acquired by the Association, including personal property, in a first class condition and in a good state of repair. In this connection, the Association may employ a Manager and may enter into contracts for services or materials for the benefit of the Association, the Open Space, or the Common Area, subject to the restrictions set forth in this Declaration. When necessary, the Association shall have the reasonable right, after giving the Owner of a Unit twenty-four (24) hours prior notice, except in the case of an emergency originating in or threatening a Unit where the right of entry shall be immediate, to enter upon any privately-owned Condominium in connection with construction, maintenance or repair for the benefit of the Common Area, the Open Space, or the Owners in common.

(ii) Taxes and Assessments. Pay all real and personal property taxes and assessments and all other taxes levied against the Common Area and Open Space, or personal property owned by the Association, or against the Association, if any. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes.

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

(iv) Insurance. Obtain from reputable insurance companies, and maintain in effect, the insurance described in Article VIII hereof.

(v) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration--the Articles and ByLaws, and the Association Rules and Board resolutions.

(vi) Enforcement of Bonded Obligations. When the California Real Estate Commissioner issues a final subdivision public report ("Public Report") for the Development, if any of the Common Area and Open Space improvements in the Development have not been completed, and if the Association is the obligee under a bond or other arrangement ("Bond") to secure performance of a commitment of the Declarant or its successors or assigns to complete such Common Area and Open Space improvements, then 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 within sixty (60) days after the completion

date specified for that improvement" in the "planned construction statement" appended to the Bond. However, if the Association has given an extension in writing for the completion of any Common Area and Open Space improvement, the Board shall consider and vote on the action to enforce the obligations under the Bond only if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. 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, the Association representing not less than ten percent (10%) of the total voting power of the Association, the Board shall call a special meeting of Members 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 meeting shall be called by the Board by fixing a date not less than fifteen (15) days or more than thirty (30) days after receipt by the Board of said petition and by giving written notice to all Owners entitled to vote in the manner provided in this Declaration or in the By-Laws for notices of special meetings of Members of the Association. At the meeting, the vote in person or by proxy of a majority of the Owners entitled to vote (other than Declarant), in favor of taking action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall then implement this decision by initiating and pursuing appropriate action in the name of the Association.

(c) Limitations on Authority of Board.

Except with the vote or written assent of Members of the Association holding a majority of the voting rights of each class of Members, the Board shall not take any of the following actions:

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

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

(i) Enter into a contract with a third person wherein the third person will furnish goods or services for the Common Area and the Open Space or the Association for a term longer than one year with the following exceptions:

a. A management contract, the terms of which have been approved by the Federal Housing Administration or 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, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

c. Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits for short rate cancellation by the insured.

(iv) Pay compensation to Members of the Board or to officers of the Association for services performed in the conduct of the Association's business. However, the Board may cause a member of the Board or an officer to be reimbursed for reasonable expenses incurred in carrying on the business of the Association.

4. Personal Liability. No member of the Board, or any committee of the Association, or any officer of the Association, or the manager, if any, or Declarant, or any agent of Declarant, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity, provided that such person or entity has, upon the basis of such information as may be possessed by him or it, acted in good faith without willful or intentional misconduct.

5. Annual Meeting and Notice. An organizational meeting shall be held as soon as practicable following the incorporation of the Association, and the directors elected thereat shall hold office until the first annual meeting. The first annual meeting of Members of the Association shall be held within forty-five (45) days after the closing of the sale of the Unit within the Development which represents the 51st percentile Unit authorized for sale under the first

Public Report for the Development, but in no event shall the meeting be held later than six (6) months after the closing of the sale of the first Unit within the Development. Thereafter, annual meetings of Members of the Association shall be held in each succeeding year within one week before or after the anniversary date of said first annual meeting on a day to be determined by the Board, which day shall not be a legal holiday. Special meetings may be called as provided for in the By-Laws. Notice of all Members' meetings, regular or special, shall be given by regular mail, personal delivery or telegram to all Owners and to any Mortgagee who has requested in writing that such notice be sent to it and shall be given not less than ten (10) days nor more than thirty (30) days before the time of the meeting and shall set forth the place, date, and hour of the meeting, and the nature of the business to be undertaken. Any Mortgagee, through its designated representative, shall be entitled to attend any such meeting but, except as provided in this Declaration, shall not be entitled to vote at the meeting. All such meetings shall be held within the Development, if possible, at a place selected by the Board. The presence at any meeting in person or by proxy of Members entitled to cast at least a majority of the total votes of all Members of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, Members representing a majority of the votes present either in person or by proxy may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the date the original meeting was called, at which adjourned meeting the quorum requirement shall be not less than twenty-five percent (25%) and not more than sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of each class of Members of the Association. Any meeting of Members at which a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present in person or by proxy.

6. Financial Statements of the Association. The Association shall prepare, or cause to be prepared, a balance sheet and an operating (income) statement for the Association as of the accounting dates hereinafter set forth, and copies of each thereof shall be distributed to each Member within sixty (60) days after said accounting dates. Except with respect to the balance sheet and an operating (income) statement for the Association prepared with respect to the

first accounting date described below, said balance sheet and operating (income) statement shall be independently audited as provided in the By-Laws. For purposes hereof, the accounting dates for preparation of such balance sheet and operating (income) statement are as follows:

(a) The first accounting date shall be the last day of the month closest in time to six (6) months from the date of recording of the first sale of a Unit within the Development. The balance sheet shall be rendered as of said date, and the operating (income) statement shall be rendered for the period commencing with the date of recording of the first sale of a Unit within the Development and ending as of said first accounting date. The operating statement for the first six (6) months accounting period shall include a schedule of assessments received and receivable identified by the number of the Unit and the name of the person or entity assessed.

(b) The second and subsequent accounting dates shall be the last day of the Association's fiscal year (which fiscal year shall be a calendar year unless a different fiscal year is adopted). The balance sheet shall be rendered as of said date, and the operating (income) statement shall be rendered for the fiscal year in question. Both the balance sheet and operating statement shall be distributed to each Owner within ninety (90) days after the close of the fiscal year.

(c) Not less than sixty (60) days before the beginning of each fiscal year of the Association, the Association shall prepare, or cause to be prepared, a pro forma operating statement (budget) for the coming fiscal year and shall distribute a copy to each Owner.

(d) Copies of each such balance sheet, operating statement and pro forma operating statement for the Association shall be mailed to any Mortgagee who has requested in writing that such copies be sent to it.

7. Inspection of Association Books and Records.

(a) Any membership register, books of account and minutes of meetings of the Members, the Board and committees of the Board of the Association shall be made available for inspection and copying by any Member of the Association, or

their duly-appointed representative, or any Mortgagee, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Development as the Board prescribes.

(b) The Board shall establish by resolution reasonable rules with respect to:

(i) Notice to be given to the custodian of the records of the Association by the Member, representative or Mortgagee desiring to make an inspection.

(ii) Hours and days of the week when an inspection may be made.

(iii) Payment of the cost of reproducing copies of documents requested by a member or by a representative or Mortgagee.

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

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

1. Membership.

(a) Qualifications. Each Owner of a Condominium, including Declarant, shall be a member of the Association. No such Owner, except Declarant, shall hold more than one membership in the Association even though such Owner may own, or own an interest in, more than one Condominium. Ownership of a Condominium or interest therein shall be the sole qualification for and entitlement to membership in the Association. Each Owner shall remain a Member of the Association until such time as their ownership or ownership interest in all Condominiums in the Development ceases for any reason, at which time their membership in the Association shall automatically cease. A Member is not intended to include

(i) persons or entities who hold an interest in a Condominium merely as security for performance of an obligation, (ii) contract purchasers or (iii) trustees under any instrument securing performance of an obligation.

(b) Members' Rights and Duties. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the By-Laws and the Association Rules, as the same may from time to time be amended.

(c) Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Condominiums shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon a transfer of title to each such Condominium or interest therein and then only to the transferee thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest therein shall operate automatically to transfer the membership rights in the Association appurtenant thereto to the new Owner thereof except that the transferee thereof may be obligated to pay a reasonable fee to the Association for transfer of a certificate evidencing membership in the Association as set forth in the By-Laws.

2. Voting.

(a) Number of Votes. The Association shall have two (2) classes of voting membership:

Class A: Class A Members are all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one (1) vote for each Condominium in which such class member owns an interest. However, when more than one Class A Member owns an interest in a Condominium, the vote for such Condominium shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Condominium.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Condominium owned. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(ii) The second anniversary of the original issuance of the Public Report for the Development.

No owner shall be entitled to vote in the manner provided herein unless and until assessments against such Owner's Unit have been levied by the Association.

(b) Joint Owner Votes. The voting rights for each Condominium may not be cast on a fractional basis. In the event that the joint owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit same as to the matter in question. If any Owner or Owners cast the voting rights of a particular Condominium, it will thereafter be conclusively presumed for all purposes that they were acting with the authority and consent of all other Owners of the same Condominium. In the event more than one (1) person or entity casts the voting rights for a particular Condominium, said voting rights shall not be counted and shall be deemed void.

(c) First Election. The first annual election of the Board shall be conducted at the first meeting of the Association. All positions on the Board shall be filled at that election.

(d) Cumulative Voting.

(i) Election to the Board where more than two positions on the Board are to be filled shall be by cumulative voting as defined in California Corporations Code Section 708. In this regard, each Member shall be entitled to vote, in person or by proxy, as many votes as such Member is entitled to exercise as provided above, multiplied by the number of directors to be elected, as the case may be, and he may cast all of such votes for or against a single candidate or director, or he may distribute them among the number of candidates or directors to be so elected or removed, or any two or more of them, in such manner as he deems appropriate. The candidates receiving the highest number of votes up to the number of Board members to be elected shall be deemed elected.

(ii) Unless the entire Board is removed from office by the vote of the Members, an individual Board member shall not be removed prior to the expiration of his term of office if the number of votes cast against removal is greater than the quotient arrived at by dividing the total number of votes that may be cast under cumulative voting procedures by a divider equal to one (1) plus the authorized number of Board members as set forth in California Corporations Code Section 303(a)(1).

(e) Special Procedure for Election of One Director By Class A Members. As long as a majority of the voting power of the Association resides in the Declarant, or as long as there are two outstanding classes of membership in the Association, the election of twenty percent (20%) of the directors (the "specially elected directors") shall be determined at a special election held immediately before the regular election of directors (except in the case of the election of a specially elected director following removal of his predecessor). At the duly constituted meeting of Members, nominations for the specially elected director shall be made by the Nominating Committee and from the floor. When nominations have been closed, the special election shall take place. Declarant shall not have the right to participate in or vote in such special election (although Declarant or Declarant's representatives may be present), and the candidate(s) receiving the highest number of votes up to the number of specially elected director(s) to be elected shall be deemed to be the specially elected director(s), and their term shall be the same as that of any other director. In case of the death, resignation, or removal of a specially elected director, his successor shall be elected at a special meeting of Members, and the provisions set forth in this section respecting the election of a specially elected director shall apply as to the election of a successor. Except as provided in this Declaration, the provisions of this Declaration and of the Articles and By-Laws applicable to directors, including their election and removal, shall apply to a specially elected director.

(i) A specially elected director may be removed from office prior to the expiration of such specially elected director's term of office only by the vote of at least a simple majority of the voting power residing in members other than the Declarant.

(ii) Unless the entire board of directors is removed from office by the vote of Association members, an individual director shall not be removed prior to the expiration of such director's term of office if the number of votes cast against his removal is greater than the quotient arrived at by dividing the total number of votes that may be cast under cumulative voting procedures by a divider equal to 1 plus the authorized number of directors.

ARTICLE VI

ASSESSMENTS

1. Agreement to Pay. The Declarant, for each Condominium owned by it in the Development which is expressly made subject to assessment as set forth in this Declaration, hereby covenants and agrees, and each purchaser of a Condominium by his acceptance of a deed therefor, whether or not it is so expressed in such deed, is deemed to covenant and agree, for each Condominium owned, to pay to the Association regular assessments and special assessments, such assessments to be established, made and collected as hereinafter provided. The foregoing notwithstanding, the Open Space shall not be subject to assessments so long as it is owned by the Association.

2. Personal Obligations. Each such assessment or installment thereof, together with any late charge, interest thereon, collection costs and reasonable attorneys fees, shall also be the personal obligation of the person or entity who was an Owner at the time such assessment, or installment thereof, became due and payable. In the event more than one person or entity was the Owner of a Condominium, the personal obligation to pay such assessment, or installment thereof, respecting such Condominium shall be both joint and several. The personal obligation for delinquent assessments, or delinquent installments thereof, and such other sums, shall not pass to an Owner's successors in interest unless expressly assumed by them. No Owner of a Condominium may exempt themselves from payment of assessments, or installments thereof, by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use or enjoyment of, or by abandonment of, their Condominium.

3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members of the Association, the improvement, replacement, repair, operation and maintenance of the Common Area and Open Space and the performance of the duties of the Association as set forth in this Declaration.

4. Assessments.

(a) Regular Assessments. Not more than sixty (60) days nor less than thirty (30) days prior to the beginning of each fiscal year the Board shall estimate the total amount of funds necessary to defray the common expenses of the Association for the next fiscal year, and if said amount is approved by a majority vote of the Board, without a vote of the Members of the Association, the estimate shall become the regular assessment for such year. However, the Board may not increase without approval by vote or the written assent of the Members holding a majority of the voting rights of each class of Members, the amount of the regular assessment for any fiscal year of the Association by more than twenty percent (20%) above the amount of the prior year's regular assessment. Regular assessments shall be due and payable by the Members of the Association in equal monthly installments, on or before the first day of each month during the fiscal year, unless the Board adopts some other basis for collection. Regular assessments shall include adequate reserve funds for contingencies and for maintenance, repairs, and replacement of the Common Area improvements that must be replaced on a periodic basis sufficient to satisfy the reasonable requirements of any Mortgagee.

(b) Special Assessments. If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is, or will become, inadequate to meet expenses for any reason (including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the Common Area or Open Space) the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board it shall become a special assessment. The Board may, in its discretion, prorate such special assessment over the remaining months of

the fiscal year or levy the assessment immediately against each Condominium. Unless exempt from federal or state income taxation, all proceeds from any special assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied.

(c) Limitation Respecting Special Assessments.

Any special assessment in excess of five percent (5%) of the budgeted gross expense of the Association for the fiscal year in which a special assessment is levied shall require approval by vote or the written assent of a majority of the voting power of the Association residing in Members other than Declarant, except in case of a special assessment against an Owner as a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member or his Condominium into compliance with the provisions of this Declaration.

5. Uniform Rate of Assessment. Except as hereinafter provided in this Declaration or as may be required by the California Department of Real Estate ("DRE"), regular and special assessments must be fixed at a uniform rate for all Condominiums. Regular and special assessments shall be determined by dividing the amount of the estimated operating expenses and reserved by the total number of Condominiums then within the Development and subject to assessments; provided, however, that estimated operating expenses for insurance and paint and roof reserves must be allocated pro rata to each Condominium, such proration to be determined by multiplying the amount of the estimated operating expenses and reserves by a fraction, the numerator of which shall be equal to the unit's gross interior square footage and the denominator of which shall be equal to the gross interior square footage of all Units comprising the Development.

6. Assessment Period. The regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year. However, the initial regular assessment period shall commence on the first day of the calendar month following the date on which the sale of the first Condominium to a purchaser is recorded (the "initiation date") and shall terminate on December 31 of the year in which the initial sale is recorded. The first regular assessment and all special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments

unless the Board adopts some other basis for collection. The Association shall not change the pro rata interest obligation of any Condominium for purposes of levying assessments unless all Owners and all Mortgagees have given their prior written consent.

7. Notice and Assessment Installment Due Dates. A single ten (10) day prior written notice of each annual regular assessment and each special assessment shall be given to any Owner of every Condominium subject to assessment in which the due dates for the payments of installments shall be specified. As provided herein the due dates for the payment of installments shall be the first day of each month unless some other due date is established by the Board. Each installment of regular assessments and special assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge of Fifteen Dollars (\$15) together with interest at the rate of ten percent (10%) per annum calculated from the due date to and including the date full payment is received by the Association. *Limit 15*

8. Estoppel Certificate. The Board or manager, on not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not, to the knowledge of the Association, a particular Owner is in default in paying assessments as to their Condominium under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such Condominium. Any such certificate delivered pursuant to this Section 8 may be relied on by any prospective purchaser or Mortgagee of the Condominium, but reliance on such certificate may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

ARTICLE VII

COLLECTION OF ASSESSMENTS: LIENS

1. Right to Enforce. The right to collect and enforce assessments is hereby vested in the Board acting by and on behalf of the Association. The Board or its authorized representative, including the Manager, if any, may enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a

suit at law or in equity or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 2 hereof to enforce the lien rights created hereby. A suit to recover a money judgment for unpaid assessments together with all other amounts described in Sections 2 and 7 of Article VI hereof may be maintained without foreclosing or waiving said lien rights.

2. Creation of Lien. In the event of a delinquency in the payment of any assessment, or installment thereof, respecting a Condominium, as described in Section 7 of Article VI hereof, such amounts as may be delinquent, together with the late charge described in said Section 7, interest thereon at the rate of ten percent (10%) per annum, and all costs which may be incurred by the Board or its authorized representative in the collection of said amounts, including reasonable attorneys fees, shall be and become a lien against such Condominium upon the recordation in the office of the County Recorder of said County of a Notice of Assessment as provided in Section 1356 of the California Civil Code. The Notice of Assessment shall not be recorded unless and until the Board or its authorized representative has delivered to the delinquent Owner or Owners of such Condominium, not less than fifteen (15) days prior to the recordation of said Notice of Assessment, a written notice of default and a demand for payment, and such delinquency has not been cured within fifteen (15) days after delivery thereof. Said lien shall expire and be null and void unless, within one (1) year after recordation of said Notice of Assessment, the Board or its authorized representative records a notice of default as hereinafter provided or institutes judicial foreclosure proceedings.

3. Notice of Default; Foreclosure. Not less than ten (10) days nor more than one (1) year after the recording of said Notice of Assessment, the Board or its authorized representative may record a notice of default and thereafter may cause such Condominium to be sold in the same manner as a sale is conducted as provided by Sections 2924, 2924(b) and 2924(c) of the California Civil Code, or through judicial foreclosure; provided, however, that as a condition precedent to the holding of any such sale under said Section 2924(c) appropriate publication shall be made; and provided, further, that in connection with any sale pursuant thereto the Board is hereby authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in California as Trustee for purposes of conducting

such sale. 1. any such delinquency is cured prior to sale, or prior to completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the office of the County Recorder of said County a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorneys fees not to exceed One Hundred Fifty Dollars (\$150) by such delinquent Owner or Owners. During the pendency of any foreclosure proceeding, whether judicial or by power of sale, the Condominium Owner or Owners shall be required to pay to the Association reasonable rental for the Condominium and the Association shall be entitled to the appointment of a receiver to collect the same. In this regard, on becoming delinquent in the payment of any assessments, or installments thereof, each delinquent Owner or Owners shall be deemed to have absolutely assigned all rents, issues and profits of their Condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the remedy of specific performance). The Association, acting on behalf of the Owners, shall have the power to bid on the Condominium at foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

4. Waiver of Exemptions. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Article VII, the benefit of any homestead or exemption laws of the State of California in effect at the time any assessment, or installment thereof, becomes delinquent or any lien is imposed pursuant to the terms hereof.

ARTICLE VIII

INSURANCE

1. Liability Insurance. The Association shall obtain and maintain in force comprehensive public liability insurance insuring the Association, the Manager, if any, the Declarant and the Owners and occupants of Condominiums, and their respective family members, guests and invitees, and the agents and employees of each, against any liability incident to the ownership or use of the Common Area and Open Space and including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other

insured. The limits of such insurance shall be not less than \$1,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

2. Fire and Extended Coverage Insurance. The Association shall obtain and maintain in force a master or blanket policy of fire and casualty insurance for the full insurable value of all of the improvements within the Development and any betterments and improvements thereto. Such policy and any endorsements thereon shall be in the form and content, for such term and in such company as may be satisfactory to a majority of the different Mortgagees who hold mortgages on Condominiums in the Development; and, if more than one Mortgagee has a loan of record against the Development, or any part thereof, such policy and endorsements shall meet the maximum standards of the various Mortgagees represented in the Development. Such policy shall contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause, and a determinable cash adjustment clause, or a similar clause to permit cash settlement covering full value of the improvements in the event of partial destruction and a decision not to rebuild. Such policy shall be in such amounts as shall be determined from time to time by the Board, shall name as insured the Association, the Owners and Declarant, so long as Declarant is the owner of any of the Condominiums and all Mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the Trustee described in this Declaration.

3. Individual Fire Insurance. Except as provided in this Section, no Owner can separately insure his Condominium or any part of it against loss by fire or other casualty covered by any insurance carrier under Section 2 hereof. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 4 hereof, that result from the existence of such other insurance will be chargeable to the Owner who acquired other insurance, and the Owner will be liable to the Association to the extent of any such diminution. An Owner can

insure his personal property against loss. In addition, any improvements made by an Owner to the real property within their Condominium may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as tenant's improvements. All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association and Declarant.

4. Trustee. All insurance proceeds payable under Sections 2 and 3 above, and subject to the rights of the Mortgagees under Section 8, shall 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. Said trustee shall be a commercial bank, or branch thereof, located in the City which has agreed in writing to accept such trust. In the event repair or reconstruction is authorized, the Board shall have the duty to contract for such work as provided for herein.

5. Other Insurance. The Board may and, if required by any Mortgagee, shall purchase and maintain in force demolition insurance in adequate amounts to cover demolition in the event of total or partial destruction and a decision not to rebuild and a blanket policy of flood insurance. The Board shall also purchase and maintain workmen's compensation insurance, to the extent that the same shall be required by law, for all employees of the Development. The Board shall also purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150% of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation) sufficient to meet the requirements of any Mortgagee and shall purchase such insurance on personal property owned by the Association, and such other insurance, as it deems necessary or as is required by any Mortgagee.

6. Owner's Insurance. An Owner may carry such personal liability and property damage insurance respecting their Condominium as they may desire; provided, however, any such policy shall include a waiver of subrogation clause.

7. Adjustment of Losses. The Board is hereby appointed attorney-in-fact by each Owner to negotiate and agree upon the value and extent of any loss under the policy or policies

carried pursuant to Sections 1, 2 and hereof. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

8. Distribution to Mortgagees. With respect to insurance coverage under Sections 2 and 3, above, any Mortgagee shall have the option to apply insurance proceeds payable thereunder to such Mortgagor in reduction of the obligation secured by the Mortgage of such Mortgagee.

ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

1. Destruction; Proceeds Exceed 85% of Reconstruction Costs. In the event of a total or partial destruction of the improvements in the Development, and if the available proceeds of the insurance carried pursuant to Article VIII are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction thereof, the same shall be promptly rebuilt unless, within ninety (90) days from the date of such destruction, Members then holding at least seventy-five percent (75%) of the total voting power of each class of Members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall not take place. If repair and reconstruction is to take place, the Board shall be required to execute, acknowledge and record in the office of the County Recorder, not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

2. Destruction; Proceeds Less Than 85% of Reconstruction Costs. If the proceeds of such insurance are less than eighty-five percent (85%) of the costs of repair and reconstruction, such repair and reconstruction may nevertheless take place if, within ninety (90) days from the date of said destruction, Members then holding at least a majority of total voting power of each class of Members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall take place. If repair and reconstruction are to take place, the Board shall be required to execute, acknowledge and record in the office of the County Recorder, not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

3. Procedures Respecting Rebuilding. If the Members determine to rebuild, pursuant to Sections 1 or 2, above, the Owner or Owners of each Condominium shall be obligated to contribute such funds as shall be necessary to pay their proportionate share of the cost of reconstruction, over and above the available insurance proceeds, and the proportionate share of each such Owner or Owners shall be equal to a fraction, the numerator of which shall be equal to the Unit's gross interior square footage and the denominator of which shall be equal to the gross interior square footage of all Units comprising the Development. In the event of the failure or refusal of such Owner or Owners to pay their proportionate share, the Board may levy a special assessment against the Condominium of such Owner or Owners which may be enforced under the lien provisions contained in Article VII hereof or in any other manner provided in this Declaration. If any Owner disputes the amount of his proportionate liability under the Section, such Owner may contest the amount of their liability by submitting to the Board within ten (10) days after notice to the Owner of their share of the liability written objections supported by cost estimates or other information that the Owner deems to be material and may request a hearing before the Board at which they may be represented by counsel. Following such hearing, the Board shall give written notice of its decision to all Owners, including any recommendation that adjustments be made with respect to the liability of any Owners. If such adjustments are recommended, the notice shall schedule a special meeting of Members for the purpose of acting on the Board's recommendation, including making further adjustments, ~~if deemed~~ by the Members to be necessary or appropriate. All adjustments shall be affirmed or modified by a majority of the total voting power of each class of Members. If no adjustments are recommended by the Board, the decision of the Board shall be final and binding on all Owners, including any Owner filing objections.

4. Rebuilding Contract. If the Members determine to rebuild, the Board or its authorized representative shall obtain bids from at least two reputable contractors and shall award the repair and reconstruction work to the lowest bidder. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the insurance proceeds held by the trustee shall be disbursed to the contractor according to the terms of the agreement. It shall be the obligation of

the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

5. Rebuilding Not Authorized. If the Members determine not to rebuild, then, subject to the rights of Mortgagees as set forth in Section 8 of Article VIII hereof, any insurance proceeds then available for such rebuilding shall be distributed to the Owner or Owners of each Condominium proportionately in accordance with the then assessed value of each such Condominium appearing on the tax rolls of the County Assessor of said County. The Board shall have the duty, within one hundred twenty (120) days of the date of such destruction, to execute, acknowledge and record in the office of the County Recorder a certificate declaring the intention of the Members not to rebuild.

6. Minor Repair and Reconstruction. The foregoing notwithstanding, in all instances of partial destruction where the estimated cost of repair and reconstruction does not exceed Twenty Thousand Dollars (\$20,000), the Board shall have the duty to repair and reconstruct improvements without the consent of Members, providing the amount of available insurance proceeds is adequate to cover the cost of such repair or reconstruction. In the event the insurance proceeds are not adequate to cover the cost of such repair or reconstruction, the Board is expressly empowered to levy a special assessment for the cost of same to the extent insurance proceeds are unavailable therefor, such assessment to be levied as described in the manner provided in Article VI hereof.

7. Revival of Right to Partition. Upon recordation of a certificate described in Section 5 hereof, the right of any Owner to partition through legal action as described in Article XI hereof shall forthwith revive.

8. Arbitration. In the event of a dispute among the Owners or Mortgagees with respect to the provisions of this Article IX, any Owner may cause the same to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, notice thereof shall be given to the Members of the Board and to all other Owners and their respective Mortgagees as promptly thereafter as possible, giving all Board members, Owners and Mortgagees an opportunity to

appear in such arbitration proceedings. The decision of such arbitrator in the matter shall be final and conclusive upon all parties. The arbitrator may include in his decision an award for costs and/or attorneys fees against any one or more parties to the arbitration. The award or decision may be confirmed and enforced by any court of competent jurisdiction.

9. Negligently or Willfully Caused Damage. Any Owner or other person negligently or willfully causing damage to the Development shall be liable therefor.

ARTICLE X

CONDEMNATION

1. Sale by Unanimous Consent. In the event that any action for condemnation of all or a portion of the Development is proposed or threatened by any governmental agency having the right of eminent domain, then, upon unanimous written consent of all of the Owners, the Development, or such portion thereof may be sold.

2. Distribution of Proceeds of Sale. Upon a sale occurring as described in Section 1 hereof, the proceeds resulting therefrom shall be distributed to the Owner or Owners and their Mortgagees of each Condominium as their respective interests may appear proportionately in accordance with the then assessed value of each such Condominium appearing on the tax rolls of the County Assessor of said County. In the event of the occurrence of a disagreement within ninety (90) days after the proceeds of sale become available for distribution, the matter shall be referred to arbitration in accordance with Section 8 of Article IX:

3. Distribution of Condemnation Award. In the event the Development, or such portion thereof, is not sold but is instead taken, the judgment of condemnation shall by its terms apportion the award among the Owners and their respective Mortgagees, as their interests may appear.

ARTICLE XI

PARTITION

1. Suspension. The right of partition is hereby suspended pursuant to Section 1354 of the California Civil Code as to the Development. The Development may be partitioned and sold as a whole pursuant to the provisions of

Section 1354 of the California Civil Code upon a showing of the occurrences of any one of the events therein provided. Additionally, partition may be had of the Development upon a showing that the conditions for such partition as set forth in Section 7 of Article IX have been met. Nothing herein contained shall prevent the partition or division of interest between joint or common Owners of one (1) Condominium. For purposes of distribution of proceeds or property in the event of a partition, and to the extent permitted by law, such proceeds or property shall be distributed to and among the respective Owners and their Mortgagees of each Condominium as their respective interests may appear proportionately in accordance with the then assessed value of each such Condominium appearing on the tax rolls of the County Assessor of said County.

2. Power of Attorney. Pursuant to Section 1355(b)(9) of the California Civil Code, each of the Owners hereby grants the Association an irrevocable power of attorney to sell the Development for the benefit of the Owners thereof when partition thereof may be had under Section 1354 of the California Civil Code. Exercise of said power shall be subject to the approval of Members.

ARTICLE XII

NON-SEVERABILITY OF COMPONENT INTERESTS IN A CONDOMINIUM

1. Prohibition Against Severance. An Owner shall not be entitled to sever their Unit in any Condominium from their membership in the Association, and shall not be entitled to sever their Unit and their membership from their undivided interest in the Common Area specified in Exhibit B for any purpose. None of the component interests can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be null and void and of no effect. Similarly, no Owner can sever any exclusive easement appurtenant to their Unit over the Restricted Common Area from their Condominium, and any attempt so to do shall be null and void and of no effect. The suspension of this right of severability will not extend beyond the period set forth in Article XI respecting the suspension of partition. It is intended hereby to restrict severability pursuant to California Civil Code Section 1355(g).

2. Conveyances. After the initial sales of the Condominiums, any conveyance of a Unit, or of the component interest in the Common Area, by the Owner of any Condominium, shall be presumed to convey the entire Condominium. However, nothing contained in this Section shall preclude the Owner of any Condominium from creating a cotenancy or joint tenancy in the ownership of the Condominium with any other person or persons.

ARTICLE XIII

TERM OF DECLARATION

1. Term of Declaration. This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from and after the date on which this Declaration is executed. Thereafter, this Declaration and all covenants, conditions, restrictions and other provisions herein contained shall be in full force and effect for successive ten (10) year intervals unless terminated by an instrument executed by Owners of not less than two-thirds (2/3) of the Condominiums in the Development, which instrument shall be recorded in the office of the County Recorder.

ARTICLE XIV

PROTECTION OF MORTGAGEES

1. Mortgage Permitted. Any Owner may encumber his Condominium with a Mortgage.

2. Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any Mortgage encumbering all or a portion of the Development, or any Condominium therein, 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 thereunder shall expressly subordinate his interest, in writing, to such lien.

3. Amendment. No amendment to this Declaration shall materially affect the rights of any Mortgagee to any Mortgage made in good faith and for value and recorded prior to the recordation of any such amendment unless at least seventy-

five percent (75%) of all first Mortgagees shall either join in the execution of such amendment or shall approve the same in writing as a part of such amendment.

4. Restrictions on Certain Changes. Unless at least seventy-five percent (75%) of the first Mortgagees (based upon one vote for each mortgage owned) of Owners of Units (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall be entitled:

(a) by act or omission to seek to abandon or terminate the Condominium Plan, except for abandonment provided by statute in case of substantial loss to the Units and Common Area;

(b) to change the pro rata interest or obligations of any Units for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each Unit in the Common Area or to change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) to partition or subdivide any Unit;

(d) by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area, except partition of the Common Area as authorized by Article XI hereof. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area and Open Space by the Association or the Owners shall not be deemed a transfer within the meaning of this clause.

(e) to fail to maintain fire and extended coverage insurance on insurable Common Area and Open Space improvements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost) or to use hazard insurance proceeds for losses for other than the repair, replacement or reconstruction of Development improvements, except as provided by statute in case of substantial loss to the Units, Common Area and/or Open Space of the Development; or

(f) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of Units, the exterior maintenance of Units or the maintenance of party walls.

5. Right to Examine Books and Records. First Mortgagees shall have the right to examine the books and records of the Association of the Development and the right to require the submission of financial data concerning the Association or the Development, including annual audit reports and operative statements as furnished to the Owners.

6. Distribution of Insurance and Condemnation Proceeds. No Unit Owner, or any other party, shall have priority over any right of first Mortgagees of Units pursuant to their Mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Area and/or Open Space. Any provision to the contrary herein or in the By-Laws or other documents relating to the Development is to such extent null, void and of no effect. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to a majority of the different affected Mortgagees naming the Mortgagees, as their interests may appear.

7. Amenities. All amenities (such as parking, and service area) are available for use by Owners and all such amenities with respect to which regular or special assessments for maintenance or other uses may be levied hereunder constitute Common Area and/or Open Space.

All such amenities shall be covered by any Mortgage on a Unit to the extent such amenities are included in the Owners' undivided interest in the Common Area except for any easements granted for public utilities or for other public purposes.

8. Effect of Breach Hereof. No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any Mortgage in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

9. Foreclosure. If any Condominium is encumbered by a Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments thereof, as shall have accrued up to the time of foreclosure shall be subordinate to the lien of such Mortgage, with the foreclosure-purchaser taking title to such Condominium free of the lien hereof for such assessments, or installments thereof, as shall have accrued up to the time of the foreclosure sale; and upon so coming into title to such Condominium, such foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association subsequent to the time such foreclosure-purchaser acquired title to such Condominium, which subsequently levied assessments or other charges may include previously unpaid assessments provided all Owners, including such foreclosure-purchaser, and the successors and assigns thereof, are required to pay their proportionate share thereof as hereinabove provided.

10. Non-Curable Breach. Any Mortgagee who acquires title to a Condominium by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration which is non-curable.

11. Loan to Facilitate. Any first Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by 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 protections of this Article XIV.

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

13. Right to Furnish Information. Any Mortgagee shall have the right to furnish information to the Board concerning the status of any Mortgage.

14. Notices to Mortgagees of Record. On any loss of any Unit covered by a Mortgage, if such loss exceeds One Thousand Dollars (\$1,000), or on any loss to the Common Area or Open Space, if such loss exceeds Ten Thousand Dollars (\$10,000) or on any taking of the Common Area or Open Space, notice in writing of such loss or taking shall be given to each Mortgagee of record by the Association. If any Owner of a Unit is in default under any provisions of these covenants, conditions and restrictions, or under any provision of the By-Laws or the Association Rules which default is not cured within thirty (30) days after written notice to such Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that said thirty (30) day period has expired.

15. Payment of Taxes. Mortgagees of Units in the Development may jointly or singularly pay taxes which are in default and which may or have become charged against any Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XV

AMENDMENT

1. Amendment Prior to Close of First Sale. Prior to the recordation of the first sale of a Condominium in the Development to a purchaser other than Declarant, the Declaration and any amendments thereto may (subject to the approval of the DRE) be amended in any respect by the execution by Declarant of an instrument amending or revoking same, which instrument shall make appropriate reference to this Declaration and any amendment thereto and which instrument shall be acknowledged and recorded in the office of the County Recorder.

2. Amendment After Close of First Sale. After the recordation of the first sale of a Condominium in the Development to a purchaser other than Declarant, if a two-class voting structure is still in effect in the Association, this Declaration can be amended only with the vote or written assent of members entitled to cast a majority of the voting power of each class of membership in the Association. If a

two-class voting structure is no longer in effect in the Association because of the conversion of Class A membership to Class B membership, as provided in the Declaration, this Declaration can be amended only with the vote or written assent of members entitled to cast a majority of the voting power of the Association, which majority shall include at least a majority of the votes of members other than Declarant. However, if any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Also, if the consent or approval of the City or County or any other governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the recordation 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 this Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder.

3. Business and Professions Code Section 11018.7. The foregoing to the contrary notwithstanding, all amendments or revocations of this Declaration shall comply with the provisions of Section 11018.7 of the California Business and Professions Code to the extent such section is applicable thereto.

4. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid as to anyone relying thereon in good faith.

5. Amendments to Conform with Mortgagee Requirements. It is the intent of Declarant that this Declaration and the Articles and By-Laws of the Association, and the Development in general, meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a Unit in the development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans' Administration. In furtherance of that intent, Declarant expressly reserves the

right and shall be entitled by unilateral amendment of the Declaration as long as Declarant owns more than twenty-five percent (25%) of the Condominiums in the Development to incorporate any provisions that are, in the opinion of any of the cited entities or governmental agencies, required to conform the Declaration, the Articles, the By-Laws or the Development to the requirements of any of the entities or governmental agencies including without limitation, the execution on behalf of the Association of a regulatory agreement between the Association and the Federal Housing Commissioner. Any such provision shall first have been approved by the DRE in connection with its issuance of a Final Subdivision Public Report or amendment to it with respect to the Development. Each Owner of a Unit and each Mortgagee of a Unit by acceptance of a deed or encumbrance of a Unit consents to the incorporation in this Declaration of any such provisions and to the execution of any such regulatory agreement and agrees to be bound by any such provisions as if it were incorporated in this Declaration. The Board and each Owner shall take any action or shall adopt any resolution required by Declarant or any Mortgagee to conform this Declaration or the Development to the requirements of any of the entities or agencies.

6. Approval of City of Santa Clara. Amendments to this Declaration shall require the written consent and approval of the City of Santa Clara.

ARTICLE XVI

ARCHITECTURAL CONTROL

1. Architectural Approval. Except with respect to construction or refurbishing of Condominiums, Common Area, or improvements thereto by the Declarant in the Development, no building exterior wall or other structure shall be commenced, erected or maintained in the Development, nor shall any exterior addition to or change or alteration therein, including patio or balcony covers and antennae, be made until the plans and specifications showing the nature, kind, shape, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee provided for in Section 2 hereof. In the event said Committee or its designated representatives fails to approve or disapprove

such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

2. Committee; Organization; Power of Appointment and Removal of Members. There shall be an Architectural Committee organized as follows:

(a) The Architectural Committee shall consist of three (3) persons each of whom shall be over the age of twenty-one (21) years.

(b) The following persons are hereby designated by the Declarant as the initial members of the Architectural Committee:

- (1) Robert Knobel
- (2) Gay Tigue
- (3) Courtney Seepie

(c) Declarant reserves the power to appoint all of the original members of the Architectural Committee and all replacements until the first anniversary of the issuance of a Final Subdivision Public Report by the State of California Department of Real Estate.

(d) Declarant further reserves the power to appoint a majority of the Architectural Committee until ninety percent (90%) of all of the Condominiums in the Development have been sold and conveyed or until the fifth anniversary of the issuance of the Public Report for the Development whichever first occurs.

(e) After one year from the date of issuance of the original Public Report for the first (or only) phase of the subdivision, the Board shall have the power to appoint one (1) member to the Architectural Committee until ninety percent (90%) of all of the Condominiums in the Development have been sold or until the fifth anniversary of the issuance of the Public Report for the Development whichever first occurs. Thereafter, the Board shall have the power to appoint all of the Members of the Design Committee.

(f) Declarant may at any time in writing waive its rights hereunder to appoint members or replacements to the Architectural Committee in which case the Board shall have the power to appoint such members.

(g) When, pursuant to the provisions of Paragraph (e) and/or (f) above, Declarant waives or no longer has the right to appoint and remove any or all members of the Architectural Committee, the right from time to time to appoint and remove all members shall be vested solely in the Board; provided, however, that no member may be removed from the Architectural Committee without the vote or written consent of a minimum of two-thirds (2/3) of all of the members of the Board holding office at that time. The Board shall exercise its right of appointment and removal by notification in the minutes of its meetings of a declaration executed by the secretary of the Association, or any assistant secretary.

(h) Any member of the Architectural Committee may at any time resign from the Architectural Committee upon written notice delivered to Declarant or to the Board, whichever then has the right to appoint and remove members.

(i) Members appointed to the Architectural Committee by the Board shall be Members of the Association. Members appointed to the Architectural Committee by the Declarant need not be Members of the Association.

3. Architectural Committee: Duties. It shall be the duty of the Architectural Committee to consider and act upon such proposals or plans from time to time submitted to it pursuant to these restrictions, to adopt Architectural Committee Rules pursuant to Paragraph 5 hereof, and to perform such other duties from time to time delegated to it by the Board.

4. Architectural Committee: Meetings; Action; Compensation; Expenses. The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of its members shall constitute an act by the Architectural Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Architectural Committee shall keep and maintain a record of all action from time to time taken by the Architectural Committee at such meetings or otherwise. Members of the Architectural Committee shall not receive any compensation for services rendered. All Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Architectural Committee functions.

5. Architectural Committee Rules. The Architectural Committee may, from time to time, adopt amend and repeal by majority vote, rules and regulations, to be known as "Architectural Committee Rules" which interpret or implement the provisions of Article III hereof, which rules and regulations shall be subject to the approval of the Board. Such rules and regulations may be amended or repealed at any time by the vote of a majority of the voting power of each class of Members.

6. Waiver. The approval by the Architectural Committee of any plans, drawings, or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Architectural Committee under this Declaration shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval.

7. Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Association, or to any Member, Owner or other person or body for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications or (c) the development or manner of development of any property within the Development provided, however, that such committee member has, with the actual knowledge possessed by him, acted in good faith. Without in any way limiting the generality of the foregoing, the Architectural Committee, or any member thereof, shall consult with the Board of the Association, if requested, with respect to any plans, drawings or specifications, of any other proposal submitted to the Architectural Committee.

ARTICLE XVII

GENERAL PROVISIONS

1. Headings. The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning of any of the provisions of this Declaration, or otherwise.

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

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

4. Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any member of the Board, the Manager, or the Association.

5. No Racial Restriction. No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of their Condominium on the basis of race, sex, color or creed.

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

7. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan of condominium ownership for the Development. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

8. Notification of Sale of Condominium. Concurrently with the consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and their Mortgagee and transferor, the street address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to 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 said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received twenty-four (24) hours after mailing if mailed to the transferee, or to his transferor if the Board 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 a Condominium over the age of eighteen (18) years.

9. Number; Gender. 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.

10. Exhibits. Any and all exhibits attached hereto shall be deemed made a part hereof and incorporated by reference herein.

11. Easements Reserved and Granted. Any and all easements referred to herein shall be deemed reserved or granted, or both reserved and granted, as appropriate, by reference to this Declaration in a deed to any Condominium.

12. Binding Effect. This Declaration shall inure to the benefit of and be binding upon the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, lessees, successors and assigns of the Owners.

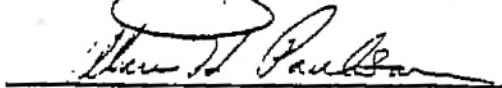
13. Unsegregated Real Estate Taxes. Until such time as real estate taxes have been segregated by the County Assessor, such taxes shall be paid by the respective Owners of Condominiums. In connection with such payment, the proportionate share of such taxes for a particular Condominium shall be determined by dividing the initial sales price or offered initial sales price of such Condominium by the total initial sales prices and offered initial sales prices of all Condominiums within the Development (the term "offered initial sales price" being the price at which an unsold Condominium is then being offered for sale by Declarant). If, and to the extent, such taxes are not paid by any Owner

or Owners of Condominium and are allowed to become delinquent, such taxes shall be collected from the delinquent Owner or Owners by the Association.

IN WITNESS WHEREOF, Declarant has executed this instrument as of this 20th day of February, 1980.

DAON CORPORATION, a
Delaware Corporation

By 

By 
"Declarant"



CONSENT OF LIENHOLDER
AND SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deed of Trust dated October 25, 1979, recorded as Instrument No. 6546940 in Book 908, Page 538, et seq. of official records of Santa Clara County, California, consents to all of the provisions contained in the attached Declaration of Covenants, Conditions and Restrictions and agrees that the lien of the deed of trust shall be junior and subordinate and subject to said Declaration.

Dated: JAN 17, 1980

Lienholder BANK OF AMERICA N.T.



By [Signature] ASSISTANT VICE PRESIDENT
By [Signature] VICE PRESIDENT

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

SS.

On January 17, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared J. C. ROEMER, known to me to be the VICE President, and C. J. Peterson, known to me to be the Assistant Vice President Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

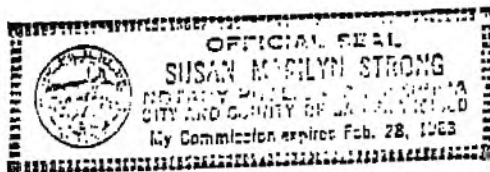
WITNESS my hand and official seal.



[Signature]
Notary Public in and for said
County and State

On February 20, 1980, before me the undersigned, a Notary Public in and for said State, personally appeared COURTNEY L. SEEPLER, known to me to be the Vice - President, and ALAN H. PAULSON, known to me to be the Project Finance Officer of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



Susan Marilyn Strong
Notary Public in and for said
County and State

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN real property in the City of Santa Clara, State of California, described as follows:

ALL OF LOTS 1 through 85 inclusive, as shown upon that certain Map entitled, "Tract No. 6619 Lakepointe Condominiums", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on November 2, 1979 in Book 453 of Maps, at Pages 1 through 6 inclusive.

