

BRITTAN HEIGHTS COVENANTS, CONDITIONS & RESTRICTIONS

(May 10, 2015)



Courtesy of Vabrato Real Estate



This document represents the CC&Rs for Brittan Heights as of February 2015. There may be updates and/or amendments to these documents by the HOA without notice or further updates to this document.

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Should you find any mistakes, please email me at mark@vabrato.com and I will do my best to correct and update this document.

As required by Section 12956.1(b) of the Government Code, please take note of the following:

IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.1 OF THE GOVERNMENT CODE. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

Restrictions indicated a preference, limitation or discrimination based on race, color, religion, handicap, familial status, or national origin are hereby deleted to the extent such restrictions violate 42 USC §3604(c).

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BRITTAN HEIGHTS
AMENDED ENABLING DECLARATION
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP

THIS AMENDED DECLARATION, made on the date hereinafter set forth, pursuant to the written consent of seventy-five percent (75%) of the owners of the project, hereinafter collectively referred to as "Declarant," is made with reference to the following facts:

- A. Declarant is the owner of certain property located in the City of San Carlos, County of San Mateo, State of California, more particularly described in Exhibit "A" attached hereto and incorporated by reference herein.
- B. Said property includes a 433 unit residential complex which has been established as a condominium under the provisions of the California Condominium Act, providing for separate title to each unit within said project, each unit to have an undivided interest in all of the remaining property.
- C. The development shall be referred to as the "project" as defined in Section 1.26 herein.
- D. Declarant intends by this document to amend those restrictions previously imposed upon the property by the Declarations described in Exhibit "B" attached hereto and incorporated by reference herein ("prior Declarations"). Said prior Declarations are hereby consolidated into this single document, which retains and incorporates all the provisions of said prior Declarations which are not inconsistent with the provisions hereof.
- E. Declarant hereby establishes by this Declaration a plan for the individual ownership of the real property estates, consisting of the area of space contained in each unit 8S well as the co-ownership by the individual owners, as tenants in common and as hereafter set forth, of all the remainder of the project which is hereinafter defined and referred to as the "common area".

NOW, THEREFORE, Declarant hereby declares that the hereinafter described property shall continue to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the said prior Declarations and to the limitations, covenants, conditions, restrictions and easements, all of which are imposed as equitable servitudes pursuant to a general plan for the purpose of enhancing and protecting the value and attractiveness of the property, and the project, and every part thereof, as a fully integrated residential condominium project. All of these limitations, covenants, conditions, restrictions and easements, including the prior Declarations, shall constitute covenants which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in or to any part of the property or the project.

ARTICLE I
DEFINITIONS

- 1.1. "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.
- 1.2. "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each unit owner as determined by the Association.
- 1.3. "Association" shall mean and refer to the Brittan Heights Condominium Association, a California nonprofit mutual benefit corporation, the members of which shall be the owners of condominiums in the project.
- 1.4. "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.
- 1.5. "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.
- 1.6. "Common area(s)" shall mean and refer to all of the property (excepting the individual condominium units) title to which is held by all of the owners in common. The common area includes, without limitation all of the property described and defined as "common area(s)" in the prior Declarations.
- 1.7. "Common expenses" means and includes the actual and estimated expenses of operating the common area and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the condominium documents.
- 1.8. "Common interest" means the proportionate undivided: interest in the Common Area which is appurtenant to each condominium unit as set forth in the Declaration.
- 1.9. "Condominium" shall mean an estate in real property as defined in California Civil Code §783, consisting of title to a unit and an undivided interest in the common area. The ownership of each condominium shall include the ownership of a unit and, in an equal undivided interest in the common area, membership in the Association, and a nonexclusive easement for ingress, egress, use and enjoyment over the common area. Each unit shall be a separate freehold estate consisting of the space described and defined in Section 2.2A. Each unit includes the portions of the structure so described and the airspace so encompassed. Each unit shall include the "restricted common area" rights assigned to the unit in this Declaration or the prior Declarations and/or in the Condominium Plans.
- 1.10. "Condominium building" shall mean a residential structure containing condominium units.
- 1.11. "Condominium documents" shall mean the same as "project documents".
- 1.12. "Condominium Plan(s)" shall mean and refer to the recorded diagrammatic floor plans of the units built on the property which identify each unit and show its dimensions pursuant to Civil Code S1351 which were previously recorded in San Mateo County as provided in Exhibit "B" attached hereto and incorporated by reference herein.
- 1.13. "Declarant" shall mean and refer to the owners of units in the project, their successors and assigns.

- 1.14. "Declaration" shall mean and refer to this enabling Declaration, as amended or supplemented from time to time, and includes the prior Declarations, as defined above.
- 1.15. "Eligible holder mortgages" shall mean mortgages held by "eligible mortgage holders".
- 1.16. "Eligible mortgage holder" shall mean a first lender who has requested notice of certain matters from the Association in accordance with Section 8.6C.
- 1.17. "Eligible insurer or guarantor" shall mean an insurer or governmental guarantor of a first mortgage who has requested notice of certain matters from the Association in accordance with Section 8.6C.
- 1.18. "First lender" shall mean any person, entity, bank, savings and loan association, insurance company, or financial institution holding a recorded first mortgage on any condominium unit.
- 1.19. "Map" shall mean and refer to those combined Maps and Condominium Plans recorded in the Official Records of San Mateo County as provided in Exhibit "A" attached hereto.
- 1.20. "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.
- 1.21. "Mortgage" shall include a deed of trust as well as a mortgage.
- 1.22. "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a mortgagee.
- 1.23. "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.
- 1.24. "Owner" or "Owners" shall mean and refer to the record holder or holders of title, if more than one, of a condominium in the project. This shall include any person having a fee simple title to any unit but shall exclude persons or entities having any Interest merely as security for the performance of an obligation. If a unit is sold under a recorded contract of sale, the purchaser, rather than the fee owner, shall be considered the "owner".
- 1.25. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity•
- 1.26. "Project" shall mean and refer to the entire real property above described, including all structures and improvements erected or to be erected thereon.
- 1.27. "Project documents" shall mean this Declaration, as amended from time to time, the prior Declarations, the exhibits, if any, attached thereto, together with the other basic documents used to create and govern the project, including the Map, the Articles, the Bylaws, and the Condominium Plan(s) (but excluding unrecorded rules and regulations adopted by the Board or the Association).
- 1.28. "Property" or "Properties" means and includes the real property above described and all improvements erected thereon and all property, real, personal or mixed intended for or used in connection with the condominium.
- 1.29. "Restricted common area" shall mean and refer to those portions of the common area, set

aside for exclusive use of a unit owner or owners, pursuant to Section 2.2C, and as provided in the prior Declarations and the Condominium Plans.

1.30. "Share" means the interest in and to the common area attributed to and appurtenant to each unit as set forth in Section 2.2B.

1.31. "Unit" shall mean and refer to the elements of the condominium, as defined in Section 2.2A, which are not owned in common with the owners of other condominiums in the Project.

1.32. "Unit designation" means the official designation(s) shown on the Condominium Plan(s). Each unit is identified by separate number on the Condominium Plans.

1.33. "Singular and plural": The singular and plural number and masculine, feminine and neuter gender shall each include the other where the context requires.

ARTICLE II DESCRIPTION OF PROJECT, DIVISION OF PROPERTY, AND CREATION OF PROPERTY RIGHTS

2.1 Description of Project: The project consists of the underlying real property with condominium units and all other improvements located thereon. There exists upon the premises a 433 unit residential project, including tennis courts, pools, recreational building, private streets, and the usual appurtenances and other facilities. Reference is made to the Condominium Plans for further details.

2.2 Division of Property: The property has been divided into the following separate freehold estates;

A. Units: Each of the units as separately shown, numbered and designated in the Condominium Plans, consisting of the space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, window frames, doors and door frames and trim, of each unit, as further defined in the prior Declarations and the Condominium Plans, each of such spaces being defined and referred to herein as a "unit". Bearing walls located within the interior of a unit are common area, not part of the unit, except for the finished surfaces thereof. Each unit includes the utility installations located within its boundaries that the owner has exclusive use of, including, without limitation: space heaters, lighting fixtures, and air-conditioning units which are located entirely within the unit they serve. Each unit includes both the portions of the building so described and the airspace so encompassed. The unit does not include those areas and those things which are defined as "common area" in Section 1.6. Each unit is subject to such encroachments as are contained in the building, whether the same now exist or may be later caused or created in a manner referred to in Section 8.5. In interpreting deeds and plans, the then existing physical boundaries of a unit, whether in its original state or reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed, and those of the building.

B. Common Areas: The remainder of the property constitutes and shall be referred to herein as "common area" or "common areas", and includes, without limitation, all of the elements set forth in Section 1.6.

Each unit owner shall have, as appurtenant to his unit, an equal 1/433rd undivided interest in the common area(s), the ownership of each condominium shall include a unit and such undivided interest in the common area. Each unit shall have appurtenant to it a nonexclusive easement for ingress, egress and support through the common area. The common interest appurtenant to each unit is declared to be permanent in character and cannot be altered without the consent of all the unit owners affected, as expressed in an amended declaration. Such common interest cannot be separated from the unit to which it is appurtenant. Each unit owner may use the common areas in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other unit owners.

C. Restricted Common Areas The following described portions of the common area, referred to as "restricted common areas", have been set aside and allocated for the exclusive use of the owner of the unit to which they are appurtenant and/or attached or assigned as shown on the Condominium Plans and in the prior Declarations: Carports, balconies and patios.

D. No Separate Conveyance of Undivided Interests: The foregoing interests are to be conveyed with the respective units as indicated above, cannot be changed, except as herein set forth, and Declarant, its successors, assigns and grantees covenant and agree that the interests in the common areas and the fee title to the respective units conveyed therewith, shall not be separated or separately conveyed, and each such interest shall be deemed to be conveyed or encumbered with its respective unit even though the description in the instrument of conveyance or encumbrance may refer Only to the fee title to the unit.

2.3 Partition Prohibited: The common areas shall remain undivided as set forth above. Except as provided by California Civil Code 1354, no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the project. Judicial partition by sale of a single unit owned by two or more persons and division of the sale proceeds is not prohibited hereby but partition of title to a single unit is prohibited.

ARTICLE III ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Association to Manage Common Areas: The management of the common area shall be vested in the Association in accordance with its Bylaws. The owners of all the condominiums covenant and agree that the administration of the project shall be in accordance with the provisions of the Declaration, the Articles and Bylaws of the Association, and, to the extent required, in accordance with the provisions of the Federal Housing Administration Regulatory Agreement(s) a copy of which was attached to each of the prior Declarations, and which Agreements are, to the extent still applicable, incorporated by reference herein.

3.2 Membership: The owner of a unit shall automatically, upon becoming the owner of same, be a member of the Association, and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be held in accordance with the Articles and Bylaws of the Association.

3.3 Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the unit to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such unit. Upon death of a member, his membership passes automatically along with

title to his unit, to his heirs. A mortgagee does not have membership rights until he becomes an owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No member may resign his membership. In the event the owner of any unit should fail or refuse to transfer the membership registered in his name to the purchaser of his unit, the Association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

3.4 Membership and Voting Rights: Members shall be all owners and each shall be entitled to one (1) vote for each unit owned. When more than one person holds an interest in any unit, all such persons shall be members. The vote for such unit shall be exercised as they among themselves determine, but In no event shall more than one vote be cast with respect to any unit.

Any action by the Association which must have the approval of the members before being undertaken shall require the vote or written assent of at least a majority of the membership.

ARTICLE IV MAINTENANCE AND ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments: Each owner of any unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for purposes permitted herein, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, penalties, fines and reasonable attorneys' fees, shall be a charge on the condominium and shall be a continuing lien upon the condominium against which each such assessment is made, the lien to become effective upon recordation of a notice of assessment. Each such assessment, together with interest, costs, penalties, fines and reasonable attorneys' fees, shall also be the personal Obligation of the person who was the owner of such condominium at the time when the assessment fell due. No owner of a condominium may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas or by the abandonment of his condominium.

4.2 Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of all the residents in the entire project and for the improvement and maintenance of the common area for the common good of the project.

4.3 Annual Assessment:

A. The annual assessment may be increased each year by not more than twenty percent (20%) above the maximum assessment for the previous year without a vote of the membership.

B. The Board may not, without the vote or written consent of a majority of the voting power of the Association, impose a regular annual assessment which is more than twenty percent (20%) greater than the regular annual assessment for the immediately preceding fiscal year.

C. Without membership approval, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum. However, the annual assessment may not be decreased either by the Board or by the members, by more than ten percent (10%) in anyone year without the approval of a majority of the voting power of the Association. Failure by the Board to set assessments shall not be

deemed a waiver of the assessments but rather the prior year's assessment shall continue.

D. Subject to the limitations on the maximum and minimum amount of assessments herein provided, if at any time during the course of any year the Board shall deem the amount of the annual assessment to be inadequate or excessive, the Board shall have the power, at a regular or special meeting, to revise the assessment for the balance of the assessment year, effective on the first day of the month next t following the date of the revision.

4.4 Special Assessments for Capital Improvements or Extraordinary Expenses; Reserves for Replacement: The Board of Directors may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, or for extraordinary expenses incurred by the Association, provided that in the event special assessment(s) exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the vote or written consent of a majority of the voting power of the Association shall be required to approve such assessment(s), special assessments shall be levied on the same basis as regular assessments, except where the special assessment against a member is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member and his unit into compliance with the provisions of the Condominium Documents, or is the result of a fine imposed by the Board, and provided that a special assessment against owners to raise funds for the rebuilding or major repair of the structural common area housing units of the project shall be levied upon the basis of the schedule set forth in Exhibit "C".

As part of the regular annual assessments for maintenance authorized above, the Board of Directors shall annually fix the amount to be contributed pro rata by each member to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position. The Board shall maintain a separate account for those funds. The Board shall fix the method of payment of such assessments and shall be empowered to permit either lump sum or monthly payments. Separate records shall be maintained for all funds deposited to the said account, which shall be designated as a "Reserve Account".

Amounts received by the Association as contributions, assessments or dues from the owners shall be held in one or more accounts. Deposits shall be made, and funds accounted for so that reserves for capital improvements and for replacement, can be clearly separated from funds for operating expenses or repair and maintenance funds. Capital improvement and replacement funds shall be used solely for capital improvements and replacements of the common area within the project.

4.5 Notice and Quorum for Any Action Authorized Under Sections 4.3 and 4.4, Any action authorized under Sections 4.3 and 4.4, Which requires a vote of the membership, shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (0) nor more than ninety (90) days in advance of the meeting specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. If a quorum is present and the proposed action is favored by a majority vote of the members present at such meeting, but such vote is less than a majority of the voting power of the Association, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

4.6 Division of Assessments: Except as provided in Section 4.4, all assessments, both annual and special, shall be charged to and divided among the unit owners as provided in Exhibit "C" attached

hereto and incorporated by reference herein.

4.7 Date of Commencement of Annual Assessment: Due Dates: Subject to the provisions of Section 4.3 hereof, the Board of Directors shall determine and fix the amount of the annual assessment against each unit and send written notice thereof to every owner at least thirty (30) days in advance of each annual assessment period. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified unit have been paid. Such a certificate shall be conclusive evidence of such payment.

4.8 Effect of Nonpayment of Assessments: Any assessment not paid within fifteen (15) days after the due date shall bear interest at the maximum legal rate, and shall incur a late payment penalty as shall be determined from time to time by the Board.

4.9 Transfer of Unit by Sale or Foreclosure: Sale or transfer of any unit shall not affect the assessment lien. However, the sale of any unit pursuant to mortgage foreclosure of a mortgage shall extinguish the lien of such assessments (including fees, late charges, fines or interest levied in connection therewith) as to payments which became due prior to such sale or transfer (except for assessment liens recorded prior to the mortgage). No sale or transfer shall relieve such unit from liability for any assessments thereafter becoming due or from the lien thereof.

Where the mortgagee of a mortgage or record or other purchaser of a condominium obtains title to the same as a result of foreclosure of any such mortgage, such acquirer of title, his successor and assigns, shall not be liable for the share of the common expenses or assessment by the Association chargeable to such condominium which became due prior to the acquisition of title to such condominium by such acquirer (except for assessment liens recorded prior to the mortgage). Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the condominium owners including such acquirer, his successors or assigns.

In a voluntary conveyance of a condominium the grantee and the grantor shall be jointly and severally liable to the Association for all unpaid assessments against the condominium for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid assessments against the grantor due the Association and such grantee shall not be liable for, nor shall the condominium conveyed be Subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such assessment becoming due after the date of any such statement.

4.10 Priorities; enforcement; Remedies. When a notice of assessment has been recorded, such assessment shall constitute a lien on each respective condominium prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies Which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deeds of trust with first priority over other mortgages or deed of trust) made in good faith and for value.

Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized to make the sale, after failure of the owner to pay such assessment in accordance with its terms, such sale to be conducted in accordance with the provisions of 2924-2924H of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

The Association, acting on behalf of the condominium owners, shall have the power to bid for

the condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Where the purchase of a foreclosure unit will result in a five percent (5%) or greater increase in assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association. During the period a unit is owned by the Association, following foreclosure: (1) No right to vote shall be exercised on behalf of the unit; (2) No assessment shall be assessed or levied on the unit; and (3) Each other unit shall be charged, in addition to its usual assessment, its equal share of the assessment that would have been charged to such unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

After acquiring title to the unit at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the unit which deed shall be binding upon the owners, successors, and all other parties.

The Board may temporarily suspend the voting rights and right to use recreational facilities of a member who is in default in payment of any assessment, after notice and hearing, pursuant to California Corporations Code 7341 as provided in the Bylaws.

4.11 Unallocated Taxes: In the event that any taxes are assessed against the common area, or the personal property of the Association, rather than against the units, said taxes shall be included in the assessments made under the provisions of Section 4.1 and, if necessary, a special assessment may be levied against the units in an amount equal to said taxes, to be paid in two Installments, thirty (30) days prior to the due date of each tax Installment.

ARTICLE V DUTIES AND POWERS OF THE ASSOCIATION

5.1 Duties: In addition to the duties enumerated in its Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

A. Maintenance: The Association shall maintain, repair, replace, restore, operate and manage all of the common area and all facilities, Improvements, furnishings, equipment and landscaping and slope and erosion control, thereon, and all property that may be acquired by the Association. Maintenance shall include (without limitation): Painting, maintaining, cleaning, repairing and replacing of all common areas, including exterior doors, landscaping (except for private patio areas Which are to be maintained by owners as per Section 8.7) balconies, parking areas and recreational facilities. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an owner, or his guests, tenants or invitees, the cost of which is not covered by insurance. The cost of repair or replacement resulting from such excluded items shall be the responsibility of each owner; provided, however, that if an owner shall fail to make the repairs or replacements which are the responsibility of such owner, as provided above, then, upon a vote of a majority of the Board of Directors, and after not less than thirty (30) days notice to the owner and a public hearing, the Association shall have the right (but not the obligation) to enter the condominium (if necessary) and make such repairs or replacements, and the cost thereof shall constitute a special assessment chargeable to such condominium and shall be payable to the Association by the owner of such condominium.

B. Insurance: The Association shall maintain such policy or policies of insurance as are required by Section 8.8 of this Declaration.

C. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the common area, and assess the cost thereof to the member or members responsible for the existence of said lien, after notice and hearing as provided by Section 4. 10.

D. Assessments: The Association shall fix, levy, collect and enforce assessments as set forth in Article IV hereof.

E. Payment of Expenses: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

F. Enforcement: The Association shall enforce this Declaration.

5.2 Powers: In addition to the powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers,

A. Utility Service: The Association shall have the authority to Obtain, for the benefit of all of the condominiums, all water, gas and electric service and refuse collection, and janitorial or window cleaning service and CATV.

B. Easements: The Association shall have authority, by document signed or approved by three-fourths (3/4) of the total voting power of the Association to grant easements in addition to those shown on the Map(s), where necessary for utilities, cable television, and sewer facilities over the common area to serve the common and open space areas and the condominium units.

C. Manager: The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record or foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, and shall provide for the right of the Association to terminate the same for cause on thirty (30) days' written notice, or without cause or payment of a termination fee on ninety (90) days written notice.

D. Adoption of Rules: The Association or the Board may adopt reasonable rules not inconsistent with this Declaration relating to the use of the common area and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the property and other owners.

E. Access: For the purpose of performing the construction, maintenance or emergency repair for the benefit of the common area or the owners in common, the Association's agents or employees shall have the right, after reasonable notice (not less than 24 hours except in emergencies) to the owner thereof, to enter any unit or to enter any portion of the common area at reasonable hours. Such entry shall be made with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association.

F. Assessments, Liens and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any owner for failure to pay assessments or for violation of any provision of the condominium documents. Penalties may include but are not limited to, fines, temporary suspension of voting rights, rights to the use of recreational facilities Or other appropriate discipline, provided that the accused member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose fines or discipline is made, as provided in Section 4.10.

G. Enforcement: The Association shall have the authority to enforce this Declaration as per Article VIII hereof.

H. Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, Operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of property shall be by document signed or approved by three-fourths (3/4) of the total voting power of the Association.

I. Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of three-fourths (3/4) of the total voting power of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

J. Dedication: The Association shall have the power to dedicate all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication shall be effective unless an instrument has been signed by three-fourths (3/4) of the total voting power of the Association.

K. Contracts: The Association shall have the power to contract for goods and/or services for the common area(s), facilities and interests or for the Association, subject to limitations of Section 7.3 of the Bylaws, or elsewhere Set forth in the condominium documents.

L. Delegation: The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility for hearings required to be given by the Board.

M. Use of Recreational Facilities: The Association shall have the power to limit the number of an owner's tenants or guests who may Use the recreational facilities, provided that all limitations apply equally to all owners, unless imposed for disciplinary reasons, after notice and hearing.

N. Custodian Unit: Anything in this Declaration or the Bylaws or Articles to the contrary notwithstanding, the Association, upon appropriate resolution of the Board, shall have the power and authority, with the vote or written consent of a majority of members, to purchase a unit (the "custodian unit") to be occupied by the custodian of the project. In such case, during the period the custodian unit is owned by the Association:

(1) No right to vote shall be exercised on behalf of the custodian unit;

(2) No assessment shall be assessed or levied on the custodian unit; and

(3) Each other unit shall be charged, In addition to its usual assessment, its share of the assessment that would have been charged to the custodian unit, but for the provisions of this section.

O. Security: The Association shall have the power (but not the obligation) to contract for security service for the common area.

ARTICLE VI
UTILITIES

6.1 Owners' Rights and Duties: The rights and duties of the owners of condominiums within the project with respect to sanitary sewer, water, electricity, gas and television receiving, telephone lines and facilities, and heating and air-conditioning facilities shall be as follows:

A. Whenever storm or sanitary sewer, drainage, plumbing, water, electricity, gas, television receiving, telephone lines or connections, heating or air-conditioning conduits, ducts, or flues are installed within the property, Which connections or any portion thereof lie in or upon condominiums Owned by other than the owner of a condominium served by said connections, the owners of any condominium served by said connections shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain said connections as and when necessary, due to failure Or inability of the Board to take timely action to make such repairs or perform such maintenance.

B. Whenever storm or sanitary sewer, drainage, plumbing, water, electricity, gas, television receiving or telephone lines or connections, heating or air-conditioning conduits, ducts, or flues are installed within the property which connections serve more than one condominium, the owner of each condominium served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his condominium.

C. In the event of a dispute between owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the • matter shall be submitted to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the arbitrator(s) shall be final and conclusive on the parties.

6.2 Easements for Utilities and Maintenance: Easements over and under the property for the installation, repair, and maintenance of electric, telephone, water, gas, and sanitary sewer lines and facilities, heating and air-conditioning facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown on the recorded map(s) of the property, and as may be hereafter required or needed to .service the property, are hereby reserved by Declarant and its successors and assigns, including the Association, together with the right to grant and transfer the same.

6.3 Association's Utilities: The Association shall maintain all utility installations located in the common area except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the project except those metered or charged separately to the units.

ARTICLE VII
USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the property and each condominium therein is subject to the following:

7.1 Condominium Use: No condominium shall be occupied and used except for residential purposes by the owners, their tenants, and social guests, and no trade or business shall be conducted therein. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently. Residents shall be limited as follows:

No more than two (2) persons per bedroom in any unit shall be permitted as permanent residents ("permanent" means more than sixty (60) days out of each twelve (12) month period).

7.2 Nuisances: No noxious, illegal, or seriously offensive activities shall be carried on upon any condominium, or in any part of the property, nor shall anything be done thereon Which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective unit, or which shall in any way increase the rate of insurance for the project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building. Residents shall exercise extreme care about making noises or the use of musical instruments, radios, television and amplifiers that may disturb other residents. Keeping domestic animals will be in accordance with the Municipal Sanitary Regulations. It is prohibited to dust rugs, etc., from the windows or balconies, or to clean rugs, et c., by beating them in the common area or restricted common area.

7.3 Vehicle Restrictions: No trailer, camper, mobile home, motor home, house car, commercial vehicle, truck (other than standard size pickup truck or standard size van), boat, inoperable automobile, or similar equipment shall be permitted to remain upon any area within the property, other than temporarily, unless placed or maintained Within an enclosed garage or carport. Commercial vehicles shall not include sedans or standard size vans and pickup trucks not exceeding 3/4 ton, which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky Vehicles shall be operated on the property. No unlicensed motor Vehicles shall be operated upon the property. Carports and parking spaces shall be used to park permitted vehicles, and not for storage. Twenty-four (24) hours after notice has been personally delivered to the owner or placed on the windshield of a vehicle or seventy-two (72) hours after notice has been mailed to the address of the registered owner of a vehicle parked, stored, or maintained on the premises, in violation of the provisions of this Declaration, the owner shall be deemed to have consented to the removal of said vehicle from the project, and the Association or its agents or employees shall have the authority to tow away and store any such vehicle, whether said vehicle shall belong to a unit owner, or his tenant, a member of his family, or his guest or invitee. Charges for such towing and storage shall be paid by the unit owner responsible for the presence of such vehicle.

7.4 Signs: No signs shall be displayed to the public view on any units or on any portion of the property except such signs as are approved by the Board or committee appointed by the Board. One (only) "For Sale" or "For Rent" sign per unit shall be allowed provided it does not exceed three (3) square feet in size.

7.5 Animals: No animals, reptiles, insects or birds of any kind shall be raised, bred, or kept in any Condominium, or on any portion of the property; except that no more than a total of two (2) usual and ordinary household pets such as a dogs, cats, birds, etc., may be kept provided that they are not kept, bred, or maintained for any commercial purposes, and they are kept under reasonable control at all times. Notwithstanding the foregoing, no pets may be kept on the property which are obnoxious or annoying to other unit owners. No pets shall be allowed in the common area except as may be permitted by rules of the Board. No dog shall enter the common area except while on a leash which is held by a person capable of controlling it. After making a reasonable attempt to notify the owner, the Association or any Owner may cause any unleashed dog found within the common area to be removed by the Association (or any owner) to a pound or animal shelter under the jurisdiction of the City of San Carlos, or the County of San Mateo, by calling the appropriate authorities, whereupon the owner may, upon payment of all expenses connected therewith, repossess the dog. Owners shall prevent their pets from soiling all portions of the common area and shall promptly clean up any mess left by their pets. Owners shall be fully responsible for any damage caused by their pets.

7.6 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, garbage cans, woodpiles, or storage piles shall be kept screened and concealed from view of other units, streets and common areas. The Association shall be responsible for

removal of garbage from the central pick-up point(s). It is prohibited to throw garbage or trash outside the disposal installations provided for such purposes in the service areas.

7.7 Radio and Television Antennas: No owner may be permitted to construct and/or use and operate any external radio and/or television antenna without the consent of the Board.

7.8 Right to Lease: No owner shall be permitted to lease his unit for any period less than thirty (30) days. Any lease agreement shall be required to provide that the term of the lease shall be subject in all respects to the provisions of the Declaration and the Bylaws and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. All owners leasing or renting their units shall promptly notify the secretary of the Association in writing of the names and telephone numbers of all tenants and members of tenant's family occupying such unit and of the address and telephone number where such Owner can be reached. All leases shall be required to be in writing. Owners shall furnish a copy of the Declaration and of the rules and regulations to all of their tenants. All tenants are subject to all rules and regulations and to all provisions of the Declaration, and are subject to discipline for violations thereof.

7.9 Architectural Control: No building, fence, wall, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any kind shall be commenced, installed, erected, painted, repainted or maintained upon the property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the Board, or by an architectural control committee appointed by the Board.

Plans and specifications showing the nature, kind, shape, color, size, materials and locations of such Improvements, alterations, etc., shall be submitted to the Board or to the architectural control committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with Declarant's original color scheme, or to rebuild in accordance with Declarant's original plans and specifications. No permission or approval shall be required to repaint in accordance with a color scheme previously approved by the Board or the committee, or to rebuild in accordance with plans and specifications previously approved by the Board or by the committee. Nothing contained herein shall be construed to limit the right of an Owner to paint the Interior of his unit any color desired.

No landscaping of patios or yards visible from the street or from the common area shall be undertaken by any owner until plans and specifications showing the nature, kind, shape and location of the materials shall have been submitted to and approved in writing by the Board or by an architectural control committee appointed by the Board.

The architectural control committee shall consist of three (3) or more members. The Board shall have the power to appoint all of the members of the architectural control committee. Members appointed to the architectural control committee by the Board shall be from the membership of the Association. A majority of the architectural control committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, and the Board shall appoint a successor. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. In the event the committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

7.10 Drapes and Windows: All drapes, curtains, window coverings, shutters, Or blinds visible from the street or common areas shall be of colors, materials and patterns which are approved by the Board Or its authorized committee. Clear glass Windows shall not be replaced with other than clear glass windows as provided in the prior Declarations.

7.11 Clothes Lines: There shall be no outside laundering or drying of clothes, except inside fenced

patios and then only if the clothes cannot be seen from the streets, common areas, or other units. No draping of towels, carpets, or laundry over railings shall be allowed.

7.12 Power Equipment and car maintenance: No power equipment, hobby shops, or car maintenance (other than emergency work shall be permitted on the property except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding Whether to grant approval the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar Objections.

7.13 Liability of Owners for Damage to Common Area, The owner of each unit shall be liable to the Association for all damages to the common area or improvements thereon caused by such owner or any occupant of his unit or guest or by owner's pet(s), except for that portion of said damage, if any, fully covered by Insurance. Liability of an owner shall be established only after notice to the owner and hearing before the Board. In the event an owner disagrees with the decision of the Board on the question of liability, the owner may petition a court of law or submit the matter to arbitration under the rules of the American Arbitration Association.

7.14 Basketball Standards: No basketball apparatus attached to the exterior of any building or affixed to the common area shall be permitted On the property.

7.15 Parking Spaces: The project includes certain parking spaces designated as "restricted common area" on the Condominium Plans, which are reserved for the exclusive use of the owners of the units to which they are assigned. The remaining parking spaces shall be controlled by the Board, which shall also control the allocation and use thereof.

ARTICLE VIII GENERAL PROVISIONS

8.1 Enforcement: The Association, or any owner, to enforce, by any proceeding at law or in equity, all restrictions, conditions, Covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, the Articles and the Bylaws, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by Court. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Invalidity of Any Provision: Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this project is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

8.3 Term: The covenants and restrictions of this Declaration shall run with and bind the property, and shall inure to the benefit of and shall be enforceable by the Association or the owner of any property Subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then owners of the condominiums, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part, or to terminate the same.

8.4 Amendments: This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing a majority of the total voting power of the Association. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment

must be recorded in the Recorder's Office of the County of San Mateo.

8.5 Encroachment Easements: Each condominium within the property is hereby declared to have an easement over all adjoining condominiums and the common area for the purpose of accommodating any encroachment due to minor engineering errors minor errors in original construction, reconstruction, repair, settlement, shifting or movement of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist and the rights and Obligations of owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the intentional conduct of said owner or owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each condominium agree that minor encroachments over adjoining condominiums or common area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

8.6 Rights of First Lenders: No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) on any unit made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in the condominium documents to the contrary, first lenders shall have the following rights:

A. Copies of Project Documents: The Association shall make available to unit owners and lenders, and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Bylaws, Articles or other rules concerning the project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

B. Audited Statement: Any holder, insurer or guarantor of a first mortgage shall be entitled, upon written request, to an audited financial statement for the immediately preceding fiscal year, free of charge to the party so requesting.

C. Notice or Action: Upon written request to the Association, identifying the name and address of the eligible mortgage holder or eligible insurer or guarantor, and the unit number or address, such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of: (1) any condemnation loss or any casualty loss which affects a material portion of the project or any unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable; (2) any default in performance of obligations under the project documents or delinquency in the payment of assessments or charges owed by an owner of a unit subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days; (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (4) any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in Section 8.6D; (5) the Association shall discharge its obligation to notify eligible holders or eligible insurers or guarantors by sending written notices required herein to such parties, at the address given on the current request for notice, in the manner prescribed by Section 8.11.

D. Consent to Action:

(1) Except as provided by statute or by other provision of the project documents in case of substantial destruction or condemnation of the project, and further excepting any reallocation

of interests in the common area(s) which might occur pursuant to any plan of expansion or phased development contained in the original project documents:

(a) The Consent of owners of units to which at least sixty seven percent (67%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on units which have at least sixty-seven percent (67%) of the votes of units subject to eligible holder mortgages, shall be required to terminate the legal status of the project as a condominium project.

(b) The consent of owners of units to Which at least sixty seven percent (67%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on units which have at least fifty-one percent (51%) of the votes of the units subject to eligible holder mortgages, shall be required to add or amend any material provisions of the project documents Which establish, provide for, govern or regulate any of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the common area(s) (or units if applicable); (iv) insurance or fidelity bond; (v) rights to use of common areas; (vi) responsibility for maintenance and repair of the several portions of the project; (vii) expansion of contraction of the project or the addition, annexation or withdrawal of property to or from the project (except as provided in paragraph D(1) above); (viii) boundaries of any unit; (ix) the interests in the general or restricted common area(s) (x) convert ability of units into common areas or of common areas into units (xi) leasing of units; (xii) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey his or her unit; (xiii) any provisions which are for the express benefit of mortgage holders, eligible mortgage holders, or eligible insurers or guarantors of first mortgages on units.

(c) An addition or amendment to such document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(2) Except as provided by statute in case of condemnation or substantial loss to the units and/or common elements of the condominium project, unless the holder(s) of at least two-thirds (2/3) of the first mortgages (based upon one vote for each first mortgage owned), or owners of the individual condominium units have given their prior written approval, the Association and/or the owners shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the condominium project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain).

(b) Change the pro rata interest or obligations of any individual condominium unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each condominium unit in the common area.

(c) Partition or subdivide any condominium unit.

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common area. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common area by the Condominium project shall not be deemed a transfer within the meaning of this clause).

(e) Use hazard insurance proceeds for losses to any condominium property (whether to units or to common area) for other than the repair, replacement or reconstruction of such condominium property.

E. Right of First Refusal: The right of a unit owner to sell, transfer, or otherwise convey his or her unit shall not be subject to any right of first refusal or similar restriction.

F. Contracts: Any agreement for professional management of the condominium project, or lease or any other contract providing for services for the common areas may not exceed one (1) year, except for (J) a management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration; (2) 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; (3) prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured. Any agreement, contract, or lease, entered into by the Association, must provide for termination by either party for cause on thirty (30) days written notice, or without cause and without payment of a termination fee or penalty on ninety (90) days or less written notice.

G. Reserves; Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs, and replacement of those common area improvements (and restricted common area improvements which the Association is obligated to maintain) that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

H. Priority of Liens: Each holder of a first mortgage lien on a unit who comes into possession of the unit by virtue of foreclosure of the mortgage, or any purchaser at a foreclosure sale under a first deed of trust, will take the unit free of any claims for unpaid assessments and fees, late charges, Cines or interest levied in connection therewith, against the unit which accrue prior to the time such holder comes into possession of the unit, except for claims for a pro rata share of such assessments or charges to all project units including the mortgaged unit, and except for assessment liens recorded prior to the mortgage.

I. Distribution of Insurance or Condemnation Proceeds: No provision of the condominium constituent documents gives a condominium unit owner, or any other party, priority over any rights of first mortgagees of condominium units pursuant to their mortgages in the case of a distribution to condominium unit owners of insurance proceeds or condemnation awards for losses to or taking of condominium units and/or common elements.

J. Restoration or Repair: Any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by eligible mortgage holders holding mortgages on units which have at least fifty-one percent (51%) of the votes of units subject to eligible holder mortgages.

K. Termination: Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of eligible mortgage holders holding mortgages on units which have at least fifty-one percent (51%) of the votes of units subject to eligible holder mortgages.

L. Reallocation of Interests: No reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of the project may be effected without the prior approval of eligible mortgage holders holding mortgages on all remaining units whether existing in whole or in part,

and Which have at least fifty-one percent (51 %) of the votes of such remaining units subject to eligible holder mortgages.

M. Termination of Professional Management: When professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible Insurer or guarantor at that time or later, any decision to establish self management by the Association shall require the prior consent of owners of units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on units which have at least fifty-one percent (51%) of the votes of units subject to eligible holder mortgages.

8.7 Owner's Right and Obligation to Maintain and Repair: Except for those portions of the project which the Association is required to maintain and repair, each unit owner Shall, at his sole cost and expense, maintain and repair his unit and shall maintain the landscaping within the private patio areas appurtenant thereto Which is part of the restricted common area, keeping the same in good condition. Each owner shall bear the cost of maintenance, repair and replacement of the following items within or serving such owner's unit: windows, exterior glass surfaces, patio, Interior surfaces of all perimeter and interior walls, ceilings and floors (Including carpeting, tile, wall paper, paint or other covering); garbage-disposals, ranges, refrigerators, dishwashers, washing machines, driers, light fixtures, and any and all other appliances of any nature whatsoever: heating, ventilating and air-conditioning equipment (if any) servicing such unit (although such equipment may be located in part outside such unit); interior doors, including all hardware thereon; light bulbs; plumbing and other fixtures of any nature whatsoever; "built-in" features; and decorative features, and, any furniture and furnishings. All electric utilities serving individual units shall be separately metered and shall be the expense of each individual unit owner. Electric utilities serving the general common elements shall be a common expense of the Association. Each unit Owner shall keep those portions of the restricted common area to which he has exclusive easement rights clean and neat. Each owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the Inner surfaces of the walls, ceilings, and floors, bounding his unit. In the event an owner fails to maintain the interior of his unit or the landscaping within his private patio area in a manner Which the Board deems necessary to preserve the appearance and value of the property, the Board may notify owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event owner fails to carry out such maintenance within said period, the Board may, following notice and hearing, cause such work to be done and may specially assess the cost thereof to such owner, and, if necessary lien his unit for the amount thereof.

8.8 Insurance: Damage or Destruction: In the event of damage to or destruction of any unit, the same shall be reconstructed as soon as reasonably practicable, and substantially in accord with the original plans and specifications therefore.

Each unit owner appoints the Association or any insurance trustee to be designated by the Association, as attorney in fact for the purpose of purchasing and maintaining the Association's insurance, including: The collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association or any insurance trustee shall be required to receive, hold, or otherwise properly dispose of any proceeds of Insurance in trust for unit owners and their first mortgage holders, as their interests may appear.

The Association shall obtain and continue in effect a master policy of insurance covering all of the personal property and supplies of the Association, and all of the real property and improvements of the project, including the common area and all fixtures and building service equipment therein, and the units and any fixtures, equipment, or property therein covered by a first mortgage on the unit, and

protecting the interests of the Association and its members, including, without limitation, fire and extended coverage and special form and insuring one hundred percent (100%) of current replacement cost of all improvements In the project, including the units, comprehensive general liability insurance insuring the Association and each owner for his liability for the common area, and a fidelity bond covering officers, directors and employees in an amount to be determined by the Board, but in no event less than a sum equal to three (3) months aggregate assessments on all units plus reserve funds.

All insurance shall contain "severability of interest provision", "cross liability endorsement" and waiver of subrogation as to the Association, officers, directors, members, guests, agents and employees.

The master policy shall be issued in the name of the Association for the use and benefit of the owners.

The minimum limits on the liability insurance policy shall be \$1,000,000 single limit and shall include personal injury, bodily injury, property damage and liability for non-owned automobiles, In addition the Association shall obtain and continue in effect additional umbrella coverage of \$1,000,000, or as an alternative may carry a \$2,000,000 single limit policy. Workers' compensation insurance shall at all times be carried to the extent required to comply with any applicable law. Officers and directors liability insurance shall be carried by the Association to cover persons serving in such capacities (and to cover committee members, if available).

It is the responsibility of each owner to insure his personal property (if he desires) and the improvements and betterments added to his unit since the time of the original sale, together with additional living expense coverage and public liability insurance for the interior of his unit.

In addition to the master liability policy which the Association shall carry, each unit owner may carry public liability insurance covering damage to property or injury to person of other within the project resulting from negligence of the owner or his agents, in amount not less than \$100,000 for each occurrence.

Insurance premiums for the master policy shall be a common expense to be included in the monthly assessments levied by the Association and the portion of such payment necessary for the insurance premiums may be held in a separate account of the Association and shall be used solely for the payment of the master insurance policy premiums as such premiums become due.

All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the Policies is sufficient to make any necessary repairs and replacement of the property which may have been damaged or, destroyed.

If any of the project improvements are materially damaged or destroyed by fire or other casualty (materially damaged is defined for the purposes of this section as any damage for which the cost of repair or reconstruction is more than fifty percent (50%) of the full replacement value of the improvements), the project shall be repaired or reconstructed in accordance with the original as built plans and specifications unless the owners vote not to undertake such repair or reconstruction in a special election held in accordance with the following procedures:

A. In the event any portion of the project improvements are materially damaged (as defined above) or destroyed, a special election shall be held, after not less than thirty (30) days written notice to all owners, and their first mortgagees of record, at a suitable location on the property, or as close thereto as practicable, which location shall be specified in such notice.

B. The project shall be repaired or reconstructed in accordance with the original as built plans

and specifications as hereinafter provided, unless; (1) In such special election at least two-thirds (2/3) of the total voting power of the Association votes against such repair or reconstruction; or (2) the available insurance proceeds plus reserves of the Association are inadequate to pay the cost of repair or reconstruction and a special assessment in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year is required to provide such funds, and such assessment fails to pass by majority vote as provided in Section 4.4.

C. In the event the requisite number of votes are not cast against such repair or reconstruction, and if a special assessment in excess of five percent (5%) (if required) passes, all of the insurance proceeds payable on account of such damage or destruction shall be made available for such repair or reconstruction and shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "Depository"). The Depository shall be appointed by the Association. Such funds shall be disbursed in accordance with the normal construction loan practices for the Depository, which are reasonably acceptable to the Association. The restoration or reconstruction shall be substantially in accordance with the original as built plans and specifications for the building, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction or in accordance with such other plans and specifications as may be approved by the Association, and the respective first mortgagees.

D. The Association shall designate a construction consultant (the "Construction Consultant"), general contractor (the "General Contractor"), and architect (the "Architect") (or the repair or reconstruction contemplated by this paragraph. In the event of a dispute regarding the selection of the Construction Consultant, the General Contractor and the Architect, the selection of such individuals Or firms shall be submitted to and be subject to the rules of the American Arbitration Association.

E. The insurance proceeds payable on account of such damage or destruction shall be deposited with the Depository and shall be disbursed in accordance with the normal construction loan practices of the Depository and upon the certification of the Construction Consultant, General Contractor and Architect dated not more than ten (10) days prior to any such request for disbursement, setting forth the following:

(1) That all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

(2) That such disbursement request represents monies which either have been paid by or on behalf of the Construction Consultant, the General Contractor or the Architect and/or is justly due to contractors, subcontractors, materialmen, engineers, Or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work and giving a brief description of such services and materials and the principle subdivisions or categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

(3) That the sum then requested to be disbursed plus all sums previously disbursed does not exceed the cost of the work insofar as actually accomplished up to the date of such certificate;

(4) That no part of the cost of the services and materials described in the foregoing paragraph (1) has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

(5) That the amount held by the Depository will, after payment of the amount requested in the pending disbursement request, be sufficient to pay in full the cost of such repair or reconstruction.

F. In the event the insurance proceeds available for repair or reconstruction are less than the total cost of such repair or reconstruction the Association may use sums from its account or if necessary from levying special assessments on the members to restore Or rebuild the areas affected, provided that any assessment that exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year shall require the vote or written assent of a majority of the voting power of the Association, and provided, further, if such special assessment fails to be approved by the requisite majority, and the project cannot be repaired or reconstructed without the funds from such special assessment, the provisions of paragraph G, below, shall apply, and if the first lenders are unable Or unwilling to supply the necessary funds, the provisions of paragraph 1, below, shall apply.

G. In the event any portion of the common area has been damaged or destroyed and that portion of the insurance proceeds applicable to the damage or destruction is insufficient to reconstruct Or repair the damaged or destroyed portion, the Association shall supply the excess funds required to restore or rebuild the affected area, as provided in F, above; provided, however, that in the event the Association and the members refuse or are unable to supply such excess funds, the first lenders of the units affected shall have the option of supplying such excess funds or of applying that portion of the insurance proceeds allowable to that damaged or destroyed area to the debt secured by such mortgagee's mortgages or deeds of trust, as provided in paragraph 1, below.

H. All such funds to be supplied by the Association, or individual owners, shall be deposited with the Depository and shall be disbursed pursuant to the provisions of this Section. In the event that there is any dispute over the allocation of insurance proceeds or the amount of funds in excess of the insurance proceeds which any party must deposit with the Depository such dispute shall be submitted to and be subject to the rules of the American Arbitration Association.

I. In the event the owners elect not to repair or reconstruct a building' or elect not to approve a special assessment to provide funds for rebuilding as provided in B and F, above, the provisions of Civil Code 31354 (regarding partition and sale) shall be deemed satisfied, and the insurance proceeds payable on account of such damage or construction shall be disbursed !IS follows; and in the event of partition and sale under any conditions stated in Civil Code 1354, the proceeds of sale shall be disbursed as follows:

First, to the first mortgagees of the owners as their interests appear to the extent of monies owed such first mortgagees which are secured by first mortgages or deeds of trust on the project improvements;

Second, to the cost of removing any remaining or destroyed portions of the project improvements and complying with all other applicable requirements of governmental agencies;

Third, to the owners in proportion to the respective fair market values of their units and their interests in the common area at the time of the destruction as determined by the Association, provided, however, that if any owner or mortgagee protests the proposed distribution based upon said fair market values as so determined, a licensed independent appraiser acceptable to the Association and to the protesting members or mortgagees shall be appointed by the Association to make the determination of the respective fair market values of the units at the time of the destruction. In the event of a failure to agree upon an appraiser, the appraiser shall be appointing by the then President of the San Mateo County Bar Association.

J. In the event there is any damage or destruction to the project improvements which is not material, as that term is defined above, the damaged improvements shall be repaired and reconstructed (without the necessity of any special election) in accordance with the applicable provisions of this section.

Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property shall require the approval of eligible holders holding mortgages on units which have at least fifty-one percent (51%) of the votes of units subject to eligible holder mortgages.

8.9 Condemnation: The owners Association shall represent the unit owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common area(s), or part thereof. In the event of a taking or acquisition of part or all of the common area(s) by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or any trustee, for the use and benefit of the unit owners and their mortgagees as their interests may appear. In the event of an award for the taking of any unit in the project by eminent domain, the owner of such unit shall be entitled to receive the award for such taking and after acceptance thereof he and his mortgagee shall be divested of all interest in the project if such owner shall vacate his unit as a result of such taking. The remaining owners shall decide by majority vote whether to rebuild or repair the project, or take other action. The remaining portion of the project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining owners in the project. In the event of a taking by eminent domain of any part of the common area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where units are not valued separately by the condemning authority or by the court. Proceeds of condemnation shall be distributed among owners of units and their respective mortgagees according to the relative values of the units affected by the condemnation, said values to be determined by the method provided in Section 8.8.

8.10 Owners' Compliance: Each owner, tenant or occupant of a condominium shall comply with the provisions of this Declaration, and to the extent they are not in conflict with the Declaration, the Articles, and Bylaws, decisions and resolutions of the Association or its duly authorized representative, and the Regulatory Agreements), as lawfully amended from time to time and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or the Bylaws, shall be deemed to be binding on all owners of condominiums, their successors and assigns.

8.11 Notices: Any notice permitted or required by the Declaration, Articles or Bylaws may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to each person at the current address given by such person to the secretary • of the Board or addressed to the unit of such person if no address has been given to the secretary.

8.12 Fair Housing. No owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of his unit to any person of a specified race, sex, marital status, color, religion, ancestry, physical handicap, or national origin.