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**2400 WESTBOROUGH DECLARATION ESTABLISHING A PLAN
FOR COMMERCIAL CONDOMINIUM OWNERSHIP**

IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, GENETIC INFORMATION, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (P) OF SECTION 12955 OF THE GOVERNMENT CODE, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.2 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.

**2400 WESTBOROUGH DECLARATION ESTABLISHING A PLAN
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**2400 WESTBOROUGH DECLARATION ESTABLISHING A PLAN
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THIS DECLARATION, made as of _____, 201_, by Westborough Professional Group, LLC, a California limited liability company, (“Declarant”), is made with reference to the following facts:

A. Location and Description of Property: Declarant is the owner of certain property located in the City of South San Francisco (“City”), County of San Mateo (“County”), State of California, more particularly described as Lot 1 on that certain Map entitled “2400 Westborough for Commercial Condominium Purposes” filed for record in the Office of the Recorder of San Mateo County, California, on _____, 201_ in Book __ of Maps, page(s) _____. The Property contains one (1) commercial building that includes a parking garage area. The Property is hereby established as a condominium project that consists of twenty three (23) Condominium Units. The remainder of the property (excluding the Units) is the Common Area, title to which shall be held by the Unit Owners as undivided tenants in common as provided in Section 2.2.B of this Declaration.

THE BUILDING WAS ORIGINALLY CONSTRUCTED CIRCA 1977. DECLARANT HAS UNDERTAKEN CERTAIN RENOVATIONS TO THE BUILDING. HOWEVER, THE STRUCTURE AND PHYSICAL COMPONENTS OF THE BUILDING AND WITHIN THE UNITS ARE GENERALLY NOT NEW CONSTRUCTION. THE ASSOCIATION AND OWNER OF UNITS SHALL CONSIDER THIS HISTORY OF THE BUILDING WHEN UNDERTAKING MAINTENANCE OF THE BUILDING COMMON AREAS AND THE UNITS.

B. Mutually Beneficial Restrictions: Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Condominiums and the Owners thereof, under the Commercial and Industrial Common Interest Development Act, California Civil Code sections 6500, et seq.

NOW, THEREFORE, Declarant hereby declares that the hereinafter described Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are imposed as equitable servitudes pursuant to a general plan for the development of the Property for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for the improvement of the Property and the division thereof into Condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant and its successors and assigns, and 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”: The Articles of Incorporation of the Association, as amended from time to time.

1.2. “Assessment”: That portion of the cost of maintaining, improving, repairing, operating and managing the Property which is to be paid by each Condominium Owner as determined by the Association, including Regular Assessments, Special Assessments, Cost Center Reimbursement Assessments, and Reimbursement Charges.

1.3. “Assessment Lien”: A lien established against a Unit as provided in Section 4.8.

1.4. “Association”: The 2400 Westborough Commercial Condominium Association, a California nonprofit mutual benefit corporation, the Members of which shall be the Owners of Condominiums in the Project.

1.5. “Board” or “Board of Directors”: The governing body of the Association.

1.6. **"Budget"**: A written, itemized estimate of the Association's income and Common Expenses prepared pursuant to the Bylaws.

1.7. **"Building"**: All the property and improvements within each of the three-dimensional areas designated "Building" on the Condominium Plan.

1.8. **"Bylaws"**: The Bylaws of the Association, as amended from time to time.

1.9. **"City"**: The City of South San Francisco, a municipal corporation.

1.10. **"Common Area"**: All of the Property (excepting the individual Units). The Common Area includes, without limitation: Land; the Parking Area and driveway areas; the Garage; patio areas; equipment pads; trash enclosures; storage areas; the landscaping; and open space areas.

1.11. **"Common Expenses"**: The actual and estimated expenses of maintaining, repairing, replacing and operating the Common Area and any reasonable reserves for such purposes as found and determined by the Board and all sums designated Common Expenses by or pursuant to the Governing Documents.

1.12. **"Common Interest"**: The proportionate undivided interest in the Common Area that is a part of each Condominium as set forth in this Declaration.

1.13. **"Common Interest Share"**: The percentage set forth for each Condominium in Exhibit "A" and as defined in Section 2.2.B.

1.14. **"Condominium"**: An estate in real property as defined in California Civil Code §§ 783 and 6542(b), consisting of an undivided interest in common in a portion of the Property and a separate interest in the Property called a Unit.

1.15. **"Condominium Plan"**: The recorded three-dimensional plan of the Condominiums built or to be built on the Property which identifies the Common Area and each separate interest pursuant to Civil Code §§ 6540 and 6624, recorded in the Official Records of the County as Document No. _____ on _____, 201__.

1.16. **"Cost Reimbursement Assessment"**: A Cost Reimbursement Assessment levied by the Association pursuant to Section 4.3.C.

1.17. **"County"**: The County of San Mateo.

1.18. **"Declarant"**: 2400 Westborough Professional Group, LLC, a California limited liability company, and any successor or assign that expressly assumes the rights and duties of the Declarant under this Declaration, in a recorded written document.

1.19. **"Declaration"**: This Declaration, as amended or supplemented from time to time.

1.20. **"Demising Wall"**: A partition wall that is centered upon an interior Unit boundary line between adjacent Condominiums under separate ownership.

1.21. **"First Lender"**: Any person, entity, bank, savings and loan association, insurance company, or financial institution holding a recorded First Mortgage on any Condominium.

1.22. **"First Mortgage"**: Any recorded Mortgage (made in good faith and for value) on a Condominium with first priority over other Mortgages encumbering the Condominium.

1.23. **"Foreclosure"**: The legal process by which a Condominium owned by an Owner who is in default under a Mortgage is sold pursuant to California Civil Code § 2924a *et seq.* or sale by the Court pursuant to California Code of Civil Procedure § 725a *et seq.* and any other applicable laws.

1.24. **"Garage"**: That portion of the Common Area consisting of a garage structure of the Building to be used for vehicular parking, as shown and designated "Garage" on the Condominium Plan.

1.25. “Governing Documents”: This Declaration, as amended from time to time, 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 Rules.

1.26. “Hazardous Materials”: Any substance, material or waste which is or becomes: (i) regulated by any local or regional Governmental authority of the State of California or the United States Government as a hazardous waste; (ii) is defined as a “solid waste,” “sludge,” “hazardous waste,” “extremely hazardous waste,” “restricted hazardous waste,” “non-RCRA hazardous waste,” “RCRA hazardous waste,” or “recyclable material,” under any federal, state or local statute, regulation, or ordinance, including, without limitation, Sections 25115, 25117, 25117.9, 25120.2, 25120.5 or 25122.7, 25140, 25141 of the California Health and Safety Code; (iii) defined as a “Hazardous Substance” under Section 25316 of the California Health and Safety Code; (iv) defined as a “Hazardous Material,” “Hazardous Substance” or “Hazardous Waste” under Section 25501 of the California Health and Safety Code; (v) defined as a “Hazardous Substance” under Section 25281 of the California Health and Safety Code; (vi) asbestos; (vii) petroleum products, including, without limitation, petroleum, gasoline, used oil, crude oil, waste oil, and any fraction thereof, natural gas, natural gas liquefied, methane gas, natural gas, or synthetic fuels, (viii) materials defined as hazardous or extremely hazardous pursuant to the California Code of Regulations; (ix) pesticides, herbicides and fungicides; (x) polychlorinated biphenyls; (xi) defined as a “Hazardous Substance” pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*); (xii) defined as a “Hazardous Waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; (xiii) defined as a “Hazardous Substance” or “Mixed Waste” pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq.*, and regulations promulgated thereunder; (xiv) defined as a “Hazardous Substance”) pursuant to Section 401.15 of the Clean Water Act, 40 C.F.R. 116; (xv) defined as an “Extremely Hazardous Substance” pursuant to Section 302 of the Superfund Amendments and Reauthorizations Act of 1986, 42 U.S.C. Section 11002 *et seq.*; or (xvi) defined as “medical waste” pursuant to Section 25023.2 of the California Health and Safety Code, Chapter 6.1 (Medical Waste Management Act).

1.27. “Invitees”: The tenants, patients, and other invitees of an Owner of the tenants of an Owner.

1.28. “Map”: That Map described in Introductory Paragraph A, above.

1.29. “Member”: A person entitled to membership in the Association as provided herein.

1.30. “Mortgage”: A mortgage, deed of trust, assignment of rents, issues and profits or other proper instrument (including, without limitation, those instruments and estates created by sublease or assignment) given as security for the repayment of a loan or other financing which encumbers a Condominium, made in good faith and for value.

1.31. “Mortgagee”: The holder of a Mortgage including the beneficiary of a deed of trust that constitutes a Mortgage.

1.32. “Mortgagor”: A Person who encumbers his Condominium with a Mortgage including the trustor of a deed of trust that constitutes a Mortgage.

1.33. “Notice of Delinquent Assessment”: A notice of delinquent Assessment filed by the Association for a delinquent Assessment pursuant to Section 4.8.B.

1.34. “Occupant(s)”: A Person who legally occupies a Unit, including, without limitation, a tenant or guest, invitee, renter, lessee or contract purchaser.

1.35. “Owner” or “Owners”: The record holder or holders of title, if more than one (1), to a Condominium in the Project. This shall include any person having a fee simple title to any Condominium, but shall exclude persons or entities having any interest merely as security for the performance of an obligation. If a Condominium is sold under a contract of sale and the contract is recorded, the purchaser, rather than the fee owner, shall be considered the “Owner” from and after the date the Association receives written notice of the recorded contract.

1.36. **“Parking Area”**: The parking area exterior of the Building as shown on the Condominium Plan as “Parking Area”.

1.37. **“Parking Space”**: The areas within the Garage or the Parking Area that are designated on the Condominium Plan as parking spaces by the designation “PG” in the Garage and “PS” outside of the Garage.

1.38. **“Person”**: A natural person, a corporation, a partnership, a trustee, or other legal entity.

1.39. **“Project”**: The entire real property above described including all structures and improvements erected or to be erected thereon.

1.40. **“Property” or “Properties”**: 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.

1.41. **“Regular Assessments”**: A Regular Assessment determined and levied pursuant to Section 4.3.A of this Declaration.

1.42. **“Reimbursement Charge”**: A charge levied by the Board against an Owner to reimburse the Association for costs and expenses incurred by the Association as provided in Section 4.10 or for bringing the Owner and/or his or her Unit into compliance with the provisions of this Declaration, determined and levied pursuant to Section 4.10 of this Declaration.

1.43. **“Rules”**: The rules adopted from time to time by the Association pursuant to Section 5.2.D.

1.44. **“Share”**: The percentages in and to the Common Area attributed to and appurtenant to each Unit as set forth in Section 2.2.B and in Exhibit “A.”

1.45. **“Special Assessments”**: A Special Assessment levied by the Association pursuant to Section 4.3.B.

1.46. **“Unit”**: The elements of the Condominium, as defined in Section 2.2.A, which are not owned in common with the Owners of other Condominiums in the Project. Each Unit is identified by a separate number on the Condominium Plan.

1.47. **“Utility Facilities”**: Defined in Section 6.1.

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

2.1. **Description of Project**: The project is a Condominium Project consisting of the land, the twenty three (23) Units and the Common Area all improvements thereon. Reference is made to the Condominium Plan for further details.

2.2. Division of Property: The Property is divided as follows:

A. Units: Each of the Units as separately shown, numbered and designated in the Condominium Plan, consists of the space bounded by and contained within the boundaries described on the Condominium Plan, and all improvements therein, being defined and referred to herein as a "Unit". Each Unit includes the Utility Facilities located within its boundaries. The Unit does not include those areas and those things which are defined as "Common Area" in Section 1.10. The term "Unit" shall mean those portions of the Property shown on the Condominium Plan as individually numbered parcels preceded by the word "UNIT". Each of the Units consists of the space and improvements bounded by and contained within the interior unfinished surfaces of the perimeter walls. The lower vertical dimension of a Unit shall be to the interior unfinished surfaces of the floor of the Unit and the upper vertical dimension of a Unit shall be to the interior unfinished surfaces of the open web roof or ceiling trusses of the Unit as shown on the Condominium Plan. Each Unit includes the airspace encompassed within the boundaries described. Notwithstanding the foregoing, the Association, and not the Owner of the Unit shall be responsible for maintenance, repair and replacement of the following elements of the Building, whether located within the Unit or within the Common Area: except for finishes on interior surfaces, any portion of the Building which exists for structural purposes, including, without limitation, the roof, the floor slabs, load bearing walls, support beams and columns; ventilation shafts; ducts for heating and cooling purposes, flues, chases, shafts and wells containing utility conduits or pipes, or which provide access to any portion of the utility systems. The following elements of the Building shall be part of the Unit: the windows, window frames, doors and door frames; ceiling tiles and dropped ceiling framework; flooring installed over the floor slab; sheet rock, paneling, paint or other finishes on the perimeter walls; all interior walls other than bearing walls.

B. Common Areas: The entire Property, except for the Units, constitutes and shall be referred to herein as the "Common Area", and includes, without limitation, all of the improvements and elements described in Section 1.10 and all of the improvements of and within the Building except the Units. The Common Area shall include, no matter where located, all common conduits, pipes, plumbing, wires; common utility rooms; central heating equipment and facilities; central hot water equipment and facilities and monitoring systems, central electrical equipment and facilities and monitoring systems, and other utility installations (except the outlets thereof when located within the Unit, and except utility installations and facilities that service only one Unit) required to provide power, light, telephone, gas, water, sewerage, and drainage; built-in fire detection, protection and prevention devices and equipment and sprinkler pipes.

(1) Each Owner shall have, as appurtenant to its Unit, an undivided interest in the Common Area ("Common Interest Share"). The percentage interest of such Common Interest Share for each Unit is set forth on Exhibit "A". The ownership of each Condominium shall include a Unit and such Common Interest Share as an undivided interest in the Common Area. The undivided Common Interest Share in Common Area appurtenant to each Unit is declared to be permanent in character and cannot be altered without the consent of all the Owners affected, as expressed in an amendment to this Declaration.

(2) Each Unit shall have appurtenant to it nonexclusive easements for ingress and egress and support through the Common Area.

Each Unit shall have appurtenant to it nonexclusive easements 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 Owners affected, as expressed in an amended Declaration. Each Owner may have access over and use of 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 Owners, subject to the provisions of this Declaration and the Association's Rules.

C. Joining or Separating Units: Adjoining Units may be joined for use and operations as set forth in this subsection 2.2.C and as provided in the Association's Construction Rules and other Association Rules or in such manner as otherwise determined by the Board:

(1) Subject to all applicable building and fire codes of the City and only after obtaining the written approval of the Board, and the issuance of a valid building permit by the

City, the Owner of two (2) or more adjoining, horizontally contiguous Units may, with the consent of the Board (which consent shall not be withheld unreasonably), construct, at its expense, and in accordance with detailed plans approved by said Board, a means of access (such as a doorway between two (2) horizontally contiguous Units), between the Units. Non-structural, non-bearing Demising Walls may be penetrated or eliminated between such Units or may be removed by the Owner of such contiguous Units, subject to all applicable building and fire codes of the City and only after obtaining the written approval of the Board.

(2) The Owner of contiguous Units who has connected them in such manner shall have an easement for ingress, egress and passage through that portion of the Common Area of the Building where a Demising Wall has been penetrated, eliminated or removed or which has been pierced in the process of constructing the means of access. The easement shall exist only for so long as the connected Units continue to be owned by the same Owner. If and when the Owner of such connected Units sells, transfers or conveys any one (1) of the Units, prior to the recordation of the deed or instrument of transfer, the Demising Walls or penetrations between the Units that are being separated shall be installed or replaced on the boundary line for the Units as shown on the Condominium Plan and the means of access between the adjoining Units that are being conveyed in separate ownership shall be sealed off, with the Demising Walls or other portion of the Common Area that was eliminated, removed or pierced at the Owner's expense, constructed or reconstructed to provide for a Demising Wall at the boundary line of the Unit or Units that are no longer under the same ownership. Such Demising Wall shall be designed and installed in a manner that is consistent with Demising Walls that were originally installed by the Declarant within the Project. Upon completion of such Demising Wall, or elimination of access through a Demising Wall, the easement over the Common Areas that existed during the period that the Units were joined shall automatically terminate. No bearing walls shall be removed or altered and no "Utility Facilities" (as that term is defined in Section 6.1) that service any Units other than those being combined shall be removed, altered, or damaged in the course of such construction. The heating, plumbing, wiring, cables, conduits, pipes, ducts, flues, chutes, and other utilities or service equipment which is or may be located within Demising Walls, and which serves more than one (1) Unit, shall be owned by all Owners as common property in undivided interests, wherever said equipment is located or relocated from time to time. No combined Units may be sold or leased unless all of the Units so combined are sold or leased to the same Person or entity, or the combined Units are reconstructed as separate and independent Units as shown on the Condominium Plan at the sole cost and expense of the Owner(s) thereof.

(3) No modifications to any portion of the Common Area shall be made which will adversely affect the structural integrity of the Project or impair any other Owner's reasonable use of such Common Area, or the utilities that may be located therein, or the value of the Project. All costs and expenses of such modifications and subsequent restoration of the modifications shall be borne by the Owner of the Units so joined. After approval of the proposed modifications by the Board, and prior to commencement of work, the Owner making such modifications shall post a bond or bonds in an amount acceptable to the Board to protect the Association and the Project against liens and to insure completion of the work, and provide the Association with written notice as to commencement of the work, to enable the Association to file a Notice of Non-Responsibility. In the process of joining Units, an Owner shall have such reasonable access to other Units as may be required to accomplish the modifications approved by the Board. Such modifications shall not, however, change the status of Condominiums, which shall continue to be treated legally as separate Condominiums, each entitled to the votes for each square foot of each Unit pursuant to Section 3.2 and each required to pay its separate Assessment. In the event common ownership of joined Units is for any reason terminated, Common Area which has been altered shall be immediately restored to its original design and status.

D. Encroachment: Each Condominium is subject to such encroachments as are contained in the Building, whether the same now exist or may be later caused or created in any manner referred to in Section 8.5. In interpreting deeds and Condominium Plans, the then existing physical boundaries of a Unit or of a Unit that has been 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 on a Condominium 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. Each Condominium shall have appurtenant to it nonexclusive easements for ingress, egress and support through the Common Area.

E. Unassigned Parking: Parking Spaces in the Project shall be unassigned Parking Spaces that are to be used by all Owners, their tenants, patients, guests and other Invitees, pursuant to Rules adopted by the Board. Parking Spaces shall be used for parking of permitted vehicles only and not for the permanent parking or storage of boats, trailers or non-mobile vehicles of any description. The Board may establish Rules from time to time for the parking of vehicles.

F. Storage Areas: The Association shall have the right to license or lease storage areas within the Common Area of the Project to Unit Owners or tenants or other Occupants of Units. The Board may establish Rules from time to time for the use of such storage spaces.

G. No Separate Conveyance of Interests: The foregoing interests provided in this Section 2.2 are hereby established and are to be conveyed with the respective Condominiums 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 respective Units conveyed therewith, shall not be separated or separately conveyed, and such interests 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. Rights of Entry and Use: The Units and Common Area shall be subject to the following rights of entry and use:

A. The non-exclusive rights of each Owner for ingress, egress and support through the Common Area, and use of the Common Area as provided in Sections 2.2.B.

B. The right of the Association agents or employees to enter any Unit to cure any violation of this Declaration or the Bylaws, provided that the Owner has received notice and a hearing as required by the Bylaws (except in the case of an emergency) and the Owner has failed to cure the violation or take steps necessary to cure the violation within thirty (30) days after the finding of a violation by the Association.

C. The access rights of the Association to maintain, repair or replace improvements or property located in the Common Area as described in Section 5.2.E.

D. The rights of the Owners, the Association, and the Declarant to install, maintain, repair or replace utilities as described in Article VI.

E. The encroachment easements described in Section 8.5.

F. The rights of Owners to make improvements or alterations authorized by Civil Code § 6714, subject to the provisions of Section 7.6 to the extent applicable.

2.4. Partition Prohibited: The Common Areas shall remain undivided as set forth above. Except as provided by California Civil Code § 6656, 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 Condominium owned by two (2) or more persons and division of the sale proceeds is not prohibited hereby but partition of title to a single condominium is prohibited.

2.5. All Easements Part of Common Plan: Whenever any easements are reserved or created or are to be reserved or created in this Declaration, such easements shall constitute equitable servitudes for the mutual benefit of all property in the Project, even if only certain Units are specifically mentioned as subject to or benefiting from a particular easement. Easements referred to in this Declaration that are created by grant deeds, subsequent to the date of this Declaration shall be part of the common plan created by this Declaration for the benefit of all property Owners within the Project.

2.6. Reciprocal Easements for Support: There are hereby reserved and granted to the Association for the benefit of the Owners and Occupants of the Condominiums non-exclusive easements for support over the Common Area and those portions of the improvements of the Building that provide structural support to Units.

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 this Declaration, the Articles and Bylaws of the Association.

3.2. Membership and Voting Rights: The Owner of a Condominium shall automatically, upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as the ownership ceases for any reason, at which time the membership in the Association shall automatically cease. Each Unit shall have one (1) vote for each 100 square feet of the Unit as measured and stated on the Condominium Plan as set forth and described on **Exhibit "A"** of this Declaration based on relative percentages of total Unit square footage. Membership and voting rights shall be as set forth in the Articles and Bylaws of the Association. When more than one (1) Person holds an interest in any Condominium, all such Persons shall be considered Members; however, only one such Person can act as the voting Member as set forth in this Declaration and in the Bylaws. For the calculations to be made under this Section **3.2**, the square footage of each Unit shall be rounded up to the nearest 100 square feet.

3.3. Membership Classes and Voting Rights: The Association shall have two (2) classes of voting membership:

A. Class A. Members shall be all Owners with the exception of the Declarant and shall be entitled to the votes for each Unit owned as set forth and described on **Exhibit "A"** of this Declaration based on relative percentages of total Unit square footage. When more than one (1) Person holds an interest in any Unit, all such Persons shall be considered Members; however only one such Person can act as the voting Member as set forth in this Declaration and in the Bylaws; the vote for such Unit shall be exercised by those Persons who are the Owners of the Unit, as they among themselves determine, but in no event shall more votes be cast for the Unit than those which an Owner is entitled to be cast with respect to the Unit.

B. Class B. The Class B Member shall be the Declarant, including the successor to Declarant that holds more than three (3) Units, and shall be entitled to vote as follows: Voting shall be the same as for Class A memberships, except that the Class B Member shall be entitled to the votes for each Unit owned as set forth and described on **Exhibit "A"** multiplied times five (5) for each such Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the Declarant owns fewer than three (3) Units in the Project;
- or,
- (b) when the Declarant relinquishes such Class B voting rights by written notice to the Board.

As long as Class B is in effect under this Declaration and the Bylaws, all votes of the Association shall be undertaken in accordance with the Class A and Class B voting procedures. Notwithstanding the foregoing, as long as Declarant holds title to two (2) or more of the Units, Declarant shall be entitled to appoint at least one (1) of the Directors of the Board.

3.4. Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the Condominium 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 Condominium. On any transfer of title to an Owner's Condominium, including a transfer on the death of an Owner, membership passes automatically with title to the transferee.

A mortgagee does not have membership rights until it obtains title to the Condominium by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No Member may resign his or her membership. On notice of a transfer, the Association shall record the transfer on its books.

ARTICLE IV. ASSESSMENTS

4.1. Creation of the Lien and Personal Obligation of Assessments: The Declarant hereby covenants, and each Owner by acceptance of a deed for a Condominium, whether or not it shall be so expressed in such deed, covenants and agrees:

(1) to pay Regular Assessments, Special Assessments and Reimbursement Charges to the Association as established in this Declaration, and

(2) to allow the Association to enforce any Assessment Lien established under this Declaration by nonjudicial proceedings under a power of sale or by any other means authorized by law.

The Regular Assessments and Special Assessments, including Reimbursement Charges, together with interest, late charges, collection costs and reasonable attorneys' fees, shall be a charge on the Condominium and shall be a continuing lien as an Assessment Lien upon the Condominium against which each such Assessment is made, the Assessment Lien to become effective upon recordation of a Notice of Delinquent Assessment. Each Assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them. No Owner shall be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of the Owner's Condominium.

The interest of any Owner in the amounts paid pursuant to any Assessment upon the transfer of ownership shall pass to the new Owner. Upon the termination of these covenants for any reason, any amounts remaining from the collection of such Assessments after paying all amounts properly charged against such Assessments shall be distributed to the then Owners on the same pro rata basis on which the Assessments were collected.

4.2. Purpose of Assessments: The Assessments levied by the Association shall be used exclusively to promote the economic interests, health, safety, and welfare of all the Owners and other residents in the Project and to enable the Association to perform its obligations hereunder.

4.3. Assessments: The Board shall levy Regular Assessments, Special Assessments and Reimbursement Assessments as set forth in this Declaration.

A. Regular Assessments: The Board shall establish and levy Regular Assessments in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year. The Regular Assessment shall include a portion for reserves in such amounts as the Board in its discretion considers appropriate to meet the costs of the future repair, replacement or additions to the major improvements and fixtures that the Association is obligated to maintain and repair. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position, after taking into consideration the effects of State and Federal tax laws and regulations on the Owners and the Association for such reserves. Reserve funds shall be deposited in a separate account and the signatures of at least two (2) persons who shall either be Members of the Board or one officer who is not a Member of the Board and a Member of the Board shall be required to withdraw monies from the reserve account. Reserve funds may not be expended for any purpose other than repairing, replacing or adding to the major improvements or fixtures that the Association is obligated to maintain without the consent of Owners holding a majority of the Voting Power either at a duly held meeting or by written ballot.

B. Special Assessments: The Board, at any time, may levy a Special Assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. Special Assessments shall be allocated among the Units in the same manner as Regular Assessments, except in the case of an Assessment levied by the Board against a Member to reimburse the Association for costs incurred in bringing a Member into compliance with provisions of the Governing Documents.

C. Cost Reimbursement Assessments: The Board may levy a Cost Reimbursement Assessment in order to reimburse the Association for the actual costs or portion of the actual costs of providing specific services to Condominiums in the Project, including electrical service, water service, excessive use garbage services (as determined by the Board in its sole discretion) and other similar services. For electrical service and water service provided to the Units, the Association shall allocate and assess the costs of these utilities to all Units, based on the relative square footage of the Units, or the Board may elect to allocate and assess the costs of such electrical service or water as a Cost Reimbursement Assessment to the Condominiums based on relative use of the electrical service or water service by the Owners as determined from readings of submeters or other utility reading devices for such services within the Project. Cost Reimbursement Assessments for other services shall be calculated by the Board in such manner as the Board determines to be reasonable. The Board may also levy a Cost Reimbursement Assessment against a Member to reimburse the Association for costs incurred in bringing the Member and its Unit into compliance with the provisions of the Governing Documents, including administrative and management costs incurred.

4.4. Division of Assessments: Except as provided otherwise in Section 4.3.C, all Assessments, both Regular Assessments and Special Assessments, shall be charged to and divided among the Condominiums according to the respective interest in the Undivided Common Area of each as set forth in Exhibit "A" (the "Common Interest Share"). Regular Assessments shall be collected on a monthly basis unless the Association directs otherwise. Special Assessments may be collected in one (1) payment or periodically as the Association shall direct.

Both Regular Assessments and Special Assessments shall be levied among the Condominiums, in the proportion as set forth in Exhibit "A". Regular Assessments shall be collected on a monthly basis unless the Board directs otherwise. Special Assessments may be collected in one (1) payment or periodically as the Board shall direct.

4.5. Date of Commencement of Regular Assessment; Due Dates: The Regular Assessments, including, where applicable, Cost Center Assessments, provided for in this Declaration shall commence as to all Condominiums covered by this Declaration on the first day of the month as selected by the Declarant, or upon the first day of the month following the first conveyance of title to one of the Condominiums, whichever is earlier.

The Board of Directors shall determine and fix the amount of the Regular Assessment and any Cost Center Assessment against each Condominium and send written notice thereof to every Owner at least forty-five (45) days in advance of each Regular Assessment period, provided that failure to comply with the foregoing shall not affect the validity of any Assessment levied by the Board. 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 Condominium have been paid. Such a certificate shall be conclusive evidence of such payment.

4.6. Effect of Nonpayment of Assessments: Any Assessment not paid within fifteen (15) days after the due date shall bear interest at the rate of twelve percent (12%) per annum commencing thirty (30) days after the due date until paid, and shall incur a late payment penalty in the amount of Ten Dollars (\$10.00) or ten percent (10%) of the delinquent Assessment, whichever is greater.

4.7. Transfer of Unit by Sale or Foreclosure: Sale or transfer of any Condominium shall not affect the Assessment Lien. However, the sale of any Unit pursuant to mortgage foreclosure of a first mortgage shall extinguish the lien of such Assessments (including attorney's fees, late charges, or interest levied in connection therewith) as to payments which became due prior to such sale or transfer (except for Assessment Liens as to which a Notice of Delinquent Assessments has been recorded prior to the Mortgage). No sale or transfer shall relieve such Condominium from liability for any Assessments thereafter becoming due or from the lien thereof. The unpaid share of such Assessments shall be deemed to be Common Expenses collectible from all of the Owners including such acquirer, his successors or assigns.

The unpaid share of such Assessments shall be deemed to be Common Expenses collectible from all Owners of the Units including such acquirer, and his successors or assigns.

If a Condominium is transferred, the grantor shall remain liable to the Association for all unpaid Assessments against the Condominium through and including the date of the transfer. The grantee shall be entitled to a statement from the Association, dated as of the date of transfer, setting forth the amount of the unpaid Assessments against the Condominium to be transferred and the Condominium shall not be subject to a lien for unpaid Assessments in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any Assessments that become due.

4.8. Priorities; Enforcement; Remedies: If an Owner fails to pay an Assessment when due, the Association has the right, and option, to bring legal action against the Owner to enforce collection of the unpaid and past due Assessment, or may impose an Assessment Lien on the Unit owned by Owner pursuant to the provisions of Civil Code § 6814. Suit to recover a money judgment for unpaid Assessments and attorneys' fees, shall be maintainable without foreclosing or waiving the lien securing the same.

A. Statement of Charges: At least 30 days prior to the Association recording an Assessment Lien upon a Unit pursuant to Civil Code § 6812, the Association shall notify the owner of record in writing by certified mail of the following:

(1) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount owed, a statement that the Owner has the right to inspect the Association's records, pursuant to Section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION".

(2) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.

(3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the Assessment was paid on time to the Association.

B. Notice of Delinquent Assessment: After compliance with the provisions of Civil Code § 6812, the Association may record a Notice of Delinquent Assessment and establish an Assessment Lien against the Unit of the delinquent Owner prior and superior to all other liens recorded subsequent to the Notice of Delinquent Assessment, 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 recorded prior to the Notice of Delinquent Assessment. The Notice of Delinquent Assessment shall include an itemized statement of the charges owed by the Owner described in Section 4.8.A above, a legal description of the Unit against which the Assessment and other sums are levied, the name of the record Owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by the Person designated in the Declaration or by the Association for that purpose, or if no one is designated, by the President.

C. Lien Releases: Within twenty-one (21) days after payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Office of the County Recorder in which the Notice of Delinquent Assessment is recorded a lien release or notice of rescission and provide the Owner a copy of the lien release or notice that the delinquent Assessment has been satisfied.

D. Enforcement of Assessment Lien: As provided in Civil Code section 6820, except as otherwise provided in Article 3 of the Act, after the expiration of 30 days following the recording of a lien created pursuant to Civil Code section 6814, the Assessment Lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated

in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Civil Code section 2934a. Nothing in Article 2 (commencing with section 6808 of the Civil Code) or in subdivision (a) of section 726 of the Code of Civil Procedure prohibits actions against the Owner of a separate interest by the Association to recover sums for which an Assessment Lien is created pursuant to Article 2 (commencing with section 6808 of the Civil Code) or prohibits an association from taking a deed in lieu of foreclosure. As provide in Civil Code section 6822(a) any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust. In addition to the requirements of Civil Code section 2924, the Association shall serve a notice of default on the person named as the Owner of the Unit in the Association's records or, if that person has designated a legal representative pursuant to the Act, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An Owner may designate a legal representative in a writing that is mailed to the association in a manner that indicates that the association has received it. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924c and 2924d, plus the cost of service for the notice of default pursuant to Civil Code section 6822(b). Nothing in this Declaration shall preclude the Association from bringing an action directly against an Owner for breach of the personal obligation to pay Assessments.

E. Association Rights on Foreclosure: The Association, acting on behalf of the Owners, shall have the power to bid for the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the Condominium. During the period a Condominium is owned by the Association, following foreclosure: (1) no right to vote shall be exercised on behalf of the Condominium; (2) no Assessment shall be assessed or levied on the Condominium; and (3) each other Condominium shall be charged, in addition to its usual Assessment, its pro rata share of the Assessment that would have been charged to such Condominium had it not been acquired by the Association as a result of foreclosure. After acquiring title to the Condominium at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the Condominium which deed shall be binding upon the Owners, successors, and all other parties.

F. Suspension of Voting Rights: The Board may temporarily suspend the voting rights of a Member who is in default in payment of any Assessment, after notice and hearing, as provided in the Bylaws.

G. Fines and Penalties: In conformity to Civil Code § 6824(b), fines and penalties imposed by the Association for violation of this Declaration as a disciplinary measure for failure of an Owner to comply with this Declaration or the Rules, except for late payments, are not "Assessments," and are not enforceable by Assessment Lien, but are enforceable by court proceedings; provided, however, pursuant to Civil Code § 6824(a), monetary penalties imposed by the Association to reimburse the Association for costs incurred for repair of damage to Common Area or facilities for which the Owner, or guests or tenants of an Owner, were responsible may become the subject of a lien.

The provisions of this Section 4.8 are intended to comply with the current requirements of California Civil Code Section 6824. If these Sections are amended or rescinded in any manner the provisions of this Section 4.8 automatically shall be amended or rescinded in the same manner.

4.9. No Offsets: All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including without limitation, as a result of a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

4.10. Reimbursement Charges: The Board may levy a Reimbursement Charge against a Member to reimburse the Association for costs incurred by the Association in the repair of damage to the Common Area and facilities for which the Member (or the Occupant for which the Member is responsible) was responsible, and in bringing the Member and his Unit into compliance with the provisions of the Governing Documents. The Reimbursement Charges shall be in the amount required to reimburse the Association for the actual costs and expenses incurred to repair the damage and to enforce the Association's rights under this Declaration. Reimbursement Charges

shall be payable when directed by the Board after written notice to the Owner(s), which notice shall in no event be less than thirty (30) days. If an Owner disputes a Reimbursement Charge, the Owner may request a hearing before the Board.

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 Owners, 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 Owners in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE V. DUTIES AND POWERS OF THE ASSOCIATION; MAINTENANCE

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:

(1) Maintenance by Association: The Association shall maintain, repair, replace (when necessary), restore, operate and manage all of the Common Area, including the Building (excepting the Units except as herein set forth), the improvements, furnishings, equipment and landscaping 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 landscaping, the Garage and Parking Areas and common signage. All maintenance, repair and replacement of catch basins, storm and sanitary sewers located in the Common Area shall be maintained, repaired and replaced by the Association.

(a) The Association maintenance of the Building shall include the foundation, the roof, exterior and bearing walls, Unit demising walls, utility lines and facilities excepting those lines within a Unit or the Common Area that serve only a Unit.

(b) Association Maintenance shall, include without limitation, painting, maintaining, cleaning, repairing and replacing of all Common Area and related equipment, including the Common Area lobby, central corridors and hallways, stairs, elevators, common restrooms, exterior glass surfaces, cleaning of interior glass surfaces in the Common Areas.

(c) The Association shall provide for the cleaning of the exterior of the windows of the Project and the interior windows in the Common Area on a regular basis as determined reasonable by the Board.

(d) The Association shall have the Common Area periodically inspected for termites and other pests and shall take appropriate corrective measures.

(e) The Association shall operate, maintain and replace the elements and components of the heating and air conditioning system that serve the Common Areas and the Unit as provided in 5.2.B.

(f) The Association shall be responsible for providing the periodic maintenance and operational testing of the fire sprinklers and other protection devices, whether or not located within the Units, to be carried out by qualified personnel in accordance with manufacturer's specifications.

(g) The Association shall also maintain, repair and replace the following elements and facilities (except for finishes on interior surfaces) that are located within the Units: floor slabs, foundations, bearing walls, columns, girders, ceiling joists (except for ceiling tiles and dropped ceiling frames and supports), subfloors, unfinished floors, any portion of the Building which exists for structural purposes, including, without limitation, load bearing walls, support beams and columns, ventilation shafts, flues, chases, shafts and wells containing utility conduits or pipes or which provide access to any portion of the utility systems.

(h) Inspection: The Board shall cause the Common Area improvements to be periodically inspected, maintained and operated, including, but not limited to, foundations, gutters, down-spouts, siding, trim, roofs, window caulking, heating, air conditioning and ventilation systems, elevators, utility equipment and sanitary sewer and storm drainage facilities maintained by the Association. The Association shall cause inspections of all infrastructures to be made by appropriate consultants or vendors. Such inspections of Common Area improvements and equipment shall be made as the Board deems to be appropriate. The Association shall keep permanent records of inspections of the Common Area improvements and equipment. The Association's representatives and designees shall be provided access by the Owner or Occupant of a Unit as necessary for the Association to undertake inspections as stated in this subsection or to undertake any maintenance and repairs to the Building for which the Association has responsibility in accordance with the provisions of Section 5.1.A(2) or Section 5.2.F. The Common Area was generally in existence at the time the Building was established as a condominium project and were not, for the most part, newly installed. The Association shall undertake and budget for its maintenance and repair of the Common Area improvements and equipment with recognition of this history of the Building.

(i) 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 omission of an Owner, or his guests, tenants or invitees, except if the repair is covered by the insurance carried by the Association, the Association shall be responsible for making the repairs, and the responsible Owner shall pay any deductible pursuant to the insurance policy. If the Owner fails to make such payment, then the Association may make such payment and shall charge the responsible Owner, which charge shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate allowed by law) until paid in full. Any repairs arising out of or caused by the willful or negligent act of an Owner, or his guests, tenants or invitees, or the Owner's pets, the cost of which is not covered by insurance carried by the Association, shall be made by the responsible Owner, provided the Board approves the person actually making the repairs and the method of repair. If the responsible Owner fails to take the necessary steps to make the repairs within a reasonable time under the circumstances, the Association shall make the repairs and charge the cost thereof to the responsible Owner, which cost shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law) until paid in full. If an Owner disputes his or her responsibility for the repairs, the Owner shall be entitled to notice and a hearing as provided in the Bylaws before any charge may be imposed.

(j) The responsibility of the Association for maintenance and repair shall not include the maintenance, repair or replacement of:

(i) ceiling tiles and ceiling grids and supports of Units; electrical conduit serving the Unit within the Unit and as extending from the Unit to the electrical breaker panel in the electrical utility room[s] of the Project;

(ii) the breaker box for lights and power in Unit space and the electrical conduit within the Unit that only serves the Unit;

(iii) the sanitary sewer and drains and water pipes and lines that exclusively serve a Unit that are located within the Unit and/or running from the Unit until such pipes or lines tie in to Project central systems.

All of the foregoing shall be maintained and repaired and replaced by the Unit Owner of the Unit that is served by such items pursuant to the applicable provisions of Section 7.4.

(2) Maintenance By Unit Owners:

(a) Units: Except for those portions of the Project which the Association is required to maintain and repair, each Condominium Owner shall, at his sole cost and expense, maintain and repair its Unit, and all improvements therein, keeping the same in good condition. In the event an Owner fails to maintain its Unit 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 the period, the Association may, following

notice and hearing as provided in the Bylaws, cause such work to be done and the cost thereof shall immediately be paid by such Owner to the Association and until paid shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law). A Condominium Owner shall not modify drainage facilities and/or flow patterns without the review and approval of both the Association and the City's Public Works Department.

(b) The improvements and equipment within the Units were generally in existence at the time the Building was established as a condominium project and were not, for the most part, newly installed. Owners shall undertake and budget for its maintenance and repair of the improvements and equipment within the Unit with recognition of this history of the Building.

B. Common Area Heating and Air Conditioning Systems: The Common Area heating, air conditioning and ventilation systems of the Project ("HVAC System") shall be operated, maintained, repaired and replaced by the Association as a Common Expense. The HVAC System was in existence at the time the Building was established as a condominium project and was not newly installed. The Association shall undertake and budget for its maintenance and repair of the HVAC System with recognition of this history of the Building. The Association will operate the HVAC System for the Building at temperature range adopted by Board in a manner that is appropriate for the HVAC System. If an Owner desires, after obtaining the prior written approval of the Board, the Owner may install supplemental separate detached systems for providing heating or cooling of its Units, at the Owner's expense, provided that such supplemental systems do not interfere with the operations of the Project's HVAC System and/or the Project's electrical systems. Subject to prior approval of the Board, each Owner shall have a right of reasonable access as determined and approved by the Board to the portions of the Common Area and the other Units in those areas in which the HVAC System is located, to install or modify the ducting that connects the Heating System to the Owner's Unit, subject to such preconditions as the Board may establish or impose for any such access.

C. Insurance: The Association shall maintain such policy or policies of insurance as are required by Article VIII of this Declaration.

D. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the Common Area, and charge the cost thereof to the Member or Members responsible for the existence of the lien (after notice and a hearing).

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

F. Payment of Expenses and Taxes: 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.

G. Enforcement and Compliance with Laws: The Association shall enforce this Declaration. The Association shall maintain and operate the Common Area of the Project in accordance with all applicable municipal, state, and federal laws, statutes and ordinances, as the case may be. The Association shall also, as a separate and distinct responsibility, take reasonable action to require that third parties (including Owners and their clients, patrons, or patients, utilize the Common Area in accordance with the aforementioned laws. The Association shall, when it becomes aware of any violation of the aforementioned laws, take reasonable action to expeditiously correct such violations.

5.2. Powers: In addition to the powers enumerated in its 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 electrical, gas, and water service for the Common Area. The Association shall obtain and pay for as a Common Expense electric, gas and water services to each Unit, the costs of which the Association shall assess as part of the periodic Regular Assessment invoicing to each Unit based on the Board's reasonable

estimate of the relative use of such services by each Owner, or at the election of the Board as determined based upon the relative square footage of the Units or based upon the Association reading of the electric, gas and water use monitoring systems, such as submeters. Unless the Board determines to submeter for such service, the Association shall charge the Owners of Units for the costs and expenses of electrical and water service provided to the Unit based upon the relative square footage of the Units. If the Board determines that any Unit is using a disproportionate amount of any utility service furnished by the Association, the Board may charge the Unit for such excess disproportionate use as a Cost Reimbursement Assessment as provided in Section 6.1.E. The costs incurred by the Association for trash and garbage disposal and for recycling services shall be a Common Expense, provided however that the Association may charge an Owner or Occupant for such trash and garbage disposal and for recycling services as a Cost Reimbursement Assessment if such Owner or Occupant uses an amount of such services greater than the Board deems to be reasonable.

B. Janitorial Service: The Association shall provide janitorial service for the Common Areas, including the central lobby, the elevators and elevator lobbies, hallways, and the common restrooms, the costs of which shall be a Common Expense allocated to all Units. Janitorial service to the Common Area central lobby, the elevators and elevator lobbies, hallways, and the common restrooms shall be provided by the Association Monday through Friday of every week, and on Saturdays if the Building is open for business operations, unless the Board determines otherwise. Each Owner shall arrange and pay for its own janitorial service, data and communication service, and interior window cleaning service. The Association may provide janitorial service to Units, if the Unit Owner consents, with the costs of such service to be charged directly to the Owner of the Unit by the vendor or by the Association as a Cost Reimbursement Assessment. The Association may require that janitorial service for Units be undertaken by the Unit Owner or Occupant using those janitorial service vendors that are approved by the Board.

C. Easements: The Association shall have authority, with the approval of two-thirds (2/3) of the total voting power of the Association, to grant easements in addition to those shown on the Map, where necessary for utilities, cable television, and sewer facilities over the Common Area to serve the common and open space areas and the Condominiums and/or when necessary to satisfy or achieve appropriate governmental purpose or requests.

D. Manager: The Board or the Members may 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.

E. Adoption of Rules: The Board or the Members of the Association by majority vote, may adopt reasonable Rules that are not inconsistent with this Declaration relating to the use of the Common Area and all its facilities, and the conduct of Owners and their tenants and guests with respect to the Project and other Owners. Written copies of such Rules and any schedule of fines and penalties adopted by the Board shall be furnished to Owners.

F. Access:

(1) For the purpose of performing construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common, the Declarant and the Association and the Association's agents or employees shall have the right, after reasonable notice (not less than twenty-four (24) hours, except in emergency situations, when no notice will be required) to the Owner thereof, to enter any Unit, or to enter any portion of the Common Area at reasonable hours, provided that such access shall not materially and adversely interfere with the use and operation of the Unit to be accessed, or the security of such Unit, and if possible, such access shall not be made during the Unit's normal business 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.

(2) To the extent necessary for construction activities within its Unit, an Owner may have access to a Unit other than the Owner's Unit upon prior written notice to the other Unit Owner of not less than 48 hours for reasonable construction activities for the Unit, provided that such access shall not materially and adversely interfere with the use and operation of the Unit to be accessed, or the security of such Unit, and if possible, such access shall not be made during the Unit's normal business 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 Owner making such entry at its expense. The Association Board shall approve requests and act as mediator of any dispute.

G. Assessments and Liens: The Board shall have the power to levy and collect Assessments in accordance with the provisions of Article IV hereof.

H. Fines and Disciplinary Action: The Board shall have the power to impose any monetary penalty, including any fee, on any Association Member for a violation of the Governing Documents, including any monetary penalty relating to the activities of a guest or tenant of the Member. If the Board adopts a policy imposing monetary penalties it shall distribute to each Member by individual notice, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for Member discipline contained in the Governing Documents. Any new or revised monetary penalty that is adopted thereafter may be included in a supplement that is delivered to the Members individually. Any monetary penalty for a violation of the Governing Documents shall not exceed the monetary penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation. The Association shall provide a copy of the most recently distributed schedule of monetary penalties along with any applicable supplements to that schedule, to any Member on request.

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

J. 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 two-thirds (2/3) of the total voting power of the Association.

K. Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of two-thirds (2/3) 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. The Association may not voluntarily assign or pledge its right to collect Assessments or to enforce liens except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan to the Association.

L. 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 two-thirds (2/3) of the total voting power of the Association, agreeing to such dedication.

M. Contracts: The Association shall have the power to contract for goods and/or services for the discharge of its responsibilities, or elsewhere set forth in the Governing Documents. The Association shall not enter into any contracts with an independent contractor until it meets the requirements of Section 8.7.A(3) herein.

N. 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:

(1) to make expenditures for capital additions or improvements chargeable against the reserve funds;

(2) to conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Declaration, Bylaws or rules and regulations promulgated by the Board;

(3) to make a decision to levy monetary fines, impose special Assessments against individual Condominiums, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;

(4) to make a decision to levy annual or special Assessments; or

(5) to make a decision to bring suit, record a claim of lien or institute foreclosure proceedings for default in payment of Assessments.

O. Security: The Association shall have the power (but not the obligation) to contract for security service for the Common Area. Notwithstanding the foregoing, if the Association elects to provide any security services or systems, neither the Association nor the Board shall be deemed to have made any representation or warranty to any Owner, nor the tenants or invitees of any Owner, nor to any other Person using the facilities or Improvements within the Project regarding security or safety. Each Owner shall be responsible for the security and safety of Persons who occupy or use the Units owned by the respective Owner. The Association shall not be subject to any claims or liability in connection with the provision of any security service or security system, or the failure to provide any security service or security system, within any portion of the Project.

P. Appointment of Trustee: The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce Assessment Liens by sale as provided in Section 4.8 and in California Civil Code § 6822.

Q. Other Powers: In addition to the powers contained herein, the Association may exercise the powers granted to a nonprofit mutual benefit corporation under California Corporations Code §7140.

R. Litigation: The Board of Directors has authority to file a suit, or file a demand for dispute resolution or arbitration, or incur attorney's fees or litigation costs, or enter into a contingent fee contract with an attorney only after getting the vote at a duly noticed and properly held membership meeting, of two-thirds (2/3) of the Members. Amendment of this provision shall require the vote of two-thirds (2/3) of the Members.

5.3. Commencement of Association's Duties and Powers: Until the closing of sale of the first Unit in the Project to Persons other than the Declarant or affiliates of Declarant, or such earlier date as the Declarant may determine, all duties and powers of the Association as described herein, including all rights of consent and approval and the levying and collection of Assessments, shall be and remain the duties and powers of Declarant. From and after the closing of such sale the Association shall assume all of such duties and powers of management and operation of the Association and the Declarant shall be relieved of any further liability for such duties and powers. If and to the extent that the California laws applicable to the maintenance, operation and management of the Project as a commercial condominium project are revised or modified in the future to provide for exceptions of applicable laws that are to be applied to commercial condominium projects and that may be contrary to the express provisions of this Declaration, the Association has the right to adhere to and abide by such exemptions without having to revise this Declaration.

ARTICLE VI. UTILITIES

6.1. Owners' Rights and Duties: The rights and duties of the Owners with respect to water, drainage, electric, gas, television receiving, telephone equipment, cables and lines, meters, storage tanks, wires, ducts, flues, pumps, boilers, and pipes, exhaust flues and heating and air conditioning facilities, collectively, "Utility Facilities") shall be as follows:

A. Whenever Utility Facilities are installed within the Project, which Utility Facilities or any portion of those facilities lies in or upon a Unit owned by other than the Owner of a Unit served by those Utility Facilities, the Owners of any Units served by those Utility Facilities shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain those Utility Facilities as and when necessary, due to failure or inability of the Association to take timely action to make such repairs or perform such maintenance.

B. Whenever Utility Facilities are installed within the Property which Utility Facilities serve more than one (1) Condominium, the Owner of each Condominium served by the Utility Facilities shall be entitled to the full use and enjoyment of such portions of the Utility Facilities as service his Condominium.

C. In the event of a dispute between Unit Owners with respect to the repair or rebuilding of Utility Facilities, or with respect to the sharing of the cost of those facilities, then, upon written request of one (1) Owner addressed to the other Owner(s), the matter shall be submitted first to the Board for mediation, and thereafter, if the dispute remains unresolved, to binding arbitration. The decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment on the decision may be entered in any court having jurisdiction.

D. Common Area utilities costs billed to the Association shall be included as Common Expenses to be included as Assessments that are to be prorated as set forth in Exhibit "A".

E. The costs of any utilities provided by the Association to the Units included on a master meter and billed to the Association shall be included in Assessments and shall be prorated as set forth as set forth in Exhibit "A" unless the Board makes a special allocation of such costs as a Cost Reimbursement Assessment. If the Board believes that an Owner is using an excessive amount of any utility service that is not separately metered to the Units, the Board may assess the Unit Owner for the costs of the amount of such utility service that is greater than the average amount used by the other Unit Owners as a Cost Reimbursement Assessment. The Association may install or have installed separate meters or submeters to measure the usage of such utility service, and charge the costs of installation and operation of any such separate meter or submeter to the Unit which uses excessive amount of such utility service as a Cost Reimbursement Assessment.

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, air conditioning, compressed air and suction facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown on the recorded Map 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, until the sale of the first Condominium, and thereafter by the Association, together with the right to grant and transfer the same. Said easements shall be in favor of Declarant, and its successors and assigns for the benefit of the Project, and for the benefit of the Association.

6.3. Association's Duties: The Association shall maintain all Utility Facilities located in the Common Area except for those facilities maintained by utility companies, public, private, or municipal and those maintained by the Owners as described in Section 5.1.A(2). The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Condominiums.

6.4. Access Easements: The Association and its Members shall have nonexclusive easements for ingress and egress over the portions of the Common Area containing common Utility Facilities, and parking and driveway areas. Easements over and under the Property for the installation, repair, and maintenance of electric, telephone, water, gas, and sanitary sewer lines and facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown on the recorded Map 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, until the sale of the first Unit, and thereafter by the Association, together with the right to grant and transfer the same. Said easements shall be in favor of Declarant, and its successors and assigns for the benefit of the Project, and for the benefit of the Association. The Association shall maintain and light the Common Area. The Association shall not be liable for and Owner shall not be entitled to, any reduction of

Association dues by reason of Association's failure to furnish any of the foregoing when such failure is caused by accident, breakage, repairs, strikes, lockout or other labor disturbances or labor disputes of any character, or by any other cause, similar or dissimilar, beyond the reasonable control of the Association. The Association shall not be liable for a loss of or injury to property, however occurring, through or in connection with or incidental to furnishing or its failure to furnish any of the foregoing.

6.5. Unit Owner Access for Utility Facilities:

A. The Owners, subject to the Rules, shall have nonexclusive easements for ingress and egress over the portions of the Common Area for the purposes of installation, maintenance and replacement of Utility Facilities that serve the Owner's Unit. Owners shall have reasonable access as needed into the Units of the Project as necessary to install, maintain, repair and replace Utility Facilities whether located outside or inside of the Units that provide services to their respective Units, subject to providing 24 hours prior notice, except in emergency situations, where no such prior notice shall be required. Any such access may be conditioned by the Unit Owner upon satisfaction of the reasonable security requirements of the Association. Owners and Occupants of Units shall not interfere with common ducts or utility lines providing common services throughout the Building, whether located outside or inside of a Unit. Any Unit Owner undertaking such installation, maintenance, replacement or use of Utility Facilities that serve the Owner's Unit shall indemnify the Association and each other Unit Owner and hold the Association and each other Unit Owner harmless regarding such use, actions or activities of or on behalf of the Unit Owner and repair any injury or harm to the Common Areas.

B. An Owner, subject to the Rules, shall have reasonable rights of access to other Units if and as required to install, maintain and replace utility lines, wires or pipes that serve the Owner's Unit. The Owners of such other Unit or Units shall reasonably cooperate to allow such installation, maintenance and replacement. Any such access shall be subject to the reasonable prior consent of the Owner of the Unit over which such access is required, not to be unreasonably withheld. Any such access shall not unreasonably interfere, interrupt or impair the use of the Unit by the Unit Owner into which access is being made for its business operations. Any such access shall be subject to the Unit Owner desiring access over another Unit providing 48 hours prior notice, except in emergency situations, where no such prior notice shall be required. If possible, such access shall not be made during the Unit's normal business hours. Any such access may be conditioned by the Unit Owner upon satisfaction of the reasonable security requirements of the Owner or Occupant of the Unit. Owners and Occupants of Units shall not interfere with common ducts or utility lines providing common services throughout the Building, whether located outside or inside of a Unit or those serving other Units. Any Unit Owner undertaking such installation, maintenance, replacement or use of utility lines, wires or pipes that serve the Owner's Unit shall indemnify the Unit Owner into which access is being made and the Association and hold the Unit Owners and the Association harmless regarding such use, actions or activities of or on behalf of the Unit Owner and repair any injury or harm to the subject Unit or Units. There shall be no alterations or changes to the ceilings of Unit without approval of the Association pursuant to Section 7.6.

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 uses permitted under local zoning ordinances. The Units may be used for medical and dental offices and related medical uses and uses ancillary to such uses as permitted under local zoning ordinances, this Declaration and the Rules. All uses described in **Exhibit "B"** are prohibited.

A. Medical and Dental Offices and Related Uses. Medical and dental offices and related uses ("Medical or Dental Use") may be permitted within a Unit based upon the following criteria and conditions: The Medical or Dental Use must be permitted by zoning or use standards of the City; No medical waste from a Medical or Dental Use shall be disposed of in the Common Area facilities, including any waste disposal facilities or the drains or sewers of the Project.

B. Each Owner shall be responsible for obtaining all permits and licenses required by law or local ordinance to establish and operate its business. It shall be the responsibility of each Owner to ascertain and comply in all material respects with the zoning, conditional use and other restrictions imposed by the City for the Unit and the Project, including any requirements that the City approve any change in the use of the Unit or the physical layout of the Unit.

7.2. Restrictions on Conduct of Business: The permitted uses described in this Section 7.2 shall be conducted under the following conditions:

A. Noise: No facility shall produce noise at such levels as will be offensive to Owner or Occupants of adjoining Units or portions of the Property or to any Owner of a Unit or portion of the Property.

B. Vibration. Equipment creating earthshaking or other vibrations shall be so located and mounted within the Unit as to eliminate vibration hazard or nuisance beyond the boundary lines of the Unit on which such equipment is situated.

C. Smoke. No facility within any Unit shall discharge into the atmosphere any air contaminant producing a public nuisance or hazard.

D. Toxic or Noxious Matter. No facility within any Unit shall discharge into the sewer system, storm drain or across the boundary lines of the Unit any toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to or damage to surrounding property or business.

E. Odorous Matter. No facility within any Unit shall emit offensive odorous matter or fumes in such quantity as to be readily detectable on any point along the boundary lines of the Unit.

F. Fire and Explosive Hazards. Storage or utilization of combustible materials within any Unit shall be undertaken in a manner acceptable to the City and County and any other agency or body having jurisdiction of such matter. Use of storage of materials which produce flammable or explosive vapors or gases under ordinary weather conditions and temperatures shall not be permitted on any Unit except where required for emergency equipment or except where incidental to a principal operation of a permitted use hereunder, such as paint spraying, which use or storage of such materials shall be approved in writing by the City Building Inspector, Fire Department and any other agency or body having jurisdiction of such matter. The Owner of any such Unit where such materials are used or stored shall, at its cost, maintain insurance of a nature and in an amount and with insurance carriers acceptable to the Association, and shall annually deliver evidence thereof to the Association. Owners shall by taking title to a Unit be deemed to have agreed to indemnify and hold harmless the Association, the Property, the other Owners and the other Units from and against any and all losses, damages, claims, expenses, causes of action and liabilities arising out of or in connection with the storage or use of such combustible materials within any such Unit.

G. Glare or Heat. Any operation conducted from a Unit producing intense glare or heat shall be performed within the enclosures of the Improvements within the Unit so as not to allow such glare or heat to emanate beyond the boundary lines of the Unit and so as not to create a public or private nuisance or hazard.

H. Air and Water Pollution. No facility or operation within any Unit shall discharge into the air or water pollutants or contaminants sufficient to create or that might create a nuisance, and no operation within any Unit which by its nature is likely to cause air or water pollution shall be undertaken or permitted on any Unit unless there is available an adequate method of controlling the emission of pollutants and contaminants and such controls are installed and applied at the cost of the Owner of such Unit prior to the operation of the business within the Unit. The Owner of such Unit equipped with such pollution and contaminant controls shall, at its cost, maintain insurance of a nature and in an amount and with insurance carriers acceptable to the Association, and shall annually, at least ten (10) days prior to the expiration of such insurance,

deliver evidence thereof to the Association. Owners shall by taking title to a Units shall be deemed to have agreed to indemnify and hold harmless the Association, the Property, the other Owners and the other Units from and against any and all losses, damages, claims, expenses, causes of action and liabilities arising out of or in connection with the operation of a business equipped with such pollution and contaminant controls.

I. Food service or food preparation. No food service or food preparation may be permitted within a Unit, except for food preparation within a Unit for use and consumption by the Occupants of a Unit provided that such food preparation is operated in a manner which does not cause unreasonable odors detectable outside of the Unit and is not detrimental to the health and safety of the Occupants of any other Units in the Project, and in accordance with local health standards.

J. No cannabis (marijuana) dispensary, cooperative, collective, clinic, club, or any other such activity or enterprise shall be permitted in the Project.

7.3. 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 the Owner's Condominium, 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, or which will endanger the lives or health of occupants. Reasonable safety precautions shall be used at all times by persons using or storing Hazardous Materials. Installation and storage of Hazardous Materials shall be subject to approval of the Association. Owners using Hazardous Materials shall indemnify and hold the Association and all the other Owners harmless from any damage or liability arising or resulting from the storage or use of such substances.

There shall be no smoking within the Building or in any portions of the Common Area except for those areas outside of the Building that may be designated as smoking areas by the Association. Smoking at the exterior of the Building shall only be (1) at the curb, or (2) if no curb, at least fifteen (15) feet from exits, entrances, operable windows, and vents of the Building.

7.4. Hazardous Materials: Subject to the remaining provisions of this paragraph, an Owner shall be entitled to use and store only those Hazardous Materials that are necessary for such Owner's business, provided that such usage and storage is in full compliance with all applicable local, state and federal statutes, orders, ordinances, rules and regulations (as interpreted by judicial and administrative decisions). Each Owner shall give to the Association written notice of any spills, releases or discharges of Hazardous Materials within its Unit or in any Common Area of which said Owner has knowledge, regardless of whether or not such spill, release or discharge was caused by such Owner. Each Owner covenants to investigate, clean up and otherwise remediate any spill, release or discharge of Hazardous Materials caused by the acts or omissions of such Owner, or its agents, employees, representatives, invitees, licensees, tenants, customers or contractors at such Owner's sole cost and expense. Such investigation, clean up and remediation, if regarding the Common Area, shall be performed after such Owner has obtained the Association's written consent, which shall not be unreasonably withheld, provided, however, that such Owner shall be entitled to respond immediately to an emergency without first obtaining the Association's written consent. Each Owner shall indemnify, defend and hold the Association and all other Owners harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses, suits, administrative proceedings and costs (including, but not limited to, attorneys' and consultants' fees) arising from or related to the use, presence, transportation, storage, disposal, spill, release or discharge of Hazardous Materials within such Owner's Unit or in the Common Area if caused by the acts or omissions of such Owner, its agents, employees, representatives, invitees, licensees, tenants, customers or contractors.

The foregoing is intended to constitute an indemnity agreement within the meaning of Section 9607(e)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC 9607(e)(1)), but nothing in such Section or the Act shall be deemed to vitiate or limit the obligations of each Owner hereunder. Each Owner shall obtain, maintain in force, and comply with any requirements for a permit required in connection with discharge of waste water or its placement into the sewer systems of the Project or the handling of Hazardous Materials

requiring any such permit. Bulk storage and distribution of toxic materials including Class A and B poisons will not be permitted; highly unstable materials including organic peroxides Class I-II, oxidizers Class 4, pyrophoric materials, unstable materials Class 4-3 and water reactive materials Class 3 will not be permitted; moderately hazardous materials including corrosives, flammable gases, except storage of vehicle fuel ancillary to the primary use, flammable liquids, flammable solids, organic peroxides Class III, oxidizers Class 3-2, water-reactive materials Class 2, bulk manufacturing and bulk storage and distribution will not be permitted; materials with limited hazards including combustible liquids, irritants, oxidizers Class 1, organic peroxides Class IV-V, sensitizers, unstable materials Class 2-1, water-reactive material Class 1, bulk manufacturing will not be permitted.

Medical waste shall not be deposited in Common Area waste disposal facilities, but shall be handled separately by each Owner or Occupant of a Unit in a reasonable, safe and prudent manner. The Owner or Occupant generating medical waste shall indemnify all other Owners and the Association with respect to the medical waste generated from the Unit and the disposal thereof.

7.5. Parking and Allowed Vehicles: All Parking Spaces shall be unassigned and available for use by all Owners, their tenants, patients, guests and other Invitees in accordance with Rules established by the Board for use of such unassigned Parking Spaces. Except as otherwise permitted in this Section 7.5, only "Allowed Vehicles" shall be parked, stored or operated within the Project.

A. Allowed Vehicles shall mean appropriately licensed passenger automobiles, sports utility vehicles, motorcycles, and trucks having carrying capacity of one (1) ton or less, vans having seating capacity of eight (8) persons or less.

B. The Association may install a sign at each vehicular entrance to the Project containing a statement that all vehicles not authorized to park on the Project will be removed at the owner's expense. The sign shall contain the telephone number of the local traffic law enforcement agency and shall not be less than 17 x 22 inches in size with lettering not less than one (1) inch in height, and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the Association. The sign may also indicate that a citation may also be issued for the violation. The Association shall enter into a written general towing authorization agreement with one or more towing companies as required by Vehicle Code Section 22658.

C. The Association may cause the removal of any vehicle wrongfully parked on the Project, including a vehicle owned by an Owner or Occupant in accordance with applicable law. If the identity of the registered owner of the vehicle is known or readily ascertainable, the President of the Association or his designee shall, within a reasonable time after the tow, notify the owner of the vehicle of the removal in writing by personal delivery or first-class mail. In addition, notice of the removal shall be given to the local traffic law enforcement agency by telephone, or, if impractical, by the most expeditious means available, within one (1) hour of authorizing the tow. The notice shall include the make, model and vehicle identification number of the vehicle, the license plate number, the address from where the vehicle was removed, the grounds for removal, the time when the vehicle was first observed improperly parked at the Project, and the time authorization to tow the vehicle was given. Notwithstanding the foregoing, the Association may cause the removal, without notice, of any vehicle parked in a marked fire lane, within fifteen (15) feet of a fire hydrant, in a parking space designated "handicap" or "loading/unloading zone" without proper authority or in a manner which interferes with any entrance to, or exit from, the Project or any Unit, parking space or garage located thereon. The Association shall not be liable for any damages incurred by the vehicle owner because of the removal in compliance with this Section or for any damage to the vehicle caused by the removal, unless such damage resulted from the intentional or negligent act of the Association or any person causing the removal of or removing the vehicle. If requested by the owner of the vehicle, the Association shall state the grounds for the removal of the vehicle. Unless the Board provides otherwise, any Director or officer, any manager or manager's agent or any Owner authorized to do so by any Director or officer shall have the authority to act on behalf of the Association to cause the removal of any vehicle wrongfully parked within the Project.

The provisions of this Section 7.5 are intended to comply with the current requirements of Vehicle Code Section 22658. If this Vehicle Code Section is amended, this provision automatically

shall be amended in the same manner. If this Section is repealed and no successor Section is enacted, this provision shall remain in full force and effect. Vehicle Code Section 22658 may have been amended by the State Legislature since this Declaration was recorded, and the Board should confirm the current statutory requirements.

7.6. Review of Construction and Alterations: No alterations or modifications to any Improvements within the Project may occur, 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. Non-structural improvements or alterations to Unit interiors are not subject to review or control by the Board, provided that an Owner shall not (in the course of undertaking any such non-structural improvements, alterations or remodeling) make any structural changes, or damage or interfere with utility lines or facilities which serve the Common Area or other Units.

A. Except for painting of the interior of Units and installation of free standing furniture systems and other furniture installed within a Unit, all improvements or alterations made to the interior of a Unit or to the Common Areas shall be subject to review by the Board in accordance with the Construction Rules. The Board may establish Construction Rules as to the review of interior improvements or alterations that do not alter the exterior appearance of the Building, do not materially impair the structural integrity of the Building, and do not damage or interfere with utility lines or other Utility Facilities which serve the Common Area or other Condominiums. No changes shall be made to the structural elements of the Unit without approval by the Board in accordance with the Construction Rules. All interior walls of a Unit that terminate at a Building exterior location must butt to a solid wall or window mullion and shall not butt into a window. All ceiling tiles and other ceiling materials installed or replaced within a Unit shall be one-hour fire rated or better. All ceilings within Units shall be constructed in a manner that is above the window line of the exterior windows of the Unit. There shall be no changes to the ceilings of Units without review by the Board in accordance with this Section **7.6**.

B. Plans and specifications showing the nature, kind, shape, color, size, materials and location of any proposed improvements, or alterations shall be submitted to the Board for approval as to quality of workmanship and design and harmony of external design with existing structures. The Board may require a deposit and charge processing and handling fees for submittals made under this Section and charge the Owner for the costs of any outside consultants that the Board determine need to be engaged to assist the Board in its review.

C. The Unit Owner that makes any improvements or alterations to or for its Unit or within the Common Areas shall be deemed to have agreed to indemnify and hold the Association, the Board and any other Unit Owners harmless from any claims of damage or injury to persons or improvements caused by any such improvements or alterations.

D. Before commencement of any alteration or improvements approved by the Board, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Board does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

E. No alterations shall be made to the Improvements within the Project. In the event the Board fails to approve or disapprove plans and specifications in writing within sixty (60) 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. Approval of plans by the Board shall in no way make the Board or the Directors responsible for or liable for the improvements built after approval of the plans, and the Owner whose plans are approved shall defend, indemnify and hold the Board, the Association, and the Members thereof, harmless from any and all liability arising out of such approval.

F. The Board shall meet as necessary to perform its duties. The Board may, by resolution unanimously adopted in writing, designate an Architectural Review Representative (who may be a licensed architect or other professional consultant retained by the Board) to review applications and recommend action to be taken by the Board or to take any other action or perform any other duties for and on behalf of the Board except the granting of variances. Should the Board elect a licensed architect to serve as the Architectural Review Representative, any costs and fees

charged by the licensed architect shall be reimbursed from the Owner to the Association. In the absence of such designation, the vote or written consent of a majority of the Board constitutes an act of the Board under this Section 7.6. All approvals issued by the Board pursuant to this Section must be in writing. Nothing in this provision authorizes a physical change to the Common Area in a manner that is inconsistent with the Governing Documents or governing law.

G. Before commencement of any alteration or improvements approved by the Board, the Owner shall comply with the Construction Rules, all appropriate governmental laws and regulations and shall secure any permits required by the City. The Owner shall deliver to the Board a written approval and signoff of a structural engineer when determined appropriate by the Board. Prior to commencement of any work on a Unit, the Owner shall provide the Board with copies of required building permit or permits from the City. Upon completion of such work, the Owner shall deliver to the Board with written evidence from the City of completion of the work that was authorized by the Board. Approval by the Board does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

H. Before an Owner commences or causes to be commenced any alteration or improvements within a Unit, whether or not such alteration or improvements requires approval by the Board, the Owner shall provide proof of insurance to the Association as required by the Board or the Rules, and name the Association and the Managing Agent as additional insureds on such insurance.

I. No Owner may cause or permit any mechanics' lien to be filed against the Common Area or another Owner's Condominium for labor or materials alleged to have been furnished or delivered to the Owner. Any Owner who permits a mechanics' lien to be so filed shall cause the lien to be discharged within five (5) days after notice to the Owner from the Association.

J. The Association's approval of any proposals, plans and specifications or drawings for any work done or proposed in connection with any matter requiring the Association's approval does not waive the right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

7.7. Signs: No signs shall be displayed to the public view on the Building, on any other portion of the Project on or adjacent to a Unit, or on access doors of a Unit, except for such signs that conform to sign criteria established by the Declarant, and that are approved by the Declarant, or by Board or committee appointed by the Board after such time as Declarant no longer owns a Building in the Project. The Owner of a Building shall be entitled to maintain one real estate brokerage sign on the Building, in such location as is permitted by the Board or is stated in the Rules, advertising the Building, or portions thereof, being for lease, or for sale, during such time as the Building or portions thereof are available for lease or sale. Signs shall conform to an applicable city ordinance, and any Rules established by the Association. No advertising or promotional activities which may interfere with the quiet use and enjoyment of the Project by other Owners and their tenants, such as pennants, lights, amplified sound or music, shall be permitted without the prior consent of the Board.

7.8. Flags, Pennants, Banners, Etc.: Except as permitted by law, or as permitted under the Rules, there shall be no exhibiting, flying or hanging of any flags, pennants, banners, or any other such items from any area of the Project that would be visible from the Common Area, other Units or the perimeter streets that abut the Project, unless approved by the Board, except for flags that are expressly permitted by statute.

7.9. Deliveries, Loading and Storage: Loading and unloading of trucks and trailers shall be done in a manner so as to cause as little inconvenience as possible to users of other Units. The Association may establish reasonable Rules for such loading and unloading of vehicles. No Owner or occupant of a Unit shall store, park, or otherwise keep anything on areas that are exterior to a Unit, except for motor vehicles parked in appropriate designated Parking Spaces in accordance with this Declaration and the Rules.

7.10. Activities Causing Increase in Insurance Rates: Nothing shall be done or kept in any Unit or in any improvements constructed in any Unit, or in the Common Area, which will increase any applicable rate of insurance or which will result in the cancellation of insurance on any Unit or any part of the Common Area, or which would be in violation of any law.

7.11. Common Area Use: Nothing shall be installed, built, constructed, stored, grown, or displayed in the Common Area which is not approved in advance by the Board.

A. An Owner shall not penetrate or otherwise drill into the roof, roof membrane, floor, floor slab, or perimeter walls of a Unit without prior written permission of the Association and subsequent inspection by the Association at the Owner's sole cost and expense. An Owner shall be permitted to attach sheet rock, paneling or other finishes to the interior side of perimeter walls of a Unit and to attach or install equipment or other items to the interior side of such perimeter walls, provided that such attachment or installation do not penetrate or cause harm to the structural components of the Building or adjoining Units, and that Owner complies with all City codes and obtains all required building permit. All demising walls between Units shall conform to the standard that is established by the Declarant or the Association.

B. If the existing lockset hardware to an entry door of a Unit is replaced, such replacement lockset hardware to an entry door shall conform to the requirements that are established by the Declarant or by the Board for such lockset hardware, including master key for Association use for emergency purposes as the Board may require.

7.12. Maintenance of Units: Each Owner of a Unit shall at all times during the term of this Declaration, at its sole cost and expense, maintain, or cause to be maintained, the interior of the Unit in a clean and first class condition free from trash and debris, and in accordance with all applicable governmental requirements and the standards set forth in this Declaration. Each such Owner shall cause any broken windows within its Unit to be replaced within forty-eight (48) hours following breakage. Each Owner shall be responsible for and bear the cost of maintenance, repair and replacement of the following items within such Owner's Unit: interior surfaces of all perimeter walls, ceilings (ceiling tiles and frames and supports for dropped ceilings) and floor coverings (including carpeting, tile, wall paper, paint or other covering); garbage disposals, ranges, refrigerators, dishwashers, washing machines, dryers, light fixtures, smoke detectors, and any and all other appliances of any nature whatsoever; heating, and cooling equipment located in the Unit servicing such Unit; interior doors, including all hardware on the doors; light bulbs; plumbing and other fixtures of any nature whatsoever; "built-in" features; and decorative features, and any furniture and furnishings. Each Owner shall maintain the improvements within his Unit in accordance with any Maintenance Guidelines established by the Declarant. Each Owner shall retain any Maintenance Guidelines and take all appropriate actions to comply with and implement the Maintenance Guidelines. When an Owner transfers a Unit, the Owner shall deliver a complete copy of the current Maintenance Guidelines to the transferee of the Unit on or before the date the Unit is transferred. 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, floors, and doors bounding his Unit. Each Owner shall own and be responsible for the maintenance, repair and replacement of any HVAC systems that are that is added for the exclusive use of the Unit. If an Owner fails to maintain its Unit or any systems that serve its Unit, then that Owner shall be responsible for any injury, harm or damage that should occur to the Common Area or to any other Units because of such failure, and shall be deemed to have agreed to indemnify the Association and each other Unit Owner for any such injury, harm or damage that should occur to the Common Area or to any other Units because of such failure.

7.13. Electric Vehicle Charging Station: The Association may establish and impose reasonable restrictions on electric vehicle charging stations within the Project.

7.14. Animals: Except for a "service animal" as defined in 28 CFR § 36.104, as the Code of Federal Regulations under the Americans with Disabilities Act of 1990, meaning a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, or as such definition may be revised by the government of the United States, no animals, reptiles, insects or birds of any kind shall be raised, bred, brought into or kept in any Condominium, or on any portion of the Property. Fish that are kept in aquariums shall be permitted, provided that such fish are not kept for commercial purposes. Owners shall be fully responsible for any damage caused by their animal(s).

7.15. Garbage and Waste Disposal: All rubbish, trash, recycling and garbage (collectively "waste") shall be regularly removed from the Units and the Project, and shall not be allowed to

accumulate thereon. All such waste shall only be stored in sanitary containers. All equipment for the storage or disposal of such waste materials shall be kept in a clean and sanitary condition. Occupants of Units shall have their waste removed from the Unit to the central waste collection facilities of the Project in a manner for collection as required by the waste collection service providers and in accordance with the Rules. Except for central waste collection, no trash, garbage, recycling or other waste materials may be placed or stored anywhere within the Building outside of the Unit.

A. Owners and Occupants shall be responsible for the removal and disposal of any medical waste, and shall not use the trash facilities in the Common Area for any such medical waste. The Association may provide for waste disposal from Units as a Common Expense at the Board's determination.

B. The Association shall be responsible for the removal of garbage, trash and recycling and other waste from the Common Area trash receptacles and facilities as a Common Expense.

C. If, in the judgment of the Board, any Owner or other Occupant of a Unit is excessively using the trash and garbage facilities in the Common Area when compared to the average use of all other Units in the Project, after notice to the Unit Owner, the Board may levy a Cost Reimbursement Assessment upon the Unit involved for the costs of such excess use.

D. No toxic or Hazardous Materials shall be disposed of within the Project by dumping in the garbage containers or down the drains, or otherwise. Owners whose business pertains to or generates any Hazardous Materials or medical waste shall be responsible for the storage and disposal of such Hazardous Materials in accordance with all applicable laws, and compliance with the provisions of Section 7.4.

7.16. Antennas: Except as permitted under applicable laws, no Owner shall construct and/or use and operate its own external radio and/or television antenna or satellite dish, without the written consent of the Board. The Board may allow and provide a license for the installation and use of separate antennas on the roof of the Building for the use of a Unit Owner or Occupant, in the Board's reasonable discretion as to the location and nature of the installation of any such antenna and the appropriate costs that such Owner or Occupant should be charged for such license for such antenna installation and use. In considering whether to approve applications, the Board shall consider and give great weight to, to the extent permitted under applicable laws, considerations of safety of the installation, potential structural damage and potential for water leaks in the Project, aesthetics and uniformity of appearance, and use criteria similar to treatment for other devices in the same general area, such as heating and air conditioning equipment, that do not prevent or unreasonably delay installation or use of such antennas, unreasonably increase the cost of installation maintenance or use of such antennas, or preclude an acceptable quality of signal for such antennas. The Association shall have the right to maintain and allow to be operated any existing antennas and related equipment for cell telephone transmission or similar such uses and allow additional such cell telephone and similar antenna to be installed on the roof of the Building and allocate the revenue to the Association from such antennas as the Board deems appropriate, provided that such antennas do not materially interfere with the use of the Units and do not cause any harm to the Building. Any Owner or Occupant who installs or uses any antenna or satellite dish shall be responsible to the Association for any damage or harm to the Building because of such installation and use, including any leaks that may be caused by, or result, originate or emanate from such installation or use.

7.17. Liability of Owners for Damage to Common Area: The Owner of each Condominium shall be liable to the Association for all damage to the Common Area or improvements to the extent described in Section 5.1.A.

7.18. Roof/Utility Rooms: Access to the roof and utility rooms of the Project shall be restricted to Persons authorized by the Board and in accordance with the Rules.

7.19. Window Treatments: All window coverings that are visible from the street or Common Area, including lobbies and corridors of the Building, shall conform to the Association's standards and Rules.

7.20. Overloading; Vibration; Sound Transmission: No machinery, apparatus, or appliance or equipment shall be located in any Unit or in the Common Area which will in any manner structurally overload the Building, or in any manner vibrate, shake or otherwise damage any portion of the Building or create noise at levels unreasonably disturbing to Owners or occupants.

7.21. Wall Penetrations/Installation of Equipment: An Owner shall be permitted to attach sheet rock, paneling or other finishes to interior side of Perimeter Walls and Demising Walls of a Unit and to attach or install equipment, utility lines or other items to the interior side of such Perimeter Walls or Demising Walls, and have reasonable rights of access and the right to make reasonable penetrations into such walls for such purposes, provided that such attachment, installation or penetrations do not cause harm to the structural components of the Building or to the equipment, utility lines or other such items of an adjoining Unit. An Owner shall be permitted to attach or install finishes, equipment or other items to the interior surfaces of the Corridor Wall of the Unit as long as there is no reduction to original fire rating of, or air circulation through, the Corridor Wall. An Owner shall be permitted to attach dropped ceilings, lighting fixtures ducting, sprinkler systems and other fixtures for the Unit to the wood framing, purlins and glulams of the Building structure that makes up the upper elevation of the Unit and to attach or install equipment, utility lines or other items to the interior side of such Building structure and have reasonable rights of access and the right to make reasonable installations for such purposes, provided that such attachment, installation or penetrations do not cause harm to the structural components of the Building or to the equipment, utility lines or other such items of an adjoining Unit. The Owner making such installations, attachments, or penetrations shall be responsible to the Association and any other Unit Owner for any damage that may result from such installations, attachments, or penetrations or from maintenance or repair of such installations. All data processing, computer, graphic arts and printing facilities, business machines and equipment, kitchen equipment and all other mechanical equipment installed in any Unit shall be designed, installed, maintained and used by the Owner as to reduce insofar as possible the transmission level of noise, vibration, odors and other objectionable transmissions from such Unit to any other portion of the Project.

7.22. Right to Lease:

A. Any Owner who wishes to lease its Condominium must meet each and every one of the following requirements, and the lease will be subject to these requirements whether they are included within the lease or not:

- (1) all leases must be in writing;
- (2) the lease must be for the entire Unit and not merely parts thereof, unless Owner remains in occupancy;
- (3) no lease shall be for a period of less than thirty (30) days;
- (4) all leases shall be expressly made subject in all respects to provisions of the Declaration, the Bylaws, and all Rules, each of which shall be made part of the lease;
- (5) all Owners who lease their Condominiums shall promptly notify the Secretary of the Association or the Association's Managing Agent in writing of the name of the tenant or tenants occupying such Condominium; all Owners leasing their Condominium shall promptly notify the Secretary of the Association or the Association's Managing Agent with the address and telephone number where such Owner can be reached;
- (6) any failure of the tenant to comply with the foregoing shall be a default under the lease, regardless of whether the lease so provides. In the event of any such default, the Owner immediately shall take all actions to cure the default including, if necessary, eviction of the tenant;
- (7) if any tenant of an Owner is in violation of the provisions of the Declaration, Bylaws, or Rules, the Association may, in the alternative, bring legal action against the Owner and the tenant to enforce this Declaration, Bylaws or Rules and shall be entitled to recover all its costs, including court costs and reasonable attorneys' fees, and such costs shall be a continuing lien upon the Unit which shall bind the Unit.

C. The Association will give the tenant and the Owner notice in writing of the nature of the violation of the Rules and twenty (20) days from the mailing of the notice in which to cure the violation before the Association may file an action under this Section.

D. By becoming a tenant, each tenant agrees to be bound by the Declaration, the Bylaws and the Rules, and recognizes and accepts the rights and power of the Association to enforce such Declaration, the Bylaws and the Rules as to the tenant for any violation by the tenant of the Declaration, the Bylaws, and the Rules.

7.23. Use of Electricity: Use of electricity in each Unit shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Unit.

ARTICLE VIII. GENERAL PROVISIONS

8.1. Enforcement: The Association, or any Owner, shall have the right 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 the 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 the covenants and restrictions in whole or in part, or to terminate the same.

8.4. Amendments: After the close of escrow upon the sale of the first Condominium, 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 certified in a writing executed and acknowledged by the President or Vice President of the Association and recorded in the Recorder's Office of the County.

8.5. Encroachment Rights: If any portion of the Common Area encroaches on any Unit or any part thereof or any portion of a Unit encroaches on any Common Area due to engineering errors, errors or adjustments in original construction, reconstruction, repair, settlement, shifting, or movement of the building, or any other cause, the owner of the encroachment shall have the right to maintain, repair or replace the encroachment, as long as it exists, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that no right shall be created in favor of an Owner or Owners if said encroachment occurred due to the intentional conduct of said Owner or Owners other than adjustments by Declarant in the original construction. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be appropriate rights for the maintenance of said encroachments so long as they shall exist. In the event that an error in engineering, design or construction results in an encroachment of a building into the Common Area, or into or onto an adjoining lot, or into a required setback area, a correcting modification may be made in the Condominium Plan. Said modification shall be in the form of a certificate of correction and shall be executed by Declarant (so long as Declarant is the sole owner of the property) and by Declarant's engineer. If the correction occurs after title to the Common Area has been conveyed to

the Association, the Association shall also execute the certificate of correction. The Board of Directors may, by vote or written approval of a majority of the Directors, authorize the execution of the certificate of correction.

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 Condominium 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 Governing Documents to the contrary, First Lenders shall have the following rights:

A. Copies of Governing Documents: The Association shall make available to Condominium Owners and First 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 and copying, upon request, during normal business hours or under other reasonable circumstances. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

B. Priority of Liens: Each holder of a first mortgage lien on a Condominium who comes into possession of the Condominium by virtue of foreclosure of the mortgage, or any purchaser at a foreclosure sale under a first deed of trust, will take the Condominium free of any claims for unpaid Assessments and fees, late charges, fines or interest levied in connection therewith, against the Condominium which accrue prior to the time such holder comes into possession of the Condominium, except for claims for a pro rata share of such Assessments or charges to all Project Condominiums including the mortgaged Condominium, and except for Assessment Liens recorded prior to the mortgage.

C. Distribution of Insurance or Condemnation Proceeds: No Owner or any other party shall have priority over any rights of First Lenders pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Common Area property or of individual Units.

D. 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 a majority of the Members.

8.7. Insurance: The Association shall obtain and continue in effect the following policies of insurance, and such other insurance coverage, including earthquake coverage, as the Board determines is prudent, practicable and commercially reasonable:

A. Property Insurance: A master policy of property (casualty) insurance coverage insuring against the risks of direct physical loss, as insured under the Insurance Services Office Causes of Loss - Special Form (CP 10 30) or equivalent covering all of the real property and structural components of the Buildings and improvements located in the Common Area, all fixtures and building service equipment in the Common Area, including heating and ventilating systems, equipment and distribution systems serving a Unit, together with all of the personal property of the Association, which master policy of property insurance shall provide for "multi-peril" or "all-risk" coverage, including, as minimum protection, protection from loss or damage by fire or other hazards covered by the special form coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, wind storm, water damage and other risks as are customarily covered with respect to projects similar in construction, location and use to the Project. The property insurance coverage is to be written on an "agreed amount" basis with no co-insurance provision or such insurance policy shall include an "agreed amount endorsement" or "inflation guard endorsement", or an equivalent thereof, a "demolition endorsement", or equivalent thereof, and, if such is commercially reasonable to obtain, an "increased cost of construction endorsement" and a "contingent liability from operation of building laws endorsement", or its equivalent. Such policy shall be in such form and in amounts and from an insurance carrier satisfactory to the Board. In any event, the amount of such insurance shall be equal to the full

replacement value, based upon contemporary replacement cost, of the property covered by the such insurance policy and written by an insurance company rated by Best's Key Rating Guide as "A-VIII", or better, or an equivalent thereof, and licensed to provide such insurance in the State of California. The master property insurance policy shall be issued in the name of the Association for the use and benefit of the Owners, and all Mortgagees of Units. All insurance shall contain waiver of subrogation as to the Association, officers, Directors, and Members, and if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

B. Public Liability Insurance: Commercial general liability insurance, on a CG 00 01 Occurrence Form or equivalent, insuring the Association for liability for occurrences within the Common Areas, in an amount not less than two million dollars (\$2,000,000) per occurrence. The minimum limit on the liability insurance policy shall be two million dollars (\$2,000,000) combined single limit and shall include personal injury, bodily injury, property damage and liability for non-owned and hired automobiles. Such insurance shall include a "severability of interests" endorsement, which shall preclude insurance carriers from denying claims of an Owner because of the negligent acts of other Owners or the Association. The use of an umbrella or excess liability policy to achieve these limits will be acceptable.

C. Boiler and Machinery Insurance: The Association shall obtain and maintain broad form boiler, machinery and pressure vessel insurance (without exclusion for explosions) for those Utilities Facilities it is required to maintain pursuant hereto, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence on a combined basis covering direct property loss and loss of income and providing coverage for all steam, mechanical and electrical equipment, including, without limitation, all boilers, unfired pressure vessels, piping and wiring.

D. Fidelity Bond or Insurance: A fidelity bond or policy of insurance in the name of the Association as named beneficiary or insured, against dishonest acts covering officers, Directors, agents and employees entrusted with, or permitted to, handle funds belonging to or to be administered by the Association, in an amount to be determined by the Board, but in no event less than a sum equal to six (6) month's Regular Assessments on all Units, plus the amount of the Association's reserve funds. An appropriate endorsement shall be added to such policy if necessary to cover persons who serve without compensation, if the bond or policy does not otherwise cover the acts of volunteers.

E. Workers' Compensation Insurance: Such policies of workers' compensation insurance as may be required from time to time under state law. Such policy shall also provide Employers Liability coverage with limits of not less than \$1,000,000.

F. Officers' and Directors' Liability Insurance: Officers' and Directors' liability insurance shall be carried by the Association to cover persons serving in such capacities (and to cover committee members, if such coverage is available at reasonable cost) with a minimum limit of liability of one million dollars (\$1,000,000).

G. Loss of Assessments: The Association shall obtain and maintain loss assessment insurance coverage in the amount of no less than one year's Regular Assessments on all Units (as defined in this Declaration).

H. Elevator Liability and Collision Insurance: The Association shall obtain and maintain elevator liability and collision insurance unless such coverage is provided under the Liability Insurance coverage obtained by the Association. All elevator liability and collision insurance shall be, in such amount as is commonly maintained by owners or operators of similar properties in the San Francisco Bay Area.

I. Adjustment of Coverage: On each anniversary of the date of the recordation of this Declaration (the "Adjustment Date"), the dollar limits of coverage stated in this Article VIII (Insurance) shall be increased (but not decreased) as follows, unless the insurance consultant engaged by the Association states in writing that such increases are not warranted under the then current circumstances: The amount in effect immediately prior to an Adjustment Date shall be increased on such Adjustment Date by a percentage equal to the percentage increase, as of such Adjustment Date, in the Consumer Price Index for All Urban Consumers, Subgroup "All Items," as

published by the United States Department of Labor, Bureau of Labor Statistics for the San Francisco-Oakland-San Jose Area (1982-84=100) from the date of recordation of this Building Declaration as to the first adjustment and from the date of the previous adjustment as to all subsequent adjustments.

J. Association Administration of Insurance: Each 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 required for payment of insurance proceeds; 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 owners and their first mortgage holders, as their interests may appear.

K. Association Insurance as Common Expense: 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. Each buyer of a Condominium from Declarant shall pay the portion of the premium(s) attributable to its Condominium (prorated to the date of close of escrow) for the policy or policies purchased by Declarant for the Association.

L. Review of Insurance Policies: All insurance policies maintained by the Association 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 might be damaged or destroyed.

M. Individual Policies of Insurance:

(1) Each Unit Owner, and each tenant occupying a Unit, shall carry and maintain in force and effect, commercial general liability insurance, on a CG 00 01 Occurrence Form or equivalent, covering damage to property or injury to persons or property of others with coverage in the amount of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate (or with coverage that is not less than two million dollars (\$2,000,000) combined single limit per occurrence). The Board can increase this minimum amount of liability insurance required of Unit Owners and other Occupants of Units, if necessary to provide for adequate insurance coverage based upon the standards used in the community for such insurance at the time. The use of an umbrella or excess liability policy to achieve these limits will be acceptable.

(2) In addition, each Unit Owner shall obtain and keep in full force and effect property or casualty insurance providing coverage against the risks of direct physical loss, as insured under the Insurance Services Office Causes of Loss - Special Form (CP 10 30) or equivalent, written on the broadest available special causes of loss form, on a Replacement Cost basis covering [a] improvements within the Unit, including, without limitation, all ceiling systems, floor coverings, wall coverings, light fixtures, interior plumbing and electrical systems, interior partitions and walls, cabinetry and other such interior finishes and improvements, including the portions of the heating, ventilating and air conditioning distribution system that are located within the Unit or exclusively serve the Unit; [b] personal property within the Unit; [c] all interior doors, and [d] the windows that are within or on the perimeter of the Unit. Notwithstanding the foregoing, no Owner shall separately insure its Condominium, except for the Owner's improvements, the personal property therein and the heating and air conditioning systems for the Unit, against loss by fire or other property or casualty covered by any insurance carried by the Association. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance and such Owner will be liable to the Association to the extent of any such diminution. All such insurance that is individually carried must contain a waiver of subrogation rights by the insurer as to other Owners, the Association, Declarant, and First Lenders. Each Unit Owner shall obtain "loss assessment coverage" for his or her Unit. All insurance obtained by the Unit Owner shall name the Association as additional insured on all applicable policies, with notice being provided to the Association for cancellation or termination of any such insurance within ten days of such cancellation or termination. Each Unit Owner shall provide evidence of insurance

required under this Article VIII to the Association within ten days of request from the Association management.

N. Insurance General Requirements: All insurance policies required to be obtained under this Article VIII shall be issued by responsible companies licensed in the State of California. All such companies shall have a Best rating of not less than "A-VIII" or an equivalent rating if Best ceases to exist or provide a rating.

O. Authority of the Board to Change Insurance Requirements: The Board, by unanimous vote at a meeting, notice of which was given to all Owners, may change the insurance requirements from "bare walls coverage" to "all-in coverage", or from "all-in coverage" to "bare walls coverage", and to make consistent changes in the requirements for individual owner's insurance. In such case the Declaration need not be amended, provided all Owners are notified of the change. The Board shall periodically (and not less than once every three (3) years) review all insurance policies to determine the adequacy of the coverage and to adjust the policies accordingly.

8.8. Damage or Destruction of Improvements:

A. If Project improvements are damaged or destroyed by fire or other casualty, the improvements shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Board, unless either of the following occurs: (1) The cost of repair or reconstruction (excluding the Owners' interior improvements) is more than fifty percent (50%) of the current replacement costs of all Project improvements (excluding Owners' interior improvements), available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction (excluding Owners' interior improvements), and three-fourths (3/4) of the total voting power of the Association residing in Members and their First Lenders vote against such repair and reconstruction; or (2) Available insurance proceeds are not sufficient to substantially repair or reconstruct the Project improvements (excluding Owners' interior improvements) within a reasonable time as determined by the Board, a Special Assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in Section 4.3.B, and the Board, without the requirement of approval by the Owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

B. If the improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of twenty-five percent (25%) of the current replacement cost of all the Common Area improvements, the Board shall designate a construction consultant, a general contractor, and an architect for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general contractor and architect certify within ten (10) days prior to any disbursement substantially 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 are 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 principal 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 A 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, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

C. If the cost of repair or reconstruction is less than twenty-five percent (25%) of the current replacement cost of all the Common Area improvements, the Board shall disburse the available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

D. The responsible Owner shall apply for and pursue obtaining all required permits for repair or reconstruction as soon as reasonably possible and repair or reconstruction shall commence as soon as reasonably possible depending upon the circumstances after issuance of all required permits, and no later than one hundred eighty (180) days after the date of such damage or destruction and shall be completed no later than three hundred sixty (360) days after commencement of reconstruction, subject to delays that are beyond the control of the party responsible for making the repairs. The Owner of the Unit that has been damaged or destroyed shall immediately take such steps as may be reasonably necessary to secure any hazardous condition and to screen any unsightly views resulting from the damage or destruction. All construction or alterations of Improvements within a Unit by an Owner or an Occupant shall conform to the Construction Rules.

E. If the improvements are not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among all Owners and their respective Mortgagees in proportion to the respective fair market values of their Condominiums as of the date immediately preceding the date of damage or destruction as determined by a qualified independent appraiser selected by the Board, after first applying the proceeds to the cost of mitigating hazardous conditions on the Property, making provision for the continuance of public liability insurance to protect the interests of the Owners until the Property can be sold, and complying with all other applicable requirements of governmental agencies.

F. If the failure to repair or reconstruct results in a material alteration of the use of the Project from its use immediately preceding the damage or destruction as determined by the Board (a material alteration shall be conclusively presumed if repair or reconstruction costs exceed twenty-five percent (25%) of the current replacement cost of all Project improvements [excluding an Owner's interior improvements]), the Project shall be sold in its entirety under such terms and conditions as the Board deems appropriate. If any Owner or First Lender disputes the Board's determination as to a material alteration, the dispute shall be submitted to arbitration as provided in Section 8.14, and the decision of the arbitrator shall be conclusive and binding on all Owners and their mortgagees.

(1) If the Project is sold, the sales proceeds shall be distributed to all Owners and their respective Mortgagees in proportion to the respective fair market values of their Condominiums as of the date immediately preceding the date of damage or destruction as determined by the independent appraisal procedure described above. For the purpose of effectuating a sale under this Section 8.8, each Owner grants to the Association an irrevocable power of attorney to sell the entire project for the benefit of the Owners, to terminate the Declaration and to dissolve the Association. In the event the Association fails to take the necessary steps to sell the entire Project as required hereunder within sixty (60) days following the date of a determination by the Board or arbitrator of a material alteration, or within one hundred twenty (120) days following the date of damage or destruction if the Board has failed to make a determination as to a material alteration, any Owner may file a partition action as to the entire Project under California Civil Code section 6656(b), or any successor statute, and the court shall order partition by sale of the entire Project and distribution of the sale proceeds as provided herein.

(2) Notwithstanding anything herein to the contrary, any Owner or group of Owners shall have a right of first refusal to match the terms and conditions of any offer made to the Association in the event of a sale of the Project under this Section 8.8, provided this right is exercised within ten (10) days of receipt by the Owners of a notice from the Association containing the terms and conditions of any offer it has received. If the Owner or group of Owners subsequently default on their offer to purchase, they shall be liable to the other Owners and their respective mortgagees for any damages resulting from the default. If more than one (1) Owner or group elects to exercise this right, the Board shall accept the offer that in its determination is the best offer.

8.9. Condemnation: The Association shall represent the 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 appointed by the Association, for the use and benefit of the Owners and their Mortgagees as their interests may appear. In the event of an award for the taking of any Condominium in the project by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking and after acceptance thereof it and its Mortgagee shall be divested of all interest in the Project if such Owner shall vacate its Condominium 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 Condominiums and their respective Mortgagees according to the relative values of the Condominiums affected by the condemnation, said values to be determined by the method provided in Section 8.8.E.

If there is a substantial taking of the Project's Property (more than fifty percent (50%) of the Units or fifty percent (50%) of the Common Area), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California Civil Code section 6656(b), or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association residing in Members other than Declarant and the approval of First Lenders holding mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to First Lenders mortgages. The proceeds from the partition sale shall be distributed to the Owners and their respective mortgagees in proportion to the fair market values of their Condominiums as determined under the method described in Section 8.8.E.

8.10. Limitation of Restrictions on Declarant; Declarant's Reserved Rights; Termination of Any Responsibility of Declarant: Declarant is undertaking establishment of Commercial Condominiums and making improvements upon the Project. The completion of that work and the sale, rental, and other disposal of the Condominiums is essential to the establishment and welfare of the Project. In order that the work may be completed and the Project be established as a fully occupied community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, its contractors, or subcontractors from doing on the Project or any Condominium whatever is reasonably necessary or advisable in connection with the completion of the work or as may be required by the City; or

B. Prevent Declarant or its representatives from erecting, constructing and maintaining on the Project (except within Units owned by others), such structures as may be reasonable and necessary for the conduct of its business of completing the work and establishing said Project and disposing of the Project in parcels by sale, lease or otherwise; or

C. Prevent Declarant from conducting on the Project (except within Units owned by others) its business of completing the work and of establishing a plan of Condominium ownership and of disposing of the Project as Condominiums by sale, lease or otherwise; or

D. Prevent Declarant from maintaining or displaying such sign(s), pennants, banners and flag(s) anywhere in the Project (except within Units owned by others) as may be necessary for the sale, lease or disposition thereof for the duration of Declarant's marketing; or,

E. Subject Declarant to the architectural control provisions of Section 7.6 for construction of any improvements on the Project.

F. Declarant hereby reserves the right to amend the Condominium Plan for the Project by the making and recording of a supplement Condominium Plan or Condominium Plans signed by the Declarant to revise the layout and description of Units that have not been sold and conveyed to Owners other than Declarant, including revisions or adjustments to the location of the perimeter walls of such Units as shown on the Condominium Plan to conform to the location of such walls as such walls for such Units that were actually constructed. Declarant also reserves the right to amend Exhibit "A" of this Declaration as necessary to reflect any revisions to the square footage of such Units and such Units relative percentage interests for Assessments allocations and Percentage interest in Common Area.

8.11. 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, and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action (1) to recover sums due, (2) for damages, (3) for injunctive relief, (4) for costs and attorneys' fees, or (5) any combination of the foregoing.

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.

In the event of a violation of the Governing Documents, the Association may, if permitted by applicable law, record a Notice of Violation against the Condominium or Unit of the non-complying Owner. Upon recording a Notice of Violation, the Association shall have complete discretion in deciding whether, when and how to proceed with enforcement, and any delay after recording a Notice of Violation shall not give rise to a defense of waiver or estoppel in favor of a non-complying Owner. The Association may take action to enforce compliance against a subsequent Owner who acquires a Condominium or Unit with a recorded Notice of Violation. The right of the Association to record a Notice of Violation shall be in addition to all other rights and remedies the Association may have at law or under the Governing Documents.

8.12. Notice: 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 ninety-six (96) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the Condominium of such person if no address has been given to the Secretary.

8.13. Tenant's Rights: A tenant lawfully in possession of a Condominium shall have the same right to use the Common Area as an Owner in possession of the Condominium would have and shall be subject to all of the provisions of the Governing Documents and any Rules. No Owner shall, either directly or indirectly, forbid or restrict such use of the Common Area by such a tenant. All leases shall obligate tenants to comply with the Governing Documents and with all Rules, and shall provide that any violation of the provisions thereof constitutes a default under the lease, and if not stated in any such lease, the lease shall be deemed by this provision to so provide.

8.14. Alternative Dispute Resolution: The Board is authorized to resolve any civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or non-binding arbitration proceedings. The Board may provide, or in good faith attempt to provide, one hundred twenty (120) days advance notice of the Board's intent to initiate the prosecution of any civil action stating the nature and basis of the claim, to every member of the Association and every entity or person who is a prospective party to the civil action, provided that such notice can be given more than one hundred twenty (120) days prior to the expiration of any pertinent statute of limitations, and such notice can be given without prejudice to the Association's right to enforce the Governing Documents, and further provided that no such notice need be given prior to the filing of an action in small claims court or an action solely to enforce Assessment obligations. The Owners agree by acceptance of a deed to their respective Units to resolve disputes and impasses with the Association or between or among Owners in a reasonable and amicable manner. The Owners shall resolve any such dispute or impasse through alternative dispute resolution proceedings such as mediation, or binding arbitration proceedings as hereinafter provided:

A. Mediation. If there is any dispute or impasse between or among the Owners or the Owners and the Association the Owners and/or the Association shall first meet and confer in good faith to resolve the dispute or impasse. If the Owners and/or the Association involved with such dispute or impasse are unable to resolve the dispute or impasse within a reasonable period (not to exceed ten (10) business days after the first notice of claim, controversy or dispute), then any Owner or the Association may request that the matter in dispute or at impasse be submitted to mediation with Judicial Arbitration and Mediation Services, Inc. ("JAMS"), pursuant to the rules and requirements of JAMS for mediation of such disputes. If JAMS is unable or unwilling to serve as mediator, then such mediation shall be undertaken by the American Arbitration Association ("AAA"). If the parties are unable to resolve the problem or dispute by mediation within thirty (30) days after the matter has been accepted for mediation by JAMS or AAA, as the case may be, unless the matter relates to a "Project Claim" against the Declarant as provided in Section 8.15, the matter shall be submitted to binding arbitration in accordance with Section 8.14.D hereof, by either party delivering to the other party and JAMS or AAA, as the case may be, a written demand for arbitration, provided that if the claim, controversy or dispute involves a sum not in excess of the jurisdictional limit of the small claims court, the aggrieved party shall have the option of taking the matter to small claims court in lieu of binding arbitration. "Project Claims" against the Declarant by the Association or any Owner shall be subject to the provisions of Section 8.15.

B. Prior to initiating the prosecution of a civil action solely for declaratory relief or injunctive relief to enforce the Governing Documents, or for declaratory relief or injunctive relief to enforce the Governing Documents in conjunction with a claim for monetary damages, the Owners and the Association shall endeavor to submit the matter to alternative dispute resolution as provided in this Declaration.

C. Immediately after initiating the prosecution or defense of any civil action, the Owners and the Association involved with the dispute shall make a reasonable effort, in good faith, to meet and confer with every person who is a party concerning appropriate processes for resolving the civil action, including available alternative dispute resolution proceedings; concerning appropriate processes for avoiding or reducing costs or losses by the parties associated with the action; and providing for the scope of discovery, if any, to be conducted prior to the inception of any alternative dispute resolution procedure. The Owners and the Association shall consider diversion of the prosecution or defense of any civil action to alternative dispute resolution proceedings such as mediation, non-binding arbitration, or binding arbitration and are authorized to agree to participate and to participate fully and in good faith in the resolution of any civil action through any alternative dispute resolution proceedings, including, but not limited to, mediation, non-binding arbitration, and binding arbitration, and paying costs reasonably incurred by the Association on account of those alternative dispute resolution proceedings.

D. If a dispute is the subject of arbitration under this Section 8.14, the following shall apply:

(1) costs and fees of the arbitration, including ongoing costs and fees of the arbitration, shall be paid equally by the parties, and, if the parties cannot agree, as determined by the arbitrator(s), with the costs and fees of the arbitration to ultimately be borne as determined by the arbitrator(s);

(2) neutral and impartial individual(s) shall be appointed to serve as arbitrator(s), with the arbitrator(s) to be appointed within a reasonable period of time, which in no event shall be more than sixty (60) days from the administrator's receipt of a written request from a party to arbitrate the claim or dispute. In selecting the arbitrator, the provisions of §1297.121 of the Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed in §1297.121, or in §1297.124 of the Code of Civil Procedure;

(3) venue of the arbitration shall be in the County unless the parties agree to some other location;

(4) the arbitration shall promptly and timely commence in accordance with (i) the rules of the arbitration, or if the rules do not specify a date by which arbitration is to commence, then (ii) a date agreed by the parties, or, if they cannot agree as to a commencement date, (iii) a date determined by the arbitrator[s];

(5) the arbitration is to be conducted in accordance with rules and procedures which are reasonable and fair to the parties;

(6) the arbitration shall be promptly and timely concluded;

(7) the arbitrator(s) shall be authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of arbitration. The arbitrator(s) shall not have the power to commit errors of law or legal reasoning, and the award may be vacated or corrected on appeal to a court of competent jurisdiction for any such error; and,

(8) a judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over the matter.

8.15. Project Claims Against Declarant: "Project Claims" against the Declarant by the Association or any Owner shall be subject to the following provisions:

A. "Project Claims" shall mean any claim or action brought by an Owner or the Association against the Declarant or any Declarant Parties claiming or alleging that any improvements, equipment or components situate within any portion of part of the Common Areas, or within a Unit were, are or is defective or that Declarant or any Declarant Parties negligently or intentionally installed, constructed, planned, designed or represented the condition or any improvements, equipment or components situate within any portion of part of the Common Areas, or within a Unit.

B. "Project Parties" shall mean and include Declarant, parties affiliated with Declarant, any officers, directors, members or managers of Declarant, any contractors engaged by Declarant or any Declarant Parties or any architect, engineers or other professional consultants engaged by Declarant or any Declarant Parties with respect to the Project or the Project Improvements.

C. Judicial Reference for Project Claims: For any action by the Association or any Owner against the Declarant, any architect, engineer or other consultant, or any contractor, subcontractor or materials supplier engaged by or on behalf of Declarant for Project Claims of the Project, or any element thereof ("Developer Parties"), shall be submitted to Judicial Reference as hereinafter provided:

(1) The dispute shall be submitted to binding general judicial reference pursuant to California Code of Civil Procedure Sections 638 through 645.2, or any successor statutes thereto pertaining to proceedings under judicial reference ("Judicial Reference"). The

parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the Judicial Reference proceeding. Declarant shall not be required to participate in the Judicial Reference proceeding unless it is satisfied that all necessary and appropriate parties will participate. The parties shall share the fees and costs of the referee for the Judicial Reference proceeding as determined by the referee.

(2) The referee shall have the authority to try all issues, whether of fact or law, and to report a statement of decision to the court. The parties shall use the procedures adopted by Judicial Arbitration and Mediation Services (“JAMS”) for judicial reference (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties), provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise:

(a) If the Declarant is a party to the Judicial Reference, then any fee to initiate the Judicial Reference shall be paid by Declarant, provided however, that the cost of the judicial reference shall ultimately be borne as determined by the referee;

(b) The proceedings shall be heard in the County;

(c) The referee must be a neutral and disinterested party who is a retired judge or a licensed attorney with at least ten (10) years’ experience in relevant real estate matters;

(d) Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, by the court with appropriate jurisdiction;

(e) The referee may require one or more pre-hearing conferences;

(f) The parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge;

(g) A stenographic record of the Judicial Reference proceedings shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and any appeals;

(h) The referee’s statement of decision shall contain findings of fact and conclusions of law to the extent applicable;

(i) The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge;

(j) The referee shall be authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of the Judicial Reference; and,

(k) The statement of decision of the referee upon all of the issues considered by the referee shall be binding upon the parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the referee shall be appealable as if rendered by the court.

(l) If submission of a disputed matter referenced in this Section 8.15.C to Judicial Reference is not permitted under the then applicable law, then notwithstanding California Code of Civil Procedure Section 1298.7, if the dispute is not resolved through mediation, each Owner, the Association and Declarant shall resolve such dispute exclusively through binding arbitration conducted in accordance with Section 8.14.D of this Declaration.

8.16. No Waiver: Failure by the Association or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles, Bylaws or Association Rules in any certain instance or on any particular occasion, shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition, or restriction.

8.17. Estoppel Certificates: Upon the written request of any Owner, the Board shall provide the Owner with a written certificate stating that, to the best of its actual knowledge, the Owner is not in violation of any of the provisions of this Declaration and the Board has not received written notice from any Owners stating that the Owner is in violation of this Declaration, or if there are any such violations or the Board has received such notices, setting forth in sufficient detail the nature of such violations. The certificate shall be delivered to the Owner no later than thirty (30) days after such request by an Owner. The Board may charge the Owner a reasonable fee to recover its costs in researching and preparing the certificate. Any prospective purchaser or mortgagee shall be entitled to rely on the information contained in the certificate; provided, however, that such reliance may not extend to any violations of this Declaration of which the Board does not have actual knowledge, or which have not been brought to its attention by written notice of an Owner. To the fullest extent permitted by law and provided the Board, the Association, any committee of the Association or the Board, and any Members thereof, and any officers of the Association or the Board, acted in good faith and consistent with what they reasonably believed to be within the scope of their authority and duties, then neither the Board, nor any committees of the Association or Board, shall be liable to the Owner requesting the certificate or any other Owner for any damage, loss, or prejudice suffered or claimed on account of the failure to supply such certificate or on the account of any information contained in the certificate being incomplete or inaccurate and said was actually unknown to any of the above entities or persons.

8.18. Changes in Laws: If California laws applicable to the maintenance, operation and management of the Project as a commercial condominium project are revised or modified in the future that vary from or may be contrary to the express provisions of this Declaration, the Association has the right to adhere to and abide by such laws without having to revise this Declaration.

8.19. General Rules: This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for creating and operating a commercial condominium development and maintaining the Common Area. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

8.20. Articles, Sections and Exhibits: The Article and Section headings have been inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. Exhibits "A" and "B", attached to this Declaration are incorporated herein by this reference.

8.21. Priorities and Inconsistencies: If there are conflicts or inconsistencies between the Governing Documents, then the provisions of this Declaration shall prevail.

8.22. Severability: The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

8.23. Statutory References: All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

8.24. City Requirements:

(A) Public Entry. the City and any other governmental agency, department or bureau shall have the right of public entry over the Common Areas of the Project for the right of immediate access at all times to all portions of the Common Areas not assigned for the exclusive use of the Owner of a particular Unit. Notice of such right of governmental agency access shall be prominently displayed in the Common Areas of the Project;

(B) Dissolution of the Association is prohibited without dissolution of the condominium project. Sale or development of the land owned in common of the Project is prohibited without prior approval of the City;

(C) Landscape and improvement requirements.

Landscape Plans and Construction of Improvements. Declarant shall improve or cause to be improved the landscaped portions of the common areas and other common areas or properties as shown on the following plans:

(i) Landscape plans. Plans consisting of _____ sheet(s) designated _____, dated _____ prepared by _____, Job No. _____, entitled _____, together with the Legend of Plants as shown on the Plan and Irrigation System Specifications consisting of _____ sheet(s), designated _____, dated _____, prepared by _____, Job No. _____, entitled _____. Declarant shall file a copy of the as-built plans with the Association. The Association shall maintain same on file as permanent records available for inspection and review by prospective owners and other interested persons and for performing of its duties with respect thereto.

(ii) Maintenance of Landscaping. The Association shall maintain all of the landscaping within the Development in general accordance with the landscaping plans referred to in subparagraph (i) above, unless climatic conditions make such maintenance impracticable or unless the City of South San Francisco consents to a change in the plan for landscaping.

(iii) Improvement Plans of Other Common Areas or Properties. A plan consisting of _____ sheets, dated _____, Revised _____, prepared by _____, Job No. _____, entitled _____. Declarant shall file a copy of the as-built plans with the Association. The Association shall maintain same on file as permanent records available for inspection and review by prospective owners and other interested parties and for performance of its duties with respect thereto.

(iv) The Association shall maintain and repair the works of improvement within the landscaped areas and the common properties as constructed within said properties in accordance with said plans including, but not limited to, the driveways, curbs and gutters, fences, landscape planting, water supply system, sanitary sewer, storm drain system, area lighting system, fire prevention system, irrigation system, retaining walls and subdrain system, traffic control signs, devices and striping, grades and slopes and maintain and repair the improvements constructed in other portions of the common areas or properties. Any modifications of the improvements installed in accordance with said plans shall be made in accordance with the procedure set forth in this Declaration and modification of the use permit or other applicable zoning permit as so required. The Association shall provide funds for said maintenance and repair in accordance with the assessment provisions set forth in Article ___ of this Declaration.

(D) Upon recordation of this Declaration, the provisions in this Declaration containing landscape and improvement requirements shall not be rescinded, amended or modified without prior approval of City.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this ___ day of _____, 201__.

2400 Westborough Professional Group, LLC,
a California limited liability company

By: _____

Its Manager

By: _____
Name: _____
Its Manager

A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which the certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 201__ before me, _____ a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

(SEAL)

Notary Public, State of California

**EXHIBIT "A": PERCENTAGE INTEREST IN COMMON AREA (COMMON INTEREST SHARE); VOTES
PER UNIT**

	Unit	Votes
1	001	2.1%
2	002	3.3%
3	004	4.0%
4	100	3.8%
5	101	3.8%
6	102	3.5%
7	103	3.8%
8	104	3.8%
9	105-A	4.0%
10	105-B	4.9%
11	106	2.9%
12	107	5.9%
13	200	4.9%
14	202-A	4.5%
15	202-B	4.7%
16	203	4.0%
17	204	4.9%
18	205	7.4%
19	207	3.8%
20	208	8.0%
21	209	3.8%
22	210	3.3%
23	211	5.0%
	TOTALS	100.0%

EXHIBIT "B": USES NOT PERMITTED

Notwithstanding what is permitted by the Conditions of Approval, the existing zoning or governmental permits for the Project, no portion of any Unit shall be occupied or used for any of the following uses:

Any residential uses;

Any indecent or pornographic use, massage parlor, adult book or video store, peepshow store, or any other similar store or club (excluding the incidental sale of books, magazines, videos or other materials that may be deemed pornographic, so long as the sale of such items is in connection with the operation of a business otherwise permissible hereunder; or any business devoted to the sale of articles and merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine or other controlled drugs or substances; marijuana dispensaries, cooperatives or clinics;

Any mortuary, funeral parlor, or similar establishment;

Any animal raising facility, provided that this prohibition shall not prohibit pet shops and/or pet supply shops, veterinarian and/or pet grooming services;

Any home, apartment, mobile home, trailer court, or other residential use;

Any hotel, motel or other lodging facility;

Any junk yard or stock yard;

Any distillation, refining, smelting, agricultural, manufacturing, or industrial operations;

No Unit shall be occupied and used except for uses permitted under local zoning ordinances, provided, however, that no cannabis (marijuana) dispensary, cooperative, collective, clinic, club, or any other such activity or enterprise shall be permitted in the Project;

Any medical facility, clinic or office providing inpatient treatment for substance abuse or operating as a substance abuse treatment facility;

Any drilling for and/or removal of subsurface substances, or any dumping, disposal, incineration or reduction of garbage, other than in enclosed receptacles intended for such purpose;

Any flea market, swap meet, pawn shop, secondhand store, or auction operation;

Any bar or tavern, except in connection with a permitted restaurant use;

Any motor vehicle, truck, trailer, motor home, recreational vehicle or boat sales, leasing or display facility;

Off-track betting parlors, casinos or other gambling or bingo establishments;

Any billiard room, game arcade or amusement center, movie theater, night club or dance hall;

Places of religious worship;

Any school, training or educational facility, including, but not limited to, beauty schools, barber colleges, nursery schools, libraries, reading rooms, places of instruction, or other operations catering primarily to students or trainees rather than to customers; provided that this prohibition shall not be applicable to onsite employee training by an Occupant incidental to the conduct of its business at the Project or to any training programs developed by an Occupant of any space within the Project to train customers in the use of its retail products sold at the Occupant's store or to train customers in activities associated with such Occupant's business, provided further, that the foregoing prohibition shall not apply to extension courses offered by any accredited college or university in any second floor office space within the Project.

Any use not allowed by any applicable Governmental Requirements; or

Any use that constitutes a public or private nuisance.

Notwithstanding any terms to the contrary herein, Declarant shall have the right to establish, at any time and from time to time and in addition to all other use restrictions set forth in this Declaration, such additional Prohibited Use Restrictions applicable to the Unit as Declarant deems necessary or appropriate in Declarant's sole and absolute discretion. Any such additional Prohibited Use

Restrictions shall become effective and binding on each Owner of a Unit subject thereto and such Owner's Unit at such time that Declarant (i) records in the Official Records of the County a Supplemental Declaration executed by Declarant setting forth the terms of such Prohibited Use Restrictions and the Units affected thereby, and (ii) delivers a copy of the Supplemental Declaration to such Owner and shall become effective and binding on each Owner and such Owner's Unit at such time that this Declaration is recorded in the Official Records of the County. Any additional Prohibited Use Restrictions may be unilaterally imposed by Declarant without the consent of the Owner whose Unit is affected thereby; provided, however, that, unless otherwise agreed to by the Owner of such Unit, any additional Prohibited Use Restrictions imposed by Declarant on any Unit after the recordation of this Declaration in the Official Records of the County shall be subject to, and shall not preclude an occupant of such Unit from engaging in, (i) any uses permitted under such occupant's lease at the time that such additional Prohibited Use Restrictions become effective, or (ii) if the occupant is the Owner of such Unit, any uses for which such Unit is being used by such Owner at the time that such additional Prohibited Use Restrictions become effective.