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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
DESERT SPRINGS PROFESSIONAL OFFICE PARK
(TRACT 32613)

10/05/06

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
DESERT SPRINGS PROFESSIONAL OFFICE PARK**

THIS DECLARATION is made by GARMONT ENTERPRISES, LLC, a California limited liability company, ("Declarant").

RECITALS:

A. Declarant is the owner of that certain real property (the "Property") located in the City of Palm Springs, County of Riverside, State of California, more particularly described as:

Lot 1 of Tract 32613, as shown on a Map filed in Book 390, Pages 60 and 61 inclusive, of Maps, in the Office of the County Recorder of Riverside County.

B. Declarant desires and intends to create a "condominium project," as defined in California Civil Code Section 1351(f) (the "Project"), and to subdivide the Project into "condominiums," as defined in California Civil Code Section 783, according to plans approved by the City of Palm Springs, California, and subject to California Civil Code Section 1373, which provides that certain provisions of the Davis Stirling Common Interest Development Act are not applicable to commercial and industrial developments.

C. Declarant deems it desirable to impose a general plan for the development, maintenance, improvement, protection, use, occupancy and enjoyment of the Project, and to establish, adopt and impose covenants, conditions, regulations, easements, equitable servitudes, liens and charges (hereinafter referred to as the "Protective Covenants") upon the Project for the purpose of enforcing, protecting and preserving the value, desirability and attractiveness of the Project.

D. Declarant intends that, in exchange for the granting by the City of approvals for the improvements of the Property in accordance with the applicable Development Regulations (as defined herein), the Declarant shall hold, sell and convey the Property subject to the covenants, conditions, regulations and reservations set forth in the Development Regulations and in this Declaration, and the City shall have the right and power to enforce the covenants, conditions, regulations and reservations to the extent provided herein.

E. Declarant intends to convey Condominiums in the Project, subject to the Protective Covenants set forth in this Declaration.

NOW, THEREFORE, Declarant declares that it does hereby establish a general plan for the development, maintenance, care, improvement, protection, use, occupancy, management and enjoyment of the Project, and that all or any portion of the Project shall be held, sold, conveyed,

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encumbered, hypothecated, leased, rented, used, occupied and improved subject to the Protective Covenants set forth herein, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Project, in furtherance of said general plan for the Project. Each and all of the Protective Covenants are hereby imposed as equitable servitudes upon the Project which shall run with the Project, and any and all real property annexed thereto, and shall be binding upon all persons having any right, title or interest in the Project, or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of and be binding upon Declarant, its successors and assigns, all subsequent owners of all or any portion of the Project, together with their grantees, heirs, executors, administrators, devisees, successors and assigns.

ARTICLE 1
DEFINITIONS

1.1 "Architectural Review Committee" and "ARC" shall mean and refer to the Committee created pursuant to Article 9 of this Declaration.

1.2 "Articles" means the Articles of Incorporation of the Association, as filed with the Secretary of State.

1.3 "Assessments" shall be used as a generic term which means and refers to the following:

a. "Regular Assessment" shall mean and refer to the annual charge against each Owner and his respective Condominium representing a portion of the Common Expenses of the Association which are to be levied against the Owners and their Condominiums in the manner set forth herein.

b. "Special Assessment" shall mean and refer to the charge against an Owner and his respective Condominium representing a portion of the costs incurred in taking any action or undertaking on behalf of the Association and its Members which is not specifically covered under any other Assessment authorized herein. In the event the Association undertakes to provide services or materials which benefit a particular Owner, the costs and expenses incurred by the Association for such purposes may be levied by the Board as a Special Assessment.

c. "Reconstruction Assessment" means to a charge against each Owner and such Owner's Condominium, representing a portion of the cost to the Association for the repair, replacement or reconstruction of any portion or portions of Improvements within the Common Area, pursuant to the provisions of this Declaration. Reconstruction Assessments shall be levied against all Owners and their Condominiums in approximately the same proportions as the relative interior floor areas of the residential elements of the Units bear to the total floor areas of all of the residential elements of all Units in the Project. Such proportions shall be rounded to the nearest square foot.

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d. "Compliance Assessments" shall mean and refer to a charge against a particular Owner directly attributable to, or reimbursable by, that Owner equal to the cost incurred by the Association for corrective action performed pursuant to this Declaration, or a reasonable fine or penalty assessed by the Board for a violation of this Declaration or the Rules and Regulations, plus interest or other charges on such Compliance Assessments, as provided for herein. Compliance Assessments shall also be levied by the Association for excessive use of trash removal, electricity or gas which are Common Expenses of the Association.

1.4 "Association" means Desert Springs Office Park Association, a California nonprofit, mutual benefit association. The Association shall be an "association" as defined in California Civil Code Section 1351(a).

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

1.6 "Budget" means the pro forma operating budget of the Association for a particular fiscal year, on file in the principal office of the Association.

1.7 "Building" means each of the office buildings or portions thereof located on the Property containing Units.

1.8 "City" means the City of Palm Springs, California, a municipal corporation, and its various departments, divisions, officials, employees and representatives.

1.9 "Common Area" means all of the property described in Paragraph A of the Recitals, including, without limitation, all improvements located thereon, except for those improvements that are designated by this Declaration or by the Condominium Plan as Units. Each Owner shall have, as appurtenant to its Unit, an undivided fractional fee interest in the Common Area as a tenant in common with other Owners of Units in the Project. The tenancy in common appurtenant to each Unit is permanent in character and cannot be altered without the consent of the Owners affected. Such undivided interest cannot be separated from the Unit to which it is appurtenant, and any conveyance or transfer of the Unit includes the undivided fractional fee interest, and any other benefits or burdens appurtenant to that Owner's Condominium. Portions of the Common Area, referred to elsewhere in this Declaration as "exclusive use areas" may be set aside and allocated for the exclusive use of the Owner of the Condominium to which such exclusive use areas are attached or assigned as shown on the Condominium Plan.

1.10 "Common Expenses" means the actual and estimated costs and expenses to be paid by the Association for the following:

(a) maintaining, managing, operating, repairing and replacing the Common Area and maintenance of gas water and waste pipes, sewers, ducts, chutes, conduits, wires and utility installation, which are located within the Units or in the exterior walls, ceilings, foundations or foundation slabs within the Building which services more than one Unit; painting and otherwise maintaining the exterior surfaces of the exterior walls of the Buildings;

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maintaining managing and controlling the domestic water and irrigation systems for the Project; trash collection and removal related to the Project if and to the extent contracted for by the Association; maintaining signs on the Common Area except any signs related to a specific Unit; any janitorial services provided by the Association; gardening, fire sprinkler, and fire alarm systems and other services benefiting the Project; compliance with and/or performing the regulations and obligations contained in the regulations as such regulations and obligations relate to the Common Area;

(b) managing and administering the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and any Association employees;

(c) providing utilities and other services to the Common Area and, if not separately metered, to the Units;

(d) providing insurance covering the Project as provided for in this Declaration;

(e) paying that portion of any Assessment attributable to Common Expenses not paid by the Owner responsible for payment;

(f) paying taxes for the Association;

(g) funding adequate reserves for the repair and replacement of those elements of the Common Area which must be repaired and replaced on a periodic basis and to cover the deductible amounts under any insurance policies maintained by the Operator; and

(h) paying for all other goods, services, items or other expenses incurred by the Association, for any reason whatsoever in connection with the Project, for the common benefit of the Owners.

1.11 "Condominium" means an estate in real property, consisting of an undivided fractional fee interest in the Common Area, together with a separate ownership interest in fee in a Unit, and all easements appurtenant thereto. No Owner shall be entitled to sever his Unit, or any portion thereof, from his undivided interest in the Common Area. Neither of such component interests may be severally sold, conveyed, leased, encumbered, hypothecated or otherwise dealt with, and any such attempt to do so in violation of this provision shall be void and of no effect. It is intended hereby to restrict severability in the manner provided in Section 1358(b) of the California Civil Code. Declarant and its successors, assigns and grantees each covenant and agree that the undivided interests in the Common Area and the Units conveyed therewith, and the easements and interests appurtenant thereto, shall not be separated or separately conveyed, and:

a. Each said undivided interest in the Common Area 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 title to the Unit; and

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b. Each of said Units shall be deemed to be conveyed or encumbered with its respective undivided interest in the Common Area even though the description in the instrument of conveyance or encumbrance may refer only to the title to the respective undivided interest.

1.12 "Condominium Plan" means the instrument entitled "Condominium Plan Tract 32613" prepared in accordance with California Civil Code Section 1351(e), as the same may be amended, from time to time, and recorded prior to or concurrently with this Declaration in the Official Records of Riverside County, California.

1.13 "County" means Riverside County, California.

1.14 "Declarant" means Garmont Enterprises, LLC, a California limited liability company and any person or entity acquiring some or all of Declarant's interest in the Project (including all of Declarant's rights and obligations as created and established herein) pursuant to a written assignment, deed or other instrument from Declarant which is recorded in the Office of the County Recorder. Any such instrument may include only certain specific rights and/or obligations of the Declarant, and may be subject to such conditions as Declarant may impose in its sole discretion.

1.15 "Declaration" means this document and any amendments recorded in the Official Records.

1.16 "Development Regulations" means, collectively, all present and future applicable laws, statutes, codes, ordinances, rules, limitations, regulations, and other requirements of the City, County, State, or public agency or utility having jurisdiction over the Project. More specifically, the Development Regulations shall include the following:

- (a) City of Palm Springs Municipal Code and Zoning Code and other applicable Codes of the City;
- (b) Conditions of Approval of the Tract Map, dated November 24, 2004 (Case No. 3-2563);
- (c) Storm Water Pollution Prevention Plan ("SWPPP") for the Property approved by the City and the County; and
- (d) any of the covenants, conditions and regulations that are recorded against or encumbering the Property prior to the recordation of this Declaration.

Each Owner acknowledges and agrees that the Property and each Owner shall be bound by all of the terms and conditions contained in the Development Regulations.

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1.17 "Exclusive Use Area" means those portions of the Common Area which may be designated by Declarant in this Declaration, or by the Association in such a recorded instrument, for the exclusive use and benefit of a particular Unit Owner. Air conditioning pads located on the roof of each Building, and a generator pad appurtenant to Unit 13, as shown on the Condominium Plan are designated by Declarant as Exclusive Use Area for the exclusive use and benefit of a particular Unit.

1.18 "Improvements" means all structures and appurtenances thereto, including but not limited to, the Building, walkways, sprinkler pipes, driveways, parking areas, walls, stairs, landscaping, antennae, the exterior surfaces of the Building and the Exclusive Use Areas, poles, signs and equipment.

1.19 "Management Documents" means the Articles of Incorporation and By-Laws of the Association, this Declaration, the Condominium Plan, any Rules and Regulations adopted by the Association, and any amendments to any of the foregoing.

1.20 "Member" means any person or entity holding membership in the Association.

1.21 "Mortgage" means any mortgage or deed of trust, or other conveyance of one or both Condominiums (or other portion of the Project) to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance.

1.22 "Mortgagee" means a person or entity to whom a Mortgage is made, and shall include the beneficiary of a Deed of Trust.

1.23 "Mortgagor" means a person or entity who mortgages his or its Condominium to another, (i.e., the maker of a Mortgage) and shall include a trustor of a Deed of Trust.

1.24 "Official Records" means the Official Records of Riverside County, California.

1.25 "Owner" means the record Owner, or Owners if more than one (1) Condominium in the Project. The term "Owner" shall include Declarant. The foregoing does not include persons or entities who hold an interest in a Condominium merely as security for the performance of an obligation.

1.26 "Project" means the Property in Paragraph A of the Recitals, together with all Improvements constructed thereon.

1.27 "Rules and Regulations" means the Rules and Regulations adopted by the Association.

1.28 "Tract Map" means the subdivision map for the Property, Tract No. 32613, as amended or adjusted, from time to time.

1.29 "Unit" means a separate interest in space, as defined in California Civil Code Section 1351(f). Each Unit shall be a separate freehold estate, as separately shown, numbered

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and designated in the Condominium Plan. In interpreting this Declaration, the Condominium Plan and all instruments of conveyance, the existing physical boundaries of the Unit, or of a Unit reconstructed in substantial accordance with the original Condominium Plan thereof, shall be conclusively presumed to be its boundaries, rather than the metes and bounds (or other description) expressed in this Declaration, Condominium Plan or instrument of conveyance, regardless of settling or lateral movement of the Unit and regardless of minor variances between the boundaries shown in the Condominium Plan, in the deed and/or in this Declaration, and the actual boundaries of the Unit.

1.30 "Application of Definitions". The aforesaid definitions shall be applicable throughout this Declaration, and to any supplements or amendments hereto filed or recorded pursuant to the provisions of this Declaration unless otherwise indicated or the context shall prohibit such application.

ARTICLE 2
DESCRIPTION OF THE CONDOMINIUMS

Declarant, in order to establish a plan of Ownership for the Owners of Units, does hereby declare that it has divided, and does hereby divide, the Property into the following freehold estates:

2.1 Units. Each Unit shall be a separate interest, as defined in Section 1351(f) of the California Civil Code, consisting of the following elements in accordance with the plans and specifications for each Unit, as more particularly shown and described on a Condominium Plan. Each Unit includes both the portion of the building so described and the airspace so encompassed, all windows and doors in said Unit (including all locks, handles, latches, screens and weatherstripping), the loading dock serving the Unit, the forced air heating unit, the hot water heater, all built-in cabinets, appliances and fixtures, the utility installations located within the Unit boundaries of which the Owner has exclusive use, and the drop ceilings contained within a Unit at or below the upper elevation of each such Unit, as indicated in the Condominium Plan, and drop ceiling assemblies and light fixtures, but the following are not a part of the Unit: bearing walls (except for the finished surfaces of such walls which are located within the Unit), columns, beams, fire sprinklers, floors, roofs, slabs, foundations, fences, tanks, pumps, private on-site sewer laterals and lines, common mailbox structures, if any, exterior planter boxes, irrigation equipment, other central services, pipes, ducts, flues, chutes, conduits, wires, exterior lighting and other utility installations wherever located (except all utility installations and/or outlets thereof when located within the Units, including the internal and external telephone wiring designed to exclusively serve a Unit), sidewalks, retaining walls, poles, signs, Project monument signs and all landscaping located within the Common Area. The Unit does not include those areas and those Improvements which are defined herein as Common Area or Exclusive Use Area. Each Unit shall have appurtenant to it non-exclusive rights for ingress, egress, access and support through the Common Area, subject to the rights of each Owner in any Exclusive Use Area appurtenant to that Owner's Condominium.

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2.2 Presumption of Boundaries of Units. In interpreting this Declaration, the Condominium Plan and all instruments of conveyance, the existing physical boundaries of the Unit, or of a Unit reconstructed in substantial accordance with the original Condominium Plan thereof, shall be conclusively presumed to be its boundaries, rather than the metes and bounds (or other description) expressed in this Declaration, Condominium Plan or instrument of conveyance, regardless of settling or lateral movement of the Condominium Building and regardless of minor variances between the boundaries shown in the Condominium Plan, in the deed and/or in this Declaration, and the actual boundaries of the Condominium Building in which the Unit is located.

2.3 Common Area. Each Owner shall own, as appurtenant to the Unit, an equal fractional fee interest in the Common Area as a tenant in common with other Owner of Condominiums in the Project as shown on the Condominium Plan. The interest in the Common Area is hereby declared to be permanent in character and cannot be altered without the written consent of both Owners and their Mortgagees who/which might be affected. Neither the Unit nor the respective undivided interest in the Common Area shall be separately conveyed or encumbered. An otherwise valid conveyance or encumbrance referring only to the Unit shall also convey or encumber the respective undivided fractional fee interest in the Common Area. Any attempt to convey or encumber the undivided fractional fee interest in the Common Area without the respective Unit shall be null and void.

2.4 Nonseverability of Condominiums. No Owner shall be entitled to sever its Unit, or any portion thereof, from its undivided fractional fee interest in the Common Area. Neither of such component interests may be severally sold, conveyed, leased, encumbered, hypothecated or otherwise dealt with, and any such attempt to do so in violation of this provision shall be void and of no effect. It is intended hereby to restrict severability in the manner provided in Section 1358(b) of the California Civil Code. Declarant and its successors, assigns and grantees each covenant and agree that the undivided interests in the Common Area and the Units conveyed therewith, and the easements and interests appurtenant thereto, shall not be separated or separately conveyed. Each said undivided interest in the Common Area 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 title to the Unit, and each of said Units shall be deemed to be conveyed or encumbered with its respective undivided interest in the Common Area even though the description in the instrument of conveyance or encumbrance may refer only to the title to the respective undivided interest.

2.5 Exclusive Use Areas. The Exclusive Use Areas shall be for the exclusive use of and appurtenant to the Unit to which they are assigned:

(a) Air Conditioner Pad, identified on the Condominium Plan by the letter "AC" followed by its corresponding Unit number ("A-17");

(b) Generator Pad, identified on the Condominium Plan with the letters GP followed by its corresponding Unit number ("GP-13");

* Affects Unit 13 only.

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(c) internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of that Unit in accordance with California Civil Code Section 1351(i).

2.6 Components of Condominium Ownership. Each Condominium includes: (a) a separate interest in a Unit, (b) all easements, exclusive and nonexclusive, appurtenant to the respective Unit; (c) a fractional fee interest in the Common Area; and (d) membership in the Association.

2.7 Consolidation of Contiguous Units. Subject to all applicable building and fire codes of the City and only after obtaining the written approval of Declarant, the Owner of any two contiguous Units may alter, remove or replace all or portions of the common wall separating or on the boundary between such Units; provided that (a) the structural integrity of the building or building within the Units are not affected thereby, (b) no utility connections serving other Units or Improvements within the Units are disturbed, and (c) if the common wall is a load-bearing or structural wall, the portion of such wall which is removed shall have a width approved by the Board, and a structural beam shall be placed in the opening created by removal of such wall in accordance with the requirements of the Board. Upon termination of the common ownership of such adjacent Units and if the intervening wall shall have been altered or removed pursuant to the foregoing provisions, each of the Owners of such Units shall be obligated to restore such common wall to substantially the same condition in which it existed prior to such alteration or removal, and easements of the same width as such common walls for such purposes located along the perimeter interior Unit lines shall be reserved and granted in the deeds conveying the Condominiums.

ARTICLE 3
RESERVATION OF EASEMENTS AND
OTHER PROPERTY RIGHTS IN THE COMMON AREA

3.1 Amendment to Eliminate Easements. This Declaration cannot be amended to modify or eliminate the easements reserved herein without the prior written approval of Declarant, and any attempt to do so shall have no effect. Any attempt to modify or eliminate this Section 3.1 shall likewise require the prior written approval of Declarant and the City.

3.2 Owners' Easements. Every Owner shall have a nonexclusive right and easement of access, use and enjoyment in and to the Common Area. Said right and easement shall be appurtenant to and shall pass with title to every Condominium, subject to the limitations set forth in Section 3.3 below.

3.3 Limitations on Owners' Easement Rights. The rights and easements of access, use and enjoyment set forth in Section 3.2 above shall be subject to the provisions of this Declaration, including, but not limited to, the following:

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a. The right of the Association to establish and enforce reasonable Rules and Regulations pertaining to the use of the Property;

b. The right of the Association, in accordance with the Articles and the By-Laws, ~~to borrow money for purposes of improving, repairing and maintaining the~~ Common Area and for the administration of the Association and its functions, and to pledge personal property assets of the Association for such loan. The Association may not encumber the Common Area with monetary liens unless the vote or written consent of the Owners is if first obtained;

c. The right of the Association to perform and exercise its duties and powers set forth herein;

d. The right of the Association to approve, which approval shall not be unreasonably withheld, and impose various conditions on the reasonable access to the Property for the purpose of allowing an Owner to maintain the internal and external telephone wiring designed to serve a particular Unit;

e. Other rights of the Association, the Board and the Owners and Declarant with respect to the Project as may be provided for in this Declaration;

f. The right of the Association to approve, which approval shall not be unreasonably withheld, and impose various conditions on the reasonable access to the Property for the purpose of allowing an Owner to maintain the internal and external telephone wiring designed to serve his particular Unit;

g. Any limitations, regulations or conditions affecting the use, enjoyment or maintenance of the Property imposed by Declarant or the City having jurisdiction to impose any such limitations, regulations or conditions, including, but not limited to, the rights of the City or such other governmental agency having jurisdiction to use their vehicles or appropriate equipment over those portions of the Project designed for vehicular movement to perform municipal functions or emergency or essential public services; and

h. The right of Declarant to grant and transfer easements on, over, across and through all portions of the Project for the development, installation, construction and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities, storm drainage facilities, street lighting systems and other similar improvements as shown on the Condominium Map covering the Project, and as may be reasonably necessary for the proper maintenance, development and conveyance of Condominiums and/or Common Area.

3.4 Delegation of Property Use Rights. Any Owner who owns a Unit within the Project may delegate its rights of use and enjoyment to the Project to its tenants, lessees, patrons and invitees. In the event an Owner has rented or leased its Condominium, such Owners rights of use and enjoyment to the Common Area shall be automatically delegated to its tenants or

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lessees for the duration of their tenancy, and the Owner shall forfeit any rights of use and enjoyment to the Common Area (except those portions reasonably necessary to access said Owner's Condominium to perform normal functions of a landlord) for the duration of such tenancy.

3.5 Utilities Easements. The rights and duties of the Owners of Condominiums within the Project with respect to sanitary sewer, water, electricity, gas, television cable and telephone lines, and other facilities, shall be governed by the following:

a. Each respective utility company shall maintain all utility facilities and connections on the Project owned by such utility company; provided, however, that if any company shall fail to do so, it shall be the obligation of each Owner to maintain those facilities and connections located upon or within such Owner's Unit and it shall be the obligation of the Association to maintain those facilities and connections located upon the Common Area. Notwithstanding the foregoing, internal and external telephone wiring designed to serve a single Unit, but located outside the boundaries of the Unit, shall be maintained by the Owner of said Unit;

b. Wherever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project and it becomes necessary to gain access to said connections, cables and/or lines through a Unit owned by someone other than the Owner of the Unit served by said connections, cables and/or lines, the Owner of the Unit served by said connections, cables and/or lines shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon such other Unit or to have the utility companies enter upon such other Unit to repair, replace and generally maintain said connections, cables and/or lines; and

c. In the event of a dispute between Owners with respect to the repair or rebuilding of the aforesaid connections, cables and/or lines, or the sharing of the cost thereof, upon written request of one (1) of such Owners addressed to the Association, the matter shall be submitted to the Board who shall decide the dispute, and the decision of the Board shall be final, binding and conclusive on the Owners.

3.6 Public Utilities Easement. All Common Area in the Project shall be subject to permanent, nonexclusive easements for public utility purposes in favor of the City. The easements are intended to establish and reserve the right to install, maintain, inspect, repair and replace, as necessary, electricity lines, transformers and/or service junction boxes, telephone lines, cable television lines, street light standards, mailboxes, fire hydrants, utility meters or other equipment designed to serve the Project.

3.7 Maintenance Easements. There is hereby created, granted and reserved nonexclusive easements in favor of the benefit of Declarant and the Association for ingress, egress and access on, over and across all portions of the Project as reasonably required by the Association to perform its maintenance obligations set forth in this Declaration. Such easement shall include the right to enter a Unit or the appurtenant Exclusive Use Area to inspect, repair, maintain and replace any Common Area landscape, irrigation, walls and fences and related

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Improvements for which the Association is responsible. Declarant and the Association shall have the right to enter any Condominium to inspect, maintain, and replace, as and when necessary, (i) the fire sprinkler system and related facilities; (ii) ducts, wires, conduits and other facilities serving the Common Area and located between the drop ceilings of each Unit and the upper elevations of such Unit, as indicated on the Condominium Plan. The Association shall provide reasonable notice to the Owner of any Unit prior to entry into such Owner's Unit, except for emergency situations, in which case entry into any Unit shall be immediate. The Owner of the Unit shall have the right to be present at any such entry and to name an alternative time for such entry which shall be within normal business hours. It shall be the responsibility of the Owner either to be present at the time of entry by Declarant or by the Association, or to make available to Declarant or the Association such keys or other mechanisms as may be required by the Association to enter the Unit without damaging any security facilities attached to or otherwise installed within the Unit. Any damage to the Unit caused by entry under this section shall be repaired by Declarant or the Association, as applicable, at its sole expense.

3.8 Drainage Easements. There are hereby created, granted and reserved over the Common Area easements for drainage according to the established patterns for drainage created by the approved grading plans for the Project, as well as according to the actual, natural and existing patterns for drainage.

3.9 Easements For Clustered Mailboxes. In order to comply with the various requirements of the City and the United States Postal Service, kiosk mailboxes may be installed in the Common Area. Easements are hereby created and reserved on and over the Common Area in favor of the Owners and the United States Postal Service for delivery, deposit and retrieval of mail.

3.10 Easements for Support Settlement and Encroachment. The Association and Owners of Units shall have reciprocal easements appurtenant to each Unit which is contiguous to another Unit, or which is contiguous to the Common Area for the purposes of:

- a. Support and accommodation of the natural settlement of any Improvements including the fixtures within the Unit;
- b. Encroachments by reason of roof or eave overhangs, and for the maintenance of such roof or eave overhangs;
- c. Encroachments resulting from construction, reconstruction, repair, shifting, settlement or other movement of any Improvements; and
- d. Any encroachment due to minor engineering errors and/or construction errors or variances.

3.11 Emergency Access Easements. Declarant hereby creates, establishes and grants to the City a permanent, nonexclusive easement for emergency access purposes on, over, across and through all Common Area in the Project. No obstruction shall be constructed, placed or maintained which would, in the sole discretion of the City, obstruct, impede or otherwise

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interfere with the right of the City to use and enjoy the rights conferred herein in and to said easement.

3.12 Limitations on Access to Public Roads. As a condition of approval of the Tract Map, the City has restricted vehicular access to and from the Project from East Ramon Road and Camino Parocela.

3.13 Rights of Entry. Declarant, for so long as Declarant is an Operator, and upon formation of the Association, the Board shall have a limited right of entry in and upon any Unit and Exclusive Use Area for the purpose of inspecting the Common Area, and taking whatever corrective action may be deemed necessary and proper by the Board consistent with the provisions of this Declaration. Nothing herein shall be construed to impose any obligations upon the Association to maintain, repair or replace any Improvements required to be maintained by the Owners. Any damage caused to a Unit or the Exclusive Use Area by reason of such entry shall be repaired by the Association and shall be considered as a Common Expense of the Association, unless the proximate cause of the emergency situation arose from the Owner's negligent or willful misconduct.

3.14 Owner Cooperation for Fumigation. In the event that it shall become reasonably necessary for the Association to fumigate the Building to control termites, insects, wood-destroying pests, organisms or for other similar purposes, the Owners shall cooperate with the Association so as to enable such work to be promptly and effectively completed (including, but not limited to, agreeing on the dates the Owners will vacate their respective Units to enable the fumigation work to be performed). The cost of such fumigation may be included in the Regular Assessments or reviewed by the Board as a Special Assessment in accordance with the Article entitled "Assessments," as the Board deems appropriate. In the event it is necessary to temporarily vacate a Unit to accommodate the control of termites, insects, wood-destroying pests or organisms, the Association shall give notice to the Unit Owners not less than fifteen (15) days nor more than thirty (30) days prior to the date that said Owners must temporarily vacate their Units.

3.15 Reservation of Development Rights. In order that the Project be completed and established as a first-class Project, nothing in this Declaration shall limit the right of Declarant, its successors or assigns to: (a) complete construction of any Improvements in the Project; (b) redesign or otherwise modify the Improvements owned by Declarant; (c) construct such additional Improvement on any portion of the Project owned by Declarant; or (d) otherwise manage, control and administer all aspects of designing the Project and selling or leasing the Units within the Project. In addition, nothing in this Declaration shall limit the right of Declarant to establish additional easements, licenses and rights of way in favor of Declarant, utility companies or others as may, from time to time, be reasonably necessary for the development of the Project and the sale or lease of the Units. The foregoing rights established and reserved by Declarant shall be subject only to the applicable regulations and requirements of the City. Such rights will terminate at such time as Declarant no longer owns, or has an interest in, a Unit in the Project. In addition, nothing in this Declaration shall prevent Declarant, at any time prior to the conveyance of title to a Condominium to a purchaser, to establish additional easements, licenses and rights of way to itself, to utility companies, or to other persons or entities as may from time

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to time be reasonably necessary to the proper development and disposal of the Project. The foregoing rights established, created and reserved by Declarant shall be subject only to the applicable regulations, statutes, codes, ordinances and requirements of the City. Such rights will terminate at such time as Declarant no longer owns a Condominium in the Project.

3.16 No Public Use. No part of this Declaration shall be construed as creating any rights in the general public, nor shall any part hereof be deemed a gift or dedication for public use of any portion of the Project.

3.17 Amendment to Eliminate Easements. So long as Declarant is an Owner and the Operator, this Declaration cannot be amended to modify or revoke any of the easements created, established and reserved herein in favor of Declarant or the City without the prior written approval of Declarant and the City, acting by and through the City's Community Development Director, as applicable, and any attempt to do so shall have no force or legal effect.

ARTICLE 4
ASSOCIATION

4.1 Formation. Declarant shall cause a California nonprofit mutual benefit corporation (the "Association") to be formed as set forth in this Article for the purpose of assuming all of the powers, rights, duties and obligations of Declarant and the Association under this Declaration and the Nonprofit Mutual Benefit Law. The Association shall be formed by filing Articles of Incorporation with the California Secretary of State. Declarant shall act as the sole incorporator of the Association and shall appoint the initial Board which shall adopt the Bylaws and otherwise serve until the first meeting of the Members. The Bylaws shall be in form reasonably acceptable to Declarant. Notwithstanding any other provision in this Declaration, Declarant shall form the Association within thirty (30) days of the Close of Escrow for the sale of the first Condominium in the Project.

4.2 Classes of Membership. An Owner's right to vote shall vest upon the commencement of Assessments by the Association upon such Owner's Unit as provided in the Article herein entitled "Assessments."

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

(1) Class A. Class A Members shall be all Owners except Declarant. Each Class A Member shall be entitled to one (1) vote for each Condominium owned by it. When more than one (1) person owns any Unit, no more than one (1) Class A vote may be cast for any Condominium.

(2) Class B. Class B Members shall be Declarant for so long as Declarant own any interest in the Project or in any Condominium. The Class B Members shall be entitled to ten (10) votes for each Condominium owned by Declarant. The Class B membership shall cease upon the Close of Escrow for the sale of the last Unit in the Project.

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4.3 First Members Meeting.

a. Notice. Declarant shall give all Owners notice in writing at least thirty (30) days prior to the first meeting. Such notice shall set forth the date, time, location and purpose of the meeting. Declarant shall act as chairman of such meeting.

b. Purpose. The purpose of the first meeting of the Members shall be to elect a Board of Directors and adopt such Rules and Regulations for the Association as the Owners shall determine; provided, however, that except as set forth in Section 4.1, no Rules or Regulations shall be inconsistent with this Declaration.

4.4 Membership. Upon formation of the Association, every Owner, including the Declarant, shall be a Member. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in a Unit. Status as an Owner shall be the sole qualification for membership in the Association; provided, however, a Member's rights or privileges may be regulated or suspended for failure to comply with any Association rules and regulations promulgated from time to time with respect to violations by Members and discipline related to such violations.

4.5 Transfer. An Owner's membership in the Association shall not be transferred, pledged or alienated apart from such Owner's fee or leasehold interest in such Owner's Condominium. Such membership shall automatically be conveyed to the transferee of fee title to the Condominium and, upon such transfer, the transferor shall no longer be a Member. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner. The Association shall have a right to charge a transfer fee in an amount not to exceed Five Hundred Dollars (\$500) to reimburse the Association for its costs of documentation and clerical services incurred with respect to the transfer of a membership interest in the Association; and notwithstanding any other provision of this Declaration, and Owner's right to vote shall not vest until such transfer fee has been paid. Notwithstanding the foregoing, an Owner shall have the right to assign, without charge of such fee, its voting rights to one (1) or more Permittees or mortgagees of its Unit, provided such Owner notifies the Board of all terms and conditions of such assignment, and provided further that such assignees shall exercise such Owner's votes in a block.

ARTICLE 5
POWERS AND DUTIES OF THE ASSOCIATION

5.1 Management Body. The Association is hereby designated as the management body of the Project and the affairs of the Association shall be managed by a Board of Directors. The initial Board shall be appointed by the incorporator(s) or its/their successor(s). Thereafter, the Directors shall be elected as provided in the By-Laws.

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5.2 **Powers.** The Board, for and on behalf of the Association, shall have the right and power to do all things necessary to conduct, manage and control the affairs and business of the Association, including, but not limited to, the following specific powers:

a. Enforce the provisions of this Declaration and all contracts or any agreements to which the Association is a party;

b. Acquire, manage, maintain, repair, replace and inspect all Common Area and Improvements located thereon, including all private driveway and sidewalks and all personal property, in a neat, clean, safe and attractive condition at all times, and to pay all utilities, gardening and other necessary services for the Common Area, all as more specifically set forth in the Article herein entitled "Repair and Maintenance";

c. Maintain fire, casualty, liability and fidelity bond coverage, and other insurance coverage pursuant to the terms of that Article herein entitled "Insurance";

d. Obtain, for the benefit of the Common Area, all commonly metered water, gas and electric services, refuse collection and cable (or master antenna) television service;

e. Employ and retain a professional manager and/or management company to perform all or any portion of the duties and responsibilities of the Board and engage such other personnel (including attorneys and accountants) as necessary for the operation of the Project and administration of the Association;

f. Pay all taxes and special assessments which would be a lien upon the entire Project or the Common Area, and to discharge any lien or encumbrance levied against the entire Project or the Common Area;

g. Pay for reconstruction of any portion of the Common Area damaged or destroyed;

h. Delegate its powers and authority 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 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 Association Management Documents;

i. Adopt reasonable Rules and Regulations concerning the maintenance, improvement, use and/or occupancy of the Project;

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j. Enter into any Condominium when necessary in connection with maintenance or construction for which the Association is responsible;

k. Retain, if deemed appropriate by the Board, and pay for legal and accounting services necessary and proper for the efficient operation of the Association, enforcement of this Declaration, the Rules and Regulations and architectural and landscape guidelines, or in performing any other duties or enforcing any other rights of the Association;

l. Retain private security service to provide patrol service to the Project and to monitor and enforce all parking regulations set forth herein or in the Rules and Regulations promulgated and adopted by the Board;

m. Discharge by payment, if necessary, any lien against the Common Area or other portions of the Project, and, after Notice and Hearing as provided in the Bylaws, charged the cost of discharging said lien to the Owner or Owners responsible for its existence;

n. Promulgate and adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area;

o. The power to appoint or designate a trustee to enforce assessment liens by sale as provided in the Article herein entitled "Effect of Nonpayment of Assessments; Remedies of the Association" and California Civil Code Section 1367(b), and any successor or companion statutes;

p. Execute amendments to the Condominium Plan (and appropriate deeds) and/or enter into an agreement with the Owners of one (1) or both Condominiums and/or the City to grant fee title to or easements over portions of a Unit or the Common Area, as applicable, which are necessary to correct any encroachments or other adjustments necessary to correct minor as-built conditions and to establish and maintain a uniform maintenance plan by the Association and/or the City, as applicable;

q. Perform any and all other acts and things that a nonprofit unincorporated association organized under the laws of the State of California is empowered to do, which may be necessary, convenient or appropriate to preserve and enhance the value, desirability and attractiveness of the Project; and

r. Initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings for and on behalf of the Association in matters pertaining to (a) the application or enforcement of the Association Management Documents, (b) damage to the Common Area, and (c) the collection of Assessments.

5.3 Duties. Unless otherwise specified in the Declaration, the duties of the Association shall commence concurrently with the Close of Escrow for the sale of the first Unit

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in the Project. The Board shall perform and execute the following duties for and on behalf of the Association:

a. Provide, water, sewer, gas, electricity, garbage and trash collection, ~~periodic maintenance of drainage facilities located within the Common Area~~ other necessary utility services for the Common Area, and, if not separately metered or provided, for the Units;

b. Provide insurance for the Association and its Members in accordance with the provisions of the Article hereinbelow entitled "Insurance";

c. Maintain and repair all portions of the Common Area in a neat, clean, safe, attractive, sanitary and orderly condition at all times;

d. Contract for any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations and insurance which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law;

e. Cause financial statements for the Association to be regularly prepared as specified in this Declaration;

f. Assume and pay out of the Assessments provided for hereinbelow all costs and expenses incurred by the Association in connection with the performance and execution of all of the aforesaid powers and duties, and any other powers and duties the Association may assume as provided for in Section 5.4 hereinbelow; and

g. Formulate, adopt and enforce such Rules and Regulations as it may deem proper for the operation of the Common Area, as more particularly described below. Notice of adoption of any such Rules and Regulations and of any change, amendment or repeal thereof, shall be given in writing to each Member and shall be on file in the principal office of the Association. In the event of any conflict between such Rules and Regulations and this Declaration, this Declaration shall prevail.

5.4 Discretionary Powers. The Board, at its option, may assume, perform and execute the following powers and duties for and on behalf of the Association:

a. Retain the services of a manager for the Project and provide such other personnel as the Association deems necessary and proper to assist in the operation of the Association and/or management of the Common Area, regardless of whether such other personnel are employed directly by the Association or otherwise;

b. Remove or replace any Improvement that extends into the Common Area under authority of an easement when access to a utility line underneath such Improvement is requested by any utility company; provided, however, that the cost shall be assessed against the Owner of the Condominium involved as a Compliance

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Assessment if said Owner caused the Improvement to be so placed in the Common Area without legal right to do so;

c. Incur any liability or pay any costs or expenses for a single Condominium or Owner thereof; provided, however, that in the event the Association does incur any such liability or pay any such costs or expenses, the amount thereof shall be specially assessed against the Owner of such Condominium as a Compliance Assessment; provided further, however, that nothing herein shall permit the Association to assess the Owners for any new Improvements to the Common Area except as otherwise provided in this Declaration;

d. Subject to the limitations set forth in this Article, contract for any other material, furniture, labor, services, maintenance, repairs, structural alterations or insurance, or pay any taxes or Assessments which, in the opinion of the Board, shall be necessary or proper for the operation of the Common Area for the benefit of the Owners or for the enforcement of this Declaration; and

e. Initiate, defend, settle or intervene in litigation, arbitration, mediation or administrative proceedings in its own name as the real party in interest and without joining with it the individual Owners in matters pertaining to the following:

- (1) Enforcement of this Declaration and the Rules and Regulations;
- (2) Damage to the Common Area; or
- (3) Damage to Units or Exclusive Use Areas which arises out of, or is integrally related to, damage to the Common Area.

5.5 **Delegation of Duties.** In the event that the Association shall delegate any or all of its duties, powers or functions to any person, corporation or firm to act as manager, neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

5.6 **Right of Entry for Emergency.** The Board, any person authorized by the Board or any Owner may enter any Unit or Exclusive Use Area in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association shall repair the same at its expense.

5.7 **Right of Entry for Repairs.** The Board, or any person authorized by the Board, shall have the right to enter, upon reasonable notice, any Unit or Exclusive Use Area to effect necessary repairs which the Owner has failed to perform or which are necessary in connection with the repairs to the Common Area or an adjoining Unit. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be

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proximately caused by or result from said entry, the Association shall repair the same at its expense.

5.8 Association Rules and Regulations. The Board shall also have the power to ~~adopt, amend and repeal Rules and Regulations, as it deems reasonable, which may include the~~ establishment of a system of fines and penalties enforceable as Compliance Assessments, as referenced in the Article herein entitled "Assessments." The Rules and Regulations shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area; signs, parking regulations and enforcement, trash collection, minimum standards for maintenance of Condominiums consistent with such standards as may be set forth in this Declaration, and any other matter which is within the jurisdiction of the Association; provided, however, that the Rules and Regulations may not discriminate between Owners and shall not be inconsistent with this Declaration, the Articles or By-Laws and shall not be inconsistent with any applicable laws, ordinances, statutes, rules and regulations of any federal, state or local governmental agencies. A copy of the Rules and Regulations as they may, from time to time, be adopted, amended or repealed, or a notice setting forth the adoption, amendment or repeal of specific portions of the Rules and Regulations, shall be delivered to each Owner. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration, and shall be binding on the Owners and their successors in interest, whether or not actually received thereby. The Rules and Regulations, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner upon request. In the event of any conflict between any such Rules and Regulations and any other provisions of this Declaration.

ARTICLE 6
ASSESSMENTS

6.1 Creation of the Lien. The Declarant, for each Condominium owned within the Project, hereby covenants, and each Owner of any Condominium, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Regular Assessments; (b) Special Assessments; (c) Compliance Assessments; (d) Reconstruction Assessments; and (e) such other assessments as the Association may periodically establish. Except as provided in this Section, all such (other than Compliance Assessments), together with interests, costs, and reasonable attorneys' fees for the collection thereof, are a charge and a continuing lien on the Condominium against which such assessment is made. Each such assessment (including special assessments), together with interests, costs, and reasonable attorneys' fees, is also the personal obligation of the Owner of the Condominium at the time when the assessment became due. Each Compliance Assessment levied against a Condominium, together with interest, costs, reasonable late charges and reasonable attorneys' fees for the collection thereof, shall be the personal obligation of the Owner of the property at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to the successors in title unless expressly assumed by them.

6.2 Purpose of Regular Assessments: Levy and Collection. The Regular Assessments shall be used exclusively to maintain, repair, replace and improve the Common

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Area, and any other Improvements or areas which the Association is obligated to maintain, as provided in this Declaration. The Board shall levy and collect Assessments from each Owner of a Condominium in the Project in an amount sufficient to cover all of the Common Expenses incurred by the Association in connection with the performance and execution of the powers and duties set forth in this Declaration. The Association shall not impose or collect assessments, penalties or fees that exceed the amount reasonably necessary for the purpose or purposes for which they were levied. Regular Assessments shall be collected on a monthly installment basis, unless otherwise determined by the Board.

6.3 Collection and Payment of Assessments. Regular Assessments shall be assessed uniformly and equally against the Owners and their Condominiums with the exception of designated line items described in the Budget as "variable costs" attributable to: (i) insurance; (ii) domestic water; (iii) exterior paint of the Buildings; and (iv) exterior roofs of the Buildings, which shall be assessed against all Condominiums in the manner provided in the "Proration Schedule Regular Assessments Worksheet" of the Budget. The computation of the "variable factor" provided in the Budget is derived by multiplying the total variable costs referenced above by the total estimated square footage of all Units in the Project.

6.4 Commencement of Regular Assessments. Regular Assessments shall commence on the Condominiums on the first day of the calendar month immediately following the first Close of Escrow in the Project. The Board may determine that funds in the operating fund at the end of a given fiscal year of the Association be retained to reduce the following fiscal year's Regular Assessment. Upon dissolution of the Association incident to the abandonment or termination of the Project as a Condominium project, and the amounts remaining in any of the funds of the Association shall be distributed to or for the benefit of the Members.

6.5 Failure to Fix Assessments. The failure by the Board to levy an Assessment for any fiscal year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of liability of any Owner to pay Assessments, or any installment thereof, for that or any subsequent Accounting Period. No abatement of the Regular Assessment or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to the Common Area or from any action taken to comply with any law or any determination by the Board or for any other reason.

6.6 Accounting. The Board, or the management company engaged by Declarant and the Board to maintain the Common Area, shall keep and maintain at its principal place of business complete books, invoices, records of the Common Expenses in accordance with accounting principles appropriate in the circumstances consistently applied and in such a manner as to accurately cover and reflect separately all such costs, and all items affecting or entering into the determination of the Allocable Share of Common Expenses of each Owner for each Accounting Period, and shall keep the same for a period of two (2) years after the end of such Accounting Period. Any Owner shall be entitled to inspect and at its own expense make copies of such books, invoices and records at any reasonable time. Each Owner, at its expense, shall have the right, during the period in which such records are retained, exercisable upon five (5) days notice to the Operator, to make an audit as to each Accounting Period of the books, invoices and records reflecting the Common Expenses for such Accounting Period. If such audit shall

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discloses any errors in the determination of the amount paid by such Owner for such Accounting Period, an appropriate adjustment and payment or reimbursement, as the case may be, shall be made promptly to correct such error.

----- 6.7 Special Assessments for Capital Expenditures. In addition to Regular Assessments, the Association may levy Special Assessments for the purpose of raising funds not otherwise provided for under the Budget, to construct or reconstruct, repair or replace Improvements within and upon the Common Area, including necessary personal property related thereto; to add to the Common Area; to provide for facilities and equipment necessary to offering services authorized in this Declaration; or to repay any loan made to the Association to enable it to perform its duties and functions authorized by this Declaration. Special Assessments for Improvements shall be levied according to each Owner's Allocable Share.

6.8 No Offsets. All Assessments shall be payable in the amount specified by the Operator, as provided in this Article 6, and no offsets against such amounts shall be permitted for any reason.

6.9 Estoppel Certificate. The Operator shall, upon demand, and for a reasonable charge not to exceed Two Hundred Fifty Dollars (\$250.00), furnish a certificate signed by an officer or agent of the Operator, setting forth the Assessments levied upon a particular Unit which are due but unpaid. A properly executed certificate of the Association as to the status of such Assessments is binding upon the Association as of the date of the certificate's issuance.

6.10 Compliance Assessments. A Compliance Assessment may not be characterized nor treated as an assessment which may become a lien against the Owner's Condominium enforceable by a sale in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code; provided, however, the foregoing shall not apply to any Compliance Assessment imposed against an Owner consisting of a reasonable late payment penalty for delinquent Assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its effort to collect delinquent Assessments. The Board shall have the authority to adopt a reasonable schedule of Compliance Assessments for any violation of this Declaration.

6.11 Certification of Payment. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Condominium have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

6.12 Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessments provided for herein for any reason whatsoever, including, but not limited to, non-use of the Common Area or abandonment of his Condominium, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason

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whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Association.

6.13 Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments herein:

- a. All property dedicated to and accepted by a Public Agency;
- b. All property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California, however, no land or Improvements devoted to dwelling use shall be exempt from said Assessment; and
- c. All Common Area owned in fee or by easement by the Association.

6.14 Unsegregated Real Property Taxes. Until such time as the Tax Collector of the County segregates the real property taxes on the Project into separate assessments for each Condominium, and to the extent that such back taxes are not paid by the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Project. The Association shall, upon written request of Declarant, make and enforce a property tax assessment ("Property Tax Assessment") against each Owner whose Condominium is taxed to Declarant pursuant to an unsegregated property tax bill on the Project, or any portion thereof. The Property Tax Assessment shall constitute a lien on such Owner's Condominium which shall be deemed prospectively as of the date such taxes became a lien and shall be enforceable as provided herein. The amount of the Property Tax Assessment against each Owner shall be that portion of the unsegregated property tax which bears the same relationship to the total tax as the original selling price such Owner's Condominium bears to the sum of the original offered selling prices of each Condominium in the Project. The Association shall, at least forty-five (45) days prior to the delinquency date of any blanket tax installment, deliver to each Owner a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay a proportionate share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay his proportionate share. The Association shall add to the Regular Assessments of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the blanket tax bill, which late charge results from the failure of the delinquent Owner to make timely payment of his Property Tax Assessment. The foregoing provisions relating to the collection of Property Tax Assessments in connection with a blanket tax bill may not be amended without the express written consent of Declarant, for so long as the Declarant is the Owner of one (1) or more Condominiums in the Project.

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ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

~~7.1 - Effect of Nonpayment of Assessments Remedies of the Association. Any Regular, Special or Compliance Assessment not paid within fifteen (15) days after the due date shall be deemed delinquent and the Owner may be required by the Board to pay (a) reasonable costs of collection, including reasonable attorneys' fees; (b) a reasonable late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), whichever is greater, or as may, from time to time, be established by the Board in accordance with California law; and (c) interest on all sums imposed under this Section at an annual percentage rate not to exceed twelve percent (12%) commencing thirty (30) days after the Assessment was due. The Board, for and on behalf of the Association, may commence legal action against the Owner personally obligated to pay the same, or, in the case of a Regular or Special Assessment, may foreclose the lien against his Condominium. Such lien may also be foreclosed by a power of sale or other nonjudicial procedure provided for by law. In furtherance thereof, each Owner hereby vests in the Association, its successors or assigns, the right and power to bring all actions at law or to pursue the foreclosure of a lien against any Owner for purposes of collecting such delinquent Assessments.~~

7.2 Delinquent Assessments. The Association shall comply with the requirements of California Civil Code Section 1367.1, and any successor statutes or laws when collecting delinquent Assessments. Pursuant to Section 1367.1, the Association shall provide the delinquent Owner with written notice by certified mail at least thirty (30) days prior to recording a Notice of Delinquent Assessments in the Official Records of the County. The precise form and content of the Notice of Delinquent Assessments is set forth in California Civil Code Section 1367.1, which includes, without limitation, the following information: (i) a general description of the collection and lien, enforcement procedures of the Association; (ii) a statement that the Owner has the right to inspect Association records pursuant to Corporations Code Section 8333; (iii) the following statement in fourteen (14) boldfaced type is printed or in capital letters is 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"; (iv) an itemized statement of the charges owed by the delinquent Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any; (v) a statement that the Owner shall not be liable to pay the charges, interest and costs of collection, if it is determined that the Assessment was paid on time to the Association; and (vi) the statement that the Owner has a right to request a meeting with the Board as provided in Subsection (c) of California Civil Code Section 1367.1.

7.2.1 Creation of Lien. The Board may, after giving notice to the delinquent Owner pursuant to California Civil Code Section 1367.1 as described above, be permitted to record a Notice of Delinquency ("Notice of Delinquent Assessments") in the Official Records of the County. The Notice of Delinquent Assessments shall comply with the provisions of California Civil Code Sections 1366 and 1367, or any successor statutes or laws and may include interest at the rate permitted by such Sections and all costs that are incurred by the Board or its

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authorized representatives in the collection of the amounts, including reasonable attorneys' fees. The recordation of the Notice of Delinquent Assessments shall constitute a lien against such Condominium immediately upon recordation. Following recordation, the Notice of Delinquent Assessments shall be mailed to all Owners of record as provided in California Civil Code Section 1367.1, or any successor statutes or laws. The Association may not voluntarily assign or pledge the Association's right to collect payments or Assessments, or to enforce or foreclose on a lien to a third party, except where provided under California Civil Code Section 1367.1(g) and any successor statutes or laws.

7.3 Foreclosure Sale. Any foreclosure sale provided for above is to be conducted by the Board, its attorney or other persons authorized by the Board, in accordance with the provisions of Sections 2924, 2924a, 2924b and 2924c of the California Civil Code applicable to the exercise of powers of sale in Mortgages and deeds of trust, as same may be amended from time to time, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Condominium at a foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

7.4 Curing of Default. Upon the timely curing of any default for which a Notice of Delinquent Assessments or lien was filed by the Association, the officers thereof are hereby authorized to file or record, as the case may be, an appropriate release of such Notice upon receipt of payment from the defaulting Owner of a reasonable fee to be determined by the Association to cover the costs of preparing and filing or recording such release.

7.5 Cumulative Remedies. The Association's remedies for nonpayment of Assessments, including, but not limited to, an action to recover a money judgment, Assessment lien and right of foreclosure and sale, are cumulative and in addition to and not in substitution of any other rights and remedies which the Association and its assigns may have hereunder or at law.

7.6 Mortgagee Protection. Notwithstanding all other provisions hereof, no lien created hereunder nor any breach of the terms and provisions of this Declaration, nor the enforcement of any term or provision hereof, shall defeat or render invalid the rights of any Mortgagee under any recorded first Mortgage or deed of trust upon a Condominium made in good faith and for value; provided, that after such Mortgagee or other person or entity obtains title to such Condominium by judicial or nonjudicial foreclosure, such Condominium shall remain subject to this Declaration and the payment of Assessments which fall due subsequent to the date of taking title.

7.7 Code Sections Subject to Change. The provisions of this Article rely on provisions of California's statutory law, which have been revised frequently. The Board is cautioned to have its legal consultant carefully review statutes in effect as of the date any notices or other actions are taken pursuant to this Article.

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ARTICLE 8
USE REGULATIONS

The Project shall be held, transferred, used and enjoyed subject to the following limitations and regulations, and subject to the exemptions of Declarant as set forth in this Declaration. The strict application of the following limitations and regulations in any specific case may be modified or waived in whole or in part by the Board if such strict application would be unreasonable or unduly harsh under the circumstances. Any modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the Declarant, and approved by the City.

8.1 Permitted and Conditionally Permitted Uses. Subject to any other limitations set forth herein, all Condominium located thereon may be used and occupied for all purposes permitted by the City in accordance with the Development Regulations and other local, state or federal laws or regulations, and any amendments to each of the foregoing.

8.2 Conduct Affecting Insurance. Nothing shall be done or kept in any Unit or in the Common Area which will increase the rate of insurance on the Common Area without the approval of the Association. No Owner shall permit anything to be done or kept in his Unit or in the Common Area which will result in the cancellation of insurance on the Common Area or which would be in violation of any law. If, by reason of the occupancy or use of said premises by the Owner, the rate of insurance to the Common Area shall be increased, the Owner shall become personally liable for the additional insurance premiums.

Uses that are neither specifically authorized or prohibited by the Development Regulations or by the City may be permitted in specific cases if such uses are in compliance with applicable law and if written operational plans and specifications for such operations or uses and such other information as may be requested by Declarant, are submitted to and approved in writing by Declarant, in its sole discretion, which approval shall be based upon: (a) Declarant's analysis of the anticipated effect of such operations or uses upon other Units, (b) upon other uses within the Project, and (c) upon other real property in the vicinity of the Project; provided, that any and all requirements of the City and any other governmental authority are complied with including, if necessary, the securing of a conditional use permit from the City.

8.3 Prohibited Operations and Uses. No use or operation will be made, conducted or permitted on or within any portion of the Project which is in violation of the Development Regulations or is obnoxious to or out of harmony with the development or operation of the business conducted within the Project. The following uses and operations are expressly prohibited:

(a) Adult businesses;

(b) Any use that would use flammables, attract birds, contain overhead power lines, cause electrical interference, emit smoke, use high intensity lighting, or have greater than 25 persons/acre at any time;

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(c) Amusement enterprises, including fairs, merry-go-rounds, ferries wheels, and other similar uses operated on a temporary basis;

(d) Automobile dismantling, and junk, rag, metal salvage;

(e) Animal slaughtering;

(f) Bone, coal, and wood distillation;

(g) Cement, lime, gypsum, and plaster of paris manufacture;

(h) Ceramic products manufacture;

(i) Cocktail lounges;

(j) Equestrian services and supply establishments;

(k) Explosive manufacture and storage;

(l) Hazardous materials production and storage;

(m) Heavy manufacturing;

(n) Hotel/motel uses;

(o) Outdoor storage (excluding screened outdoor storage areas that are associated with a permitted and/or conditionally permitted use);

(p) Residential uses; or

(q) Restaurants/bars.

The Development Regulations, and any other governmental regulations and/or requirements shall be observed by each Owner, including Declarant, or other Permittee of a Unit. If any conflict between the Management Documents and the Development Regulations should arise, the more restrictive standard shall apply, unless otherwise prohibited by law. Any approval of Declarant, the Board, and/or the Architectural Review Committee ("ARC") required or granted pursuant to this Declaration shall in no way relieve owners from obtaining all approvals required by the City or any other governmental agency having jurisdiction over such proposed approval.

8.4 Parking and Vehicular Regulations. The following vehicles are Authorized Vehicles: standard passenger vehicles, including without limitation, automobiles, passenger vans designed to accommodate ten or fewer people, sport utility vehicles, motorcycles and pickup trucks having a manufacturers rating or payload of one ton or less. Authorized Vehicles may be parked in any portion of the Common Area and any Exclusive Use Areas reserved for parking

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purposes, and intended for parking of motorized vehicles, subject to the Rules and Regulations adopted by the Operator. No Owner may park any vehicle in a manner such that the Association determines that the vehicle unreasonably extends beyond the boundaries of a parking space or into streets or sidewalks within the Project. The Board shall have the power to identify additional vehicles as Authorized Vehicles in the Rules and Regulations to adapt this restriction to new types of vehicles produced by manufacturers.

8.5 Prohibited Vehicles. The following are Prohibited Vehicles: (i) recreational vehicles (for example, motorhomes, travel trailers, camper vans, boats, etc.; (ii) buses or vans designed to accommodate more than ten people; (iii) vehicles having more than two axles; (iv) trailers, inoperable vehicles or parts of vehicles; or (v) other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Operator. Prohibited Vehicles may not be parked, stored or kept on the Common Area, or elsewhere within the Project unless such prohibited vehicles are parked for brief periods to load and unload fixtures, furnishings and equipment necessary for the operation of businesses within the Project. Declarant has the power to identify additional vehicles as Prohibited Vehicles to adapt this restriction to new types of vehicles produced by manufacturers.

8.6 Parking Regulations. Operator may establish additional regulations regarding any parking areas within the Common Area and any Exclusive Use Areas designated for parking including, without limitation, the designation of "parking," "guest parking," exclusive parking and "no parking" areas thereon, setting time limits for parking of vehicles within the Project, and requiring registration of vehicles or use of parking permits; and may enforce all parking and vehicular use regulations applicable to the Project, including removing violating vehicles from the Project pursuant to California Vehicle Code Section 22658.2, or other applicable ordinances or statutes. If the Board fails to enforce any of the parking or vehicular use regulations set forth herein, the City may enforce such regulations in accordance with applicable laws, statutes and ordinances.

8.7 Pollutant Control Requirement. Each Owner acknowledges that water that enters a storm drain flows directly to natural sources of water, including waterways, creeks, drains, rivers, lakes and that erosion has an impact on the environment. Unlike the water in the sewer system in the Building which is being purchased by Owner, which flows to wastewater treatment plants, wastewater that enters a storm drain flows directly, and without any treatment, to waterways, creeks, streams, rivers, lakes and/or the Pacific Ocean. Accordingly, the National Pollutant Discharge Elimination System ("NPDES"), the Federal Clean Water Act, and the policies and ordinances of the City prohibit discharging anything other than natural rain water into storm drain systems. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, antifreeze, solvents, paints, paint thinners, wood preservatives, detergents, pet waste, paints and other such materials and pollutants shall not be discharged into any storm water conveyance systems. Owners further acknowledge that the disposal of such pollutants and materials into a storm drain system may result in significant penalties and fines and that such Owner may be responsible for any activities by Owners' contractors (e.g., painters, landscapers, etc.) who dispose of such pollutants from an Owner's Unit and/or Building into the storm drain system. Owners are encouraged to consult with the City, and other governmental authorities, concerning

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the proper disposal of any toxic or hazardous materials and to renew the SWQMP on file at the City. Dumping any such materials into sewers, gutters or storm drains is against the law.

(a) Storm Water Pollution Prevention Best Management Practices. All landscaping in the Common Area shall be maintained by the Operator in a manner that will prevent soil erosion and minimize sediment transport. To the extent that the Operator has installed any erosion protection devices (e.g., sandbags) the Association shall not remove such devices unless and until all landscaping has been installed, and has been sufficiently grown so as to prevent soil erosion and transport of any sediment. All trash receptacles within the Project shall be covered and closed at all times. The Operator and the Owners, including Declarant, shall comply with all applicable Best Management Practices and perform all maintenance that may be imposed by any water quality management plan that may affect the Property. The costs of the Association's portion of such maintenance, if any, shall be a Common Expense. Declarant shall provide to the Board a copy of the Best Management Practices approved by the City.

(b) Liability to Declarant. So long as Declarant owns a Condominium within the Project, if an Owner or the Association is not in compliance with the provisions of this Section and as a result, Declarant shall incur any liability, then Declarant may have the right but not the obligation to enter upon the applicable portion of the Project to correct such violation. Any Owner who violates the requirements of this Section 8.7 shall indemnify, protect, defend and hold Declarant and its Affiliates and Operator and its Affiliates entirely free and harmless from and against any liabilities, penalties, costs, expenses and actions, including, without limitation attorneys' fees and costs arising from or attributed to a violation of the provisions of this Section and shall, within fifteen (15) days after request from Declarant, reimburse Declarant for any costs and expenses incurred by Declarant in correcting any violation by any Owner of this Section 8.7.

8.8 Nuisance: Hazardous Materials. No use shall be made of, nor shall any activities be conducted or permitted on, any portion of the Project which may result in any of the following (except to the extent that any such use or activities directly relate to construction work contemplated by this Declaration and performed in accordance with ordinary construction practice): (a) any public or private nuisance; (b) any vibration, noise or sound that is objectionable due to cadence, frequency, shrillness or loudness; (c) any obnoxious odor that may be detected outside of a Building; (d) the disposal or discard of trash or rubbish outside of the Building Unit in the Common Area in places other than trash or rubbish containers maintained or approved by the Operator; or (e) the use, storage, handling or disposal of any asbestos, petroleum or petroleum products, explosives, toxic materials, or substances defined as hazardous wastes, hazardous materials or hazardous substances under any federal, state or local law, ordinance, rule or regulation, either currently or in the future ("Hazardous Materials"); provided, however, that the term "Hazardous Materials" shall not include the following chemicals, substances or materials if they are used, stored, handled, or disposed of in compliance with applicable federal, state and local environmental laws, rules and regulations: (i) janitorial supplies, cleaning fluids or other chemicals, substances or materials reasonably necessary for the day-to-day operation or maintenance of the Project by the Operator or any Owner or any Permittee; (ii) chemicals, substances or materials routinely used as office supplies; (iii) chemicals, substances or materials reasonably necessary for the construction or repair of improvements now or hereafter situated on

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the Project; (iv) pesticides, fertilizers and other chemicals, substances and materials reasonably used for landscaping or pest control purposes on the Project, or (v) chemicals, substances or materials included in commercial products stored on the Project for resale to customers in the ordinary course of the Owners' or their respective Permittees' businesses.

8.9 No Commercial Use of Common Area. Unless the prior written consent is first obtained from Declarant, so long as Declarant is the Owner of a Condominium in the Project, and from the City, no merchandise, equipment or services shall be displayed, leased, sold, offered or stored within the Common Area, except as expressly permitted elsewhere in this Declaration, and no promotional activities shall be permitted within the Common Area without the prior written consent of the Declarant.

8.10 No Barriers. Except for temporary construction barriers, no Owner shall erect any type of building, obstruction or barrier within the Common Area which prevents Persons or vehicles from the use and enjoyment of the traffic circulation patterns established by Declarant and by the City.

8.11 Signs.

a. General. Except as provided herein, no Owner other than Declarant or any of its Affiliates shall permit or cause any advertising, identification, or other Sign to be constructed, installed or maintained in the Project until the plans and specifications therefor, including the height, size, coloring, design and location of installation, have been submitted to and approved in writing by the Director of Community Development. All Signs shall be in conformity with applicable governmental requirements including the City's sign code. All Signs installed in the Project shall be consistent with the character and architectural style of the Buildings located on the Unit upon which they are placed. In addition, no Sign, poster, display, or other advertising device shall be placed in public view upon any portion of the Project unless its placement is in compliance with the Palm Springs Municipal Code ("PSMC") all applicable governmental requirements. No Owner shall permit or cause any Sign which advertises a person, firm, company, or corporation which does not operate, conduct a business, or sell products on its Unit to be constructed, installed, or maintained on such Unit. Notwithstanding the foregoing, so long as Declarant is an Owner, no signs of any nature or kind may be affixed to the exterior of any Building or be displayed elsewhere in the Common area or in the Exclusive Use Areas of the Projects. Identification signs may be applied using black or gold paint (or equivalent) to the glass entry doors of a Unit. At such time as Declarant is no longer an Owner, the Board shall be permitted to establish a sign program in accordance with the terms of this Declaration. Each Owner shall be solely responsible for the costs and expenses associated with gain approval for signs and the installation, maintenance, and repair of such signs. Only Declarant and the Association or shall be entitled to install Signs upon the Common Area. All Signs installed by Declarant or by the Association within the Common Area shall be maintained by the Association in an attractive and functional condition at all times.

b. Temporary Signs. Subject to the other provisions of this Section, temporary identification Signs shall be permitted to (a) advertise the sale or lease of a Unit, until such Unit is sold or leased, (b) denote the architects, engineers, contractor, and other related

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subjects concerning the construction of the Building or other Improvement in the Project, but only until such Unit is ready for occupancy or such work of Improvement is completed, and (c) indicate the name of a future tenant, but only until a permanent Sign has been constructed or installed by the Unit. Declarant shall be entitled to place any number and type of Signs on Units owned by Declarant, subject to PSMC and all applicable Development-Regulations.

8.12 Modification of Established Grades. Unless specifically approved in writing by the ARC, the established grade of any Unit shall not be substantially modified, altered or otherwise changed. No grade of any Unit may be changed if it would change or impact the established drainage patterns of such Unit or any other Units in the Project.

8.13 Drainage. Owner shall permit water to be drained or discharged from such Owner's Unit except in accordance with the drainage systems established from time to time within the Project and except as approved by the City and any other public agency having jurisdiction over the drainage and discharge of storm drain and other waters; provided, however, that no water shall be drained or discharged at any time onto or diverted from property adjacent to any Owner's Unit except in accordance with plans approved by the ARC and, if necessary, by the City. For purposes of this Declaration, the established drainage pattern may include a drainage pattern from Common Area over any Unit, from a Unit over the Common Area, or from one Unit over another Unit.

8.14 Erosion Control. Without limiting the generality of any and all maintenance obligations contained in this Declaration, the Association shall be obligated to comply with all applicable governmental requirements and statutes respecting (a) the prevention of erosion in the Common Area; (b) the runoff of silt, debris, sediment or other materials from the Common Area onto adjacent streets, gutters, sidewalks, rights of way, storm drain systems and other; (c) the removal of any such runoff, debris, sedimentation or other materials from in the Common Area; and (d) the repair of any damage to the Common Area or adjacent Project caused by such runoff, erosion or sedimentation.

8.15 Exterior Lighting. Any exterior electrical, gas or other artificial lighting installed in the Project, shall be positioned, screened or otherwise directed or situated and of such controlled focus and intensity, so as not to unreasonably disturb the occupants of any other unit in the Project. Down-lights shall be utilized for any lights mounted on any building. All exterior lighting shall be installed, maintained and replaced in accordance with the City-Approved Exterior Lighting Plan, as found in the Palm Springs Municipal Code. The ARC may adopt additional rules regarding exterior lighting.

8.16 Screening. Unless specifically approved in writing by the Operator, no material, supplies, inventory, equipment or other personal property may be stored on any portion of the Common Area or elsewhere in the Project except inside a Unit. All mechanical equipment, utility meters, storage tanks, heating, ventilating and air conditioning equipment and similar items must be screened and located in such manner so as not to be visible from the ground level of any portion of the Project, from or public streets. All roof mounted mechanical equipment, utility installations, ductwork, radar equipment, radio or television antennas or other devices must be screened by a solid visual barrier which is aesthetically consistent with the Building and

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which has been approved in writing by Declarant and is in accordance with the City's Zoning Code.

8.17 Compliance with Laws. Nothing shall be done or kept on any portion of the Project in violation of any law, ordinance, statute, rule or regulation of any governmental authority having jurisdiction. Nothing herein shall be deemed to modify, limit or abridge the rights of the City or any other governmental agency to enforce all applicable laws, ordinances, statutes, rules and regulations. All Owners and Permittees shall comply in all respects with all such laws, ordinances, statutes, rules and regulations.

8.18 Leasing. This Declaration shall be binding upon any lessee or tenant of all or any portion of any Unit. All rental and lease agreements shall be in writing and shall provide that the terms of such agreements shall be subject in all respects to the Association Management Documents, and any failure by a Permittee to comply with the terms of such documents shall constitute a default under such agreement. Each Owner by acceptance of a deed for a Unit, covenants and agrees to promptly notify the Board in writing of the name and address of its Permittee. If the Permittee is found to be in violation of the provision of the Association Management Documents, the Operator may bring an action in its own name and/or in the name of the Owner to have the Permittee evicted and/or to recover damages. To the fullest extent permitted by law, the Operator may recover all of its costs, including court costs and reasonable attorneys' fees incurred in prosecuting the legal action. The Board shall give the Owner and the Permittee notice in writing of the nature of the violation of the Association Management Documents prior to commencing any legal action.

8.19 Compliance with Declaration and Association Rules. Owners at all times shall comply with the terms of (a) all laws, statutes and ordinances in effect governing the use and occupancy of the Project, (b) this Declaration, and (c) any Association Rules adopted from time to time by the Association, and the Owners shall use good faith efforts to require their respective Permittees to comply with the terms of this Declaration and with all Association Rules.

8.20 Further Subdivision. Except as otherwise provided herein, no Owner shall divide its Unit for the purpose of sale, lease or financing into two (2) or more legally subdivided interests until the proposed map describing and delineating such division has been approved in writing by Declarant, for so long as Declarant is an Owner, and by the City. If the Declarant does not approve the proposed subdivision, the matter may be submitted for resolution in accordance with the Article herein entitled "General Provisions." Following any approved subdivision, the newly created Unit (or Unit) shall continue to be bound by the terms of this Declaration.

8.21 Declarant's Right to Waive. Other than the rights of the City and any other governmental agency set forth herein, the Use Restrictions set forth in this Article 8 may be amended or modified in writing by Declarant without the written consent of other Owners for any portion of the Project if (a) Declarant reasonably determines in Declarant's sole discretion that such amendment or modification is within the special and overall intention of the general plan of development set forth in this Declaration; (b) no modification or amendment restricts any

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existing Owner's Condominium without such Owner's prior written approval; and (c) if the modification or amendment applies to a restriction for the express benefit of a Condominium or an Owner, Declarant obtains prior written approval of such Owner. Declarant shall not be liable to any Owner or other interested party for, or in any way related to, Declarant's exercise or election-not to exercise its rights to waive or modify such regulations.

8.22 Conflicts. The Development Regulations shall be observed by each Owner, including Declarant, or other Permittee of a Unit. In the event of any conflict between the Association Management Documents and any such governmental codes, regulations, regulations and requirements, the more restrictive standard shall apply, unless otherwise prohibited by law. Any approval of Declarant, the Board and/or the ARC required or granted pursuant to this Declaration shall not in any way relieve Owners from obtaining all approvals required by any governmental entity having jurisdiction thereof.

8.23 Solar Energy Systems. Owners shall have the right to place and maintain equipment and facilities related to the installation and maintenance of individual solar energy systems as more particularly described in Section 801.5 of the California Civil Code. The installation and maintenance of any solar energy system by an individual Owner shall be subject to all applicable zoning regulations, the Uniform Building Code and City associated ordinances, and reasonable review by the Board.

8.24 Outside Installation. No outside television or radio pole, or antenna, shall be constructed, erected or maintained on any Unit or building with the Unit. No wiring or installation of air conditioning or other machines shall be installed on the exterior of the Building or be allowed to protrude through the walls or roof of the Building, nor shall any other improvement or object be erected, constructed or maintained, without prior written approval of the Board.

8.25 Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any portion of the Project, except in sanitary containers located in appropriate areas improved with trash receptacles which are provided for the use of all Owners. Trash collection shall be a Common Expense of the Association. All such trash receptacles and other containers shall be stored in the area designated by Declarant for the placement and storage of trash containers. The Board may adopt Rules and Regulations pertaining to the storage and removal of trash from the Project.

8.26 Established Drainage Patterns. There shall be no interference with the established drainage patterns over any Exclusive Use Area, or the Common Area within the Project as to affect any other Unit, Exclusive Use Area or Common Area, unless an adequate alternative provision is made for proper drainage and is approved by the Board and if necessary by the City. For purposes hereof, "established" drainage is defined as the drainage which exists at the time such Condominium is conveyed to an Owner from Declarant, or later grading changes that are shown on plans approved by the ARC.

8.27 Access for Handicapped Persons. Pursuant to the provisions of Section 1360 of the California Civil Code, and any successor statutes, and the prior written consent of the Board,

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an Owner shall have the right to modify the Unit, the Exclusive Use Area or the Common Area leading to the entry of such Unit, at such Owner's sole expense, to facilitate access for persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such persons. Notwithstanding the foregoing provisions, an Owner desiring to modify the Unit, the Exclusive Use Area or the Common Area to facilitate such access shall comply with the following additional provisions:

a. The Owner shall obtain all necessary permits and governmental authorizations for such Improvements;

b. Such Improvements and the construction thereof will comply with all applicable zoning and buildings codes of the City, and other applicable laws, ordinances and restrictive covenants;

c. The Improvements shall be constructed and completed diligently, in a good and workmanlike manner, and free and clear of all mechanics' and materialmen's liens and other claims;

d. During construction, the Owner shall, to the fullest extent possible, minimize any impact from the construction process on other Units, Exclusive Use Areas and the Common Area;

e. The Association shall be reimbursed for all costs and expenses incurred by the Association in connection with the construction of such Improvements, to the extent that such Improvements increase the costs of trash removal during the course of construction; and

f. All costs and expenses of designing construction of the Improvements shall be made at the sole cost and expense of such Owner.

8.28 Street Trees. All trees installed and maintained within the public right-of-way and within ten feet (10') of any public sidewalks adjacent to the Project shall be filled with root barriers in compliance with the applicable Development Regulations.

8.29 No Outdoor Storage. Outside storage of any materials whatsoever is expressly prohibited in the Project.

8.30 Hold Harmless and Indemnification. Each Owner other than Declarant shall indemnify and hold harmless Declarant and the other Owners and their respective occupants from and against any and all claims, losses, liabilities and expenses, (including court costs and reasonable attorneys' fees), arising from or in respect to (i) the death of or any accident, injury, loss or damage whatsoever caused to the person or property of any Person as shall occur in or on the Condominium of such indemnifying Owner (except to the extent such claims, losses, liabilities and expenses shall arise from or are in respect of negligence or willful misconduct of Declarant or any Owner so indemnified), and (ii) any act or omission whatsoever of the indemnifying Owner and such Owner's occupants, to the extent that such act or omission

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involves negligence with respect to the respective Condominiums of such other Owners, or any portions thereof or any Improvements located thereon or with respect to the Common Area.

8.31 No Mechanic's Lien. No Owner or Permittee shall cause or permit any mechanic's lien to be filed against any portion of the Project for labor or materials alleged to have been furnished or delivered to the Project or for any such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from Declarant or the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Compliance Assessment for the cost of such discharge.

ARTICLE 9
ARCHITECTURAL CONTROL

9.1 Approval of Plans and Specifications. No Owner or Permittee, other than Declarant and successors and assigns of Declarant, shall permit or cause any Improvement whatsoever including, but not limited to, the installation of or alteration or addition to the Building or Improvements within the Common Area and the Exclusive Use Areas to be installed, developed, constructed, reconstructed, placed, assembled, maintained, relocated, removed, demolished, repainted, decorated, or redecorated until the following submittals required by this Section have been approved in writing by Declarant:

a. Two (2) sets of basic conceptual drawings;

b. Two (2) sets of schematic plans and preliminary specifications, consistent with the basic conceptual drawings previously approved by Declarant, including, but not limited to, grading plans and site plans showing in reasonable detail the proposed type of use, size, land coverage, gross floor area, shape, height, location, material, color scheme and elevation of each proposed Improvement, including, without limitation, all utilities and service connections, and all landscaping, exterior lighting and Signs, shall be submitted for each stage of, as well as for total, development of any Unit;

c. Two (2) sets of final working drawings and specifications, based on approved basic design concepts and schematic plans and preliminary specifications, including, but not limited to, color and material palette and signage, shall be submitted before commencement of any Improvements; and

d. Two (2) sets of plans and specifications shall be submitted for all tenant space Improvements which will affect the exterior appearance of the Building.

9.2 Partial Submittals: Preparation of Submittals. Partial submittals may be made and approved, but in no event shall construction or assembly of any Improvement proceed beyond the scope of the approval received. All plans and specifications submitted to Declarant shall be prepared by an architect or engineer licensed to practice in the state of California, and signed by the Owner or by an agent duly authorized by the Owner in writing.

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9.3 Basis of Approval. If Declarant approves a submittal, Declarant shall endorse its approval on one set of submitted documents and return the same to the Person from whom the documents were received, provided that two (2) sets have been submitted as required above. Declarant may disapprove any submittals which are not in harmony or conformity with (a) other existing or proposed Improvements within the Project, (b) any of the Management Documents, (c) the site or development plan, if any, most recently approved by the City for the Project, and (d) Declarant's master utility, traffic, circulation, parking or general aesthetic or architectural plans and criteria for the Project. Without limiting the generality of the foregoing, Declarant may evaluate such matters as adequacy of site and Improvement dimensions or external structural appearance, relation of topography, grade and elevation of the Unit being improved with neighboring Units/Buildings and any Improvements thereon and with nearby streets, and the effect of location and use of Improvements on neighboring sites, Improvements, or operations.

9.4 Time for Approvals. Declarant may approve, conditionally approve, or disapprove any submittal of Plans and Specifications pursuant to this Article. In the event that Declarant fails to approve, conditionally approve, or disapprove any said Plans and Specifications within forty-five (45) calendar days after the same have been submitted to it, such Plans and Specifications shall be deemed disapproved by Declarant. Declarant shall provide written notice specifying in reasonable detail each item which Operator disapproves and the reasons for such disapproval. If Operator approves, Declarant shall endorse and date its approval on one (1) set of submitted documents and return the same to the Person from whom the documents were received, provided that two (2) sets had been submitted as required herein.

9.5 Required Certifications.

a. Prior to commencement of any such work of Improvement, the Owner of the Unit on which the Improvement is or will be located shall, upon the request of Declarant, supply Declarant with a certification by a duly licensed civil engineer or land surveyor verifying that according to the final plans and specifications for the proposed Improvements, the proposed Improvements will be located in accordance with the submittals previously approved by Declarant.

b. Upon completion of any such Improvements, the performing Owner shall, upon Declarant's request, supply Declarant with a certification by a duly licensed or registered architect that the Improvements, as designed by such architect, have been completed in accordance with the final working drawings and specifications previously approved by Declarant.

9.6 Notice of Noncompliance. If, as a result of inspections or otherwise, Declarant finds that any Improvement has been done without obtaining the approval of Declarant, or was not done in substantial compliance with the description of materials furnished to, and any conditions imposed by, Declarant or was not completed within one (1) year after the date of approval by Declarant, then Declarant shall notify the Owner in writing of the noncompliance. The notice of noncompliance shall be given, in any event, within sixty (60) days after Declarant

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receives the certificate of completion, as referenced in Section 9.5 above. If Declarant determines that a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than sixty (60) days from the date of receipt by Owner of such notice of noncompliance. Such sixty (60) day period may be extended by Declarant in its sole discretion, if an extension is appropriate in light of the circumstances. If the Owner does not comply with the notice of compliance within such period, Declarant may, at its option, remove the noncomplying Improvement from the Unit or the Common Areas, as applicable, or may otherwise remedy the noncompliance, and the Applicant shall reimburse Declarant upon demand for all expenses incurred in connection therewith. The right of Declarant to remedy or remove any noncompliance shall be in addition to all other rights and remedies which Declarant may have at law, in equity, or under this Declaration. Upon activation of the Association, the Board of Directors shall become the responsible party for all matters pertaining to architectural control hereunder, and Declarant shall be relieved of any responsibility under this Article.

9.7 Identical Replacements. Notwithstanding the foregoing, Declarant shall consent to any replacement of an Improvement on a Unit for which submittals were previously approved by Declarant as provided above, but only if the replacement Improvement is substantially identical to the Improvement most recently so approved, and provided all governmental requirements are satisfied. Any Improvement may be repainted without Declarant's approval so long as the Improvement is painted the identical color it was most recently painted with Declarant's approval.

9.8 Non-Liability of Declarant. Declarant shall not be liable in damages to anyone making submittals as provided herein, or to any Owner, Permittee or other Person subject to or affected by this Declaration, on account of (a) Declarant's approval or disapproval of any submittal, whether or not defective; (b) any construction, performance or nonperformance by an Owner of any work on the Unit or Improvements, whether or not pursuant to approved submittals; or (c) any mistake in judgment, negligence, action or omission in Declarant's exercise of its rights, powers and failure to enforce any of the Protective Covenants. Every Person who makes submittals to Declarant for approval agrees by reason of such submittal, and every Owner of a Unit agrees by acquiring title thereto or an interest therein, not to bring any suit or action against Declarant seeking to recover any such damages. Declarant's approval of any submittal shall not constitute the assumption of any responsibility by or impose any liability upon, Declarant with respect to the accuracy, efficacy or sufficiency of the submittal.

9.9 Architectural Review Fee. As a condition of its review or approval of submittals, Declarant may charge a reasonable architectural review fee not to exceed Two Hundred Fifty Dollars (\$250.00) for each submittal, to be paid to Declarant to cover any overhead or other costs and expenses incurred by Declarant in reviewing the plans and specifications of any applicant.

9.10 Commencement and Completion of Improvements. Unless otherwise specified by Declarant in its approval of a submittal, each Owner shall have a period of twelve (12) months after the date of the initial submittal to Declarant for approval of any Improvement to a Unit within which to commence such work of Improvement in accordance with the approved documents. Each Owner shall give Declarant at least fifteen (15) days' prior written notice of the

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commencement of any work of Improvement. Declarant's approval of any individual submittal shall expire twelve (12) months after the date such approval is given by Declarant. If an Owner fails to commence the work covered by such submittal in accordance with the approved document or documents within such period, any previous approvals given by Declarant for such work shall be invalid, and the Owner shall be obligated to make an entirely new submittal to Declarant prior to commencement of such work of Improvement. As used herein, the work "commence" with respect to a Building shall mean at least the completion of grading and the pouring of foundations. After a work of Improvement is commenced by an Owner in accordance with this Article, such owner shall be obligated to diligently pursue such work of Improvement to completion.

9.11 Compliance with Laws. Each Owner agrees that all construction activities performed by it on any Unit shall be performed in compliance with the Development Regulations, and all laws, rules, regulations, orders, and ordinances of the City, County, State, and federal governments, or any department or agency thereof, affecting improvements constructed on the Project and shall commence only after receipt of all required permits and licenses issued by same.

ARTICLE 10
REPAIR AND MAINTENANCE

10.1 Repair and Maintenance by the Association. Association shall keep and maintain the Project, the Common Area and all Improvements thereon, in a neat, clean, safe attractive and functional condition. Maintenance of the Common Area shall be in compliance with the Development Regulations, the provisions of this Declaration and all applicable laws, ordinances and regulations. The maintenance and repair obligations shall include, but not be limited to, the following:

- a. The Buildings including all structural components, the exterior stucco and decorative trim surfaces and structural integrity of the Buildings, including the exterior walls, roofs, doors, gutters, downspouts, decorative fencing or walls, if any, which screen air conditioning compressors and related improvements located on the roof of the Building, fire sprinkler and fire storm systems;
- b. All landscaping, hardscape, irrigation, drainage and related Improvements within the Common Area and within designated parkway areas as illustrated on Exhibit "B" attached hereto;
- c. Monument signs, if any;
- d. Repair and replace all paved surfaces, driveways and sidewalks, and re-strip, as and when necessary all driveways and parking spaces, handicap spaces and visitor parking spaces, using to the extent commercially available, the same type of materials originally installed and keeping such paving in a reasonably level and smooth condition;

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e. Maintain individual submeters, if any, installed in the Buildings which will serve to measure water usage of each of the Units located in such Buildings. The Association shall have the right to enter into an agreement with a water meter servicing company ("Metering Company"). The Metering Company will be responsible for reading the individual submeters, allocating the water usage and charges imposed by the City or applicable utility company and preparing individual bills for delivery to each Owner. Additionally, the Metering Company will impose a service charge for their services which will be charged to each Owner. The Metering Company will be responsible for providing the Association with a statement of all amounts received from the Owners on a regular basis. Each Owner will be responsible for paying directly to the Association or the Metering Company, if any, such Owner's share of water charges and a service charge to the Metering Company, if any. If an Owner fails to pay any amounts when due, such Owner shall be responsible for penalties or delinquent amounts levied by the service provider and the Metering Company, if any. Additionally, the Association shall have the right to cure any failure by an Owner to pay the amounts due to the service provider, in which case the defaulting Owner will be responsible for reimbursing the Association. If the defaulting Owner fails to reimburse the Association, the Association will be entitled to impose a Compliance Assessment as provided in this Declaration, may shut off water service to the defaulting Owner's Unit and may pursue any other remedies as provided under this Declaration.

f. All commonly metered utilities and mechanical, plumbing and electrical equipment in the Common Area, including Common Area lighting, light replacements, and structure and wiring of any Common Area signage;

g. Trash collection services, unless such service is billed separately by the trash services provider;

h. All drainage facilities serving or located within, upon or under the Common Area;

i. The private storm drain system serving the Project, including, without limitation any retention basins, drainage inlets and outlets which may be located within the Common Area, in accordance with Best Management Practices which are the responsibility of the Association, as provided in the Development Regulations;

j. Removal of graffiti from the Buildings and Improvements within the Common Area;

k. All other areas, facilities, furnishings and Improvements of whatever nature as may, from time to time, be requested to be maintained by the Owners written consent.

The cost of any maintenance or repair by the Association which is a result of neglect, negligence or willful misconduct by an Owner, or such Owner's tenants, guests, agents and

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invitees shall be chargeable by the Board as a Compliance Assessment against such Owner. Except as otherwise provided herein, all costs and expenses incurred for the maintenance described above shall be deemed a Common Expense of the Association, and shall be paid out of the general operating funds of the Association.

10.2 Repair and Maintenance by Unit Owners. Subject to any contrary provisions of this Declaration or the Regulations, each Owner shall maintain, repair and replace in good condition and in accordance with all ordinances, the following:

- a. Paint, maintain, repair, replace, restore, and decorate the following:
 - (1) The interior surfaces of the walls and ceilings of the Unit, as well as the interior stairways, interior doors, landings, and the skylights, if any (including flashing), and floors of his Unit, and all elements thereof;
 - (2) The interior surfaces of window glass serving the Unit and outlets, all exterior light fixtures and bulbs controlled by a switch inside the Unit;
 - (3) All interior lighting fixtures and light bulbs, electrical outlets, all exterior light fixtures and bulbs controlled by a switch inside the Unit;
 - (4) All interior plumbing fixtures, toilets and sinks, and related equipment;
 - (5) All appliances, interior wall surfaces, drywall, cabinets, ceiling, floor coverings, permanent fixtures; and
 - (6) The roll-up door in the rear of each Unit.
 - (7) The Exclusive Use Area pads, the compressors air conditioning and related facilities.
 - (8) The Exclusive Use Area generator pad appurtenant to Unit 13, the generator and related facilities

ARTICLE 11
DESTRUCTION OF IMPROVEMENTS AND CONDEMNATION

11.1 Common Area Damage. If the Common Area or any Improvement thereon is damaged or destroyed, the Association shall cause the Common Area or such Improvement or facility to be repaired or reconstructed to as near to the condition existing prior to the damage or destruction as reasonably possible. If the cost of effecting total restoration of the Common Area exceeds the amount of insurance proceeds available to the Association, the shortfall shall be levied by the Board as a Reconstruction Assessment against each Condominium and its Owner.

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11.2 Interior Damage. With the exception of any casualty or damage insured against by the Association, restoration and repair of any damage to the interior of a Unit, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Unit so damaged. Such interior repair and restoration shall be completed as promptly as practical.

11.3 Notice to Owners and Listed Mortgagees. The Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Area, shall promptly notify the Owners and any Mortgagees who have filed a written request for such notice with the Board. The Board, immediately upon having knowledge of any damage or destruction affecting a Unit, shall promptly notify any Mortgagee who has filed a written request for such notice with the Board.

11.4 Condemnation of Common Area. If any portion of the Common Area is taken by condemnation, eminent domain or any proceeding in lieu thereof, then the Owners and their Mortgagees as a respective interest then appear, shall be entitled to receive a distribution from the award for such taken on an equal basis; provided, however, that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions, and limitations as set forth above in this Article for repairing damage or destroyed portions of the Common Area. Those portions of awards in condemnation which do not directly compensate Owners for takings of real property (for example, awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners who's personal property is taken, or who's relocation is intended to be facilitated.

ARTICLE 12
PARTITION AND SEVERABILITY OF INTERESTS

12.1 Suspension of Right of Partition. The right of partition is suspended pursuant to California Civil Code Section 1359, as to the Project. Each Owner expressly waives the provisions of California Civil Code Section 1359, as the same may be amended from time to time. Nothing in this Section shall be deemed to prohibit partition of a co-tenancy in a Condominium.

ARTICLE 13
INSURANCE

13.1 Required Insurance Coverage. The Declarant, and upon the formation, the Association acting by and through the Board, shall obtain and maintain and pay the premiums for the following insurance coverage:

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a. **Fire and Casualty Insurance.** A policy or policies of fire and casualty insurance ("Special Form"), with extended coverage endorsement in an amount as near as possible to the full current replacement cost, without deduction for depreciation or co-insurance, of all insurable improvements in the Common Area, together with all personal property owned by the Association issued with the maximum insurable fair market value, as determined by the insurance carrier. Said policy or policies shall be maintained for the benefit of Declarant, so long as Declarant remains the sole Owner of all Condominiums, the Association, the Owners and the Mortgagees, as their interests shall appear.

b. **Public Liability Insurance.** A policy or policies of comprehensive public liability insurance (with cross-liability endorsement, if obtainable) insuring the Association, the Board, the Owners, and Declarant for so long as one or both of the entities that comprise the Declarant is an Owner of a Condominium in the Project, and the agents and employees of each of the foregoing, against any liability to the public or to any Owner, his family, invitees and/or tenants, arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area. The limits of liability under this Section shall be set by the Board; provided, however, the set limits shall not be less than Two Million Dollars (\$2,000,000.00) for each occurrence applicable to death, personal injury or property damage arising out of a single occurrence, and provided further, that such policy limits shall meet or exceed the amount specified in California Civil Code Section 1365.9, and any successor and companion statutes, as the same may be amended from time to time.

c. **Fidelity Bond Coverage.** The Association shall maintain a fidelity bond in an amount equal to at least the estimated maximum of funds, including reserves, in the custody of the Association or a management agent at any given time during the term of the fidelity bond; provided, however, that the bond shall not be less than the sum equal to three (3) months aggregate of the Regular Assessments on all Condominiums plus reserve funds naming the Association as obligee and insuring against loss by reason of the acts of the Board, officers and employees of the Association and any management agent and its employees, whether or not such persons are compensated for their services.

* 13.2 **Optional Insurance Coverage.** The Association, acting at its option and by and through the Board, may purchase such other insurance as it may deem necessary or appropriate, including, but not limited to, directors' and officers' (errors and omissions) coverage, vandalism, workers compensation coverage and other insurance as it deems advisable insuring the Board, the officers of the Association and any property managers against any liability for any act or omission in carrying out their responsibilities, or resulting therefrom, earthquake insurance and flood insurance.

13.3 **Notice of Cancellation of Insurance.** If available, all policies of insurance (including fidelity bonds) maintained by the Association, pursuant to this Article, shall contain a provision that coverage under said policies may not be canceled, terminated, allowed to expire by their own terms or be substantially modified by any party without at least thirty (30) days prior written notice to the Board and to such Owners and such first Mortgagees who have filed

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written requests with the Association for such notice. A list of such first Mortgagees shall be made available by the Association to the insurance carrier upon request.

13.4 Annual Review of Coverage. The Board shall annually determine whether the amounts and types of insurance coverage that it has obtained pursuant to this Article shall provide adequate coverage for the Project, based upon the then current construction costs, insurance practices in the area in which the Project is located, and all other factors which may indicate that either additional insurance coverage or increased coverage under existing policies is necessary or desirable to protect the interests of the Association, the Owners and their respective Mortgagees. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain same.

The Association shall, upon issuance or renewal of insurance policies, but not less frequently than annually, notify the Members of the amount and type of insurance maintained by the Association to satisfy the insurance coverage requirements stated in California Civil Code Section 1365.9, and any successor and companion statutes.

13.5 Waiver of Claims. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence or breach of any agreement by any of said parties. All property insurance policies carried by the Association and any Owner shall contain a waiver of subrogation in accordance with the preceding sentence. For purposes of this Section, the deductible amount under any property insurance policy required to be or in fact maintained by the person or party waiving the claims shall be deemed to be "covered" by such policy so that, in addition to waiving claims for amounts in excess of such deductible (up to the covered limits, or deemed covered limits, of such policy), such waiving person or property waives all claims for amounts within such deductible.

13.6 Premiums, Proceeds and Settlement. Insurance premiums for all blanket insurance coverage and any other insurance coverage which the Board has determined is necessary to protect the interests of the Association, the Owners and their respective Mortgagees, shall be a Common Expense to be included in the Regular Assessments levied by the Association. All insurance proceeds paid to the Association shall be disbursed as follows: (a) in the event of any damage or destruction to the Common Area, such proceeds shall be disbursed in accordance with the provisions of the Article herein entitled "Damage of Improvements and Condemnation"; and (b) in the event of any other loss, the proceeds shall be disbursed as the Board shall deem appropriate, subject to the limitations set forth in the Article herein entitled "Mortgagee Protection." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, provided, however, that both Owners shall sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association.

13.7 Rights and Duties of Owners to Insure. Each Owner shall maintain property insurance on the Unit, the personal property and on all other property and improvements within the Unit. Nothing herein shall preclude any Owner from carrying any public liability insurance

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as he may deem desirable to cover his individual liability for damage to person or property occurring within the Unit or elsewhere upon the Project. If obtainable, such liability insurance coverage carried by an Owner shall contain a waiver of subrogation of claims against the Declarant, the Association and the Board, and their agents and employees, and all other Owners. Such other policies shall not adversely affect or diminish any liability under insurance obtained by the Association. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction for application by the Board to the same purposes as the reduced proceeds are to be applied.

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13.8 Trustee for Policies. The Association is hereby appointed and shall be deemed trustee for the interests of all insureds under the policies of insurance maintained by the Association. All insurance proceeds under such policies shall be paid to the Board, as trustees, and the Board shall have full power to receive such funds on behalf of the Association, the Owners and their respective Mortgagees, and to deal therewith as provided for in this Declaration.

13.9 Insurance Premiums. Insurance Premiums for any insurance coverage obtained by the Association and any other insurance deemed necessary by the Board are Common Expenses to be included in Regular Assessments. If a particular type of business use or special circumstance of any individual Owner is responsible for an increase in the premiums to obtain said policy or policies of insurance, the Board may require reimbursement from such Owner to compensate the Association for the higher premium payments, or may levy a Special Assessment upon such Owner in the amount of the higher premium payments.

ARTICLE 14
MORTGAGEE PROTECTION

14.1 Mortgagee Rights. Notwithstanding any other provisions in this Declaration, no amendment or violation of this Declaration shall defeat or render invalid the rights of a Mortgagee under any Mortgage upon one (1) or more Condominiums made in good faith and for value, provided that after the foreclosure of any such Mortgage, such Condominium(s) will remain subject to this Declaration. For purposes of this Declaration, "first Mortgage" means a Mortgage with first priority over other Mortgages on a Condominium, and "first Mortgagee" means the Mortgagee of a first Mortgage.

14.2 Effect of Amendments. Except as may otherwise be provided herein, no amendment of this Declaration or the Articles or the By-Laws of the Association shall affect the rights of any Mortgagee whose lien was created prior to recordation of such amendment.

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ARTICLE 15
DECLARANT'S RIGHTS AND RESERVATIONS

15.1 Period of Declarant's Rights and Reservations. Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Operator and the Common Area from the date of recordation of this Declaration until the Condominium in the Project has been conveyed by Declarant to an Owner. The rights, reservations and easements hereinafter set forth shall be prior and superior to all other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended or rescinded or affected by any amendment of this Declaration.

15.2 Declarant's Rights to Use Common Area in Promotion and Marketing of the Project. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Common Area such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development, marketing, sale, lease, sale and disposal of Condominiums within the Project, and may use the marketing name of the Project and the Association in connection with development, promotion, marketing, sale or lease of Condominiums within the Project.

15.3 Declarant's Right to Complete Development of Project. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to subdivide or resubdivide any portion of the Project or to otherwise complete its development; to maintain sales or leasing offices, construction offices or similar facilities on any Unit or other property owned by Declarant or owned by the Association within the Project, or to post signs incidental to developing, constructing, promoting, marketing, selling, reselling or leasing of Units within the Project in accordance with the City's Sign Code. Nothing in this Declaration shall limit the right of Declarant to alter its construction plans or designs or to rezone and amend its plans, or to require Declarant to seek approval of the Association or any of the activities of Declarant within the Project including those described in this Article.

15.4 Declarant's Rights to Grant and Create Easements. Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements, for access, utilities, drainage, water or other purposes incident to development and sale of the Project located in, on, under, over, across and within the Common Area.

15.5 Assignment of Declarant's Rights. All or any of the rights of Declarant created and reserved hereunder or elsewhere in this Declaration may be assigned by Declarant to any Owner or to any other successor in interest of Declarant's interest in the Project by an express written assignment which specifies the rights of Declarant so assigned. Such assignment shall be recorded in the Official Records of the County.

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ARTICLE 16
GENERAL PROVISIONS

16.1 Enforcement of this Declaration. The City shall have the right, but not the obligation, to enforce the provisions of this Declaration against the Association or the Owner. In the enforcement of this Declaration, the City shall not be limited to procedures or processes described in this Declaration, and may use any remedy provided under law or equity, including the City's Municipal Code. Wherever specific rights or remedies are expressly granted or vested in the Declarant for violation of any restriction, condition, covenant or reservation, such rights or remedies shall be vested solely in Declarant and not in any other Owner.

16.2 City's Enforcement Rights. In addition to all other rights granted to City pursuant to the provisions of this Declaration, the City shall have the following additional rights:

(i) **Enforcement by the City.** Each Owner acknowledges by acceptance of the deed or other conveyance therefor, whether or not it shall be expressed in any such deed or other instrument, that each of the covenants, conditions and restrictions set forth in this Article benefit the Public Parcel and the City, and that the City has a substantial interest to be protected with regard to assuring compliance with, and enforcement of, these covenants, conditions and restrictions and any amendments thereto. All such covenants, conditions and restrictions that concern the Public Parcel shall be enforced by the City by proceedings at law or in equity or by any method available to the Owners as provided in this Declaration.

In furtherance thereof, the City shall have the same rights and remedies to enforce a breach of a provision of this Declaration that is enforceable by the City that Declarant has to enforce a breach of this Declaration, including the right to enter upon all or any portion of the Property to remedy said breach at the expense of the violating party and to charge an assessment against an Owner or Declarant for a breach of a provision of this Declaration that is enforceable by the City, upon providing the Owner or the Declarant with such notices and hearing opportunities as the Declarant is obligated to provide an Owner for such a breach as more particularly set forth elsewhere in this Declaration. In the event said breach has been committed by an Owner, the City may enforce the foregoing rights against the breaching Owner. The City shall have the right to assess any Owner, including Declarant, for a breach of covenants set forth in this Declaration. To the fullest extent permitted by law, the City shall have the right to collect on any unpaid assessment levied by the City.

(ii) **Other Rights of City.** In the event of any violation or threatened violation of any of the provisions of this Declaration, then in addition to, but not in lieu of, any of the rights or remedies the City may have to enforce the provisions hereof, the City shall have the right to withhold or revoke, after giving written notice of said violation, any building permits, occupancy permits, certificates of occupancy, business licenses and similar matters or approvals pertaining to the Property or any part thereof or interest therein as to the violating person or one threatening violation.

(iii) **No City Liability.** The granting of a right of enforcement to the City does not create a mandatory duty on the part of the City to enforce any provision of this

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Declaration. The failure of the City to enforce this Declaration shall not give rise to a cause of action on the part of any person. No officer or employee of the City shall be personally liable to any Owner, for any default or breach by the City under this Declaration.

16.3 Dispute Resolution. Any controversy or dispute between and/or among Declarant, the Operator, and an Owner or Owners (the "Parties") involving the construction, interpretation, application, performance or breach of the terms, covenants, conditions and regulations of this Declaration, or in any way arising under this Declaration, or in any way arising under this Declaration (a "Covered Dispute") shall be determined pursuant to judicial reference to be conducted in Riverside County in accordance with the provisions of California Civil of Civil Procedures Sections 638 et seq., as the same may be amended from time to time. Except as expressly provided herein, the referee shall follow all of the statutes and rules applicable in a proceeding before the Superior Court of the State of California for the County of Riverside, including, without limitation the statutes and rules pertaining to discovery. The Parties shall promptly and diligently cooperate with one another and the referee to obtain a prompt and expeditious resolution of the Covered Dispute in accordance with the terms of this section. The Parties agree that the referee shall have the power to decide all issues of fact and law and report his/her decision on such issues, and to issue all legal and equitable relief appropriate under the circumstances of the Covered Dispute before him/her.

16.4 Breach Shall Not Permit Termination. No breach of this Declaration shall entitle any Owner or the Operator to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect, in any manner, any other rights or remedies which any Owner or the Operator may have hereunder by reason of any such breach.

16.5 Breach Shall Not Defeat Mortgage. No breach of any of the terms, conditions, covenants or regulations of this Declaration shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but, except as otherwise provided herein, such term, condition, covenant, or restriction shall be binding upon and effective against any Person who acquired title to the Project, or any portion thereof, by foreclosure, trustee's sale or otherwise.

16.6 Mortgagee Notice and Right to Cure. The Mortgagee under any Mortgage affecting any Condominium shall be entitled to receive notice of any default by the Owner of such Unit, and to cure such default, provided that such Mortgagee shall have requested such notice in writing from the Declarant. The giving of any notice of default or the failure to deliver a copy thereof to any Mortgagee shall in no event create any liability on the part of the Owner or the Operator so declaring a default. If any notice shall be given of the default of an Owner and such defaulting owner has failed to cure such default, then and in that event any such Mortgagee under any Mortgage affecting the Condominium of the defaulting Owner shall be entitled to receive an additional notice that the defaulting Owner has failed so to cure or to commence to cure such default in which event such Mortgagee shall have sixty (60) days after said additional notice has been so given to it to cure such default, or, if such default is of such a nature that it cannot be cured within sixty (60) days, to commence curing such default within such time and diligently prosecute such cure to completion. Additionally, notwithstanding anything in this Declaration to the contrary, an Owner may authorize and empower a Mortgagee holding a

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Mortgage encumbering its Unit and/or any ground lessor, to exercise any of the remedies otherwise available to such Owner under the terms and provisions of this Declaration.

16.7 Mortgagee Modifications. The Owners shall execute such amendments or modifications to this Declaration which shall be reasonably requested by any Mortgagee (whether or not such Mortgagee's Mortgage is now of record). Such requested amendments or modifications shall be deemed reasonable if they do not increase any financial obligations of an Owner, Declarant, or the Association and do not unreasonably or materially limit or abridge an Owner's or the Declarant's rights hereunder.

16.8 Estoppel Certificate. The Association, upon written request of any other Owner or Permittee, shall issue to the requesting Owner or to any prospective Mortgagee or purchaser of such Owner's Condominium, an estoppel certificate stating: (a) whether the Owner or Association issuing such certificate knows of any default under this Declaration, and if there are known defaults, specifying the nature thereof; (b) whether to its knowledge this Declaration has been assigned, modified or amended in any way (and if it has, stating the nature thereof); and (c) that, to such Owner or Operator's knowledge, this Declaration is in full force and effect as of the date of such certificate.

16.9 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose in creating a plan for the use, occupancy, and enjoyment of the Project. The captions of the Articles, Sections and other subdivisions of this Declaration are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction.

16.10 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of California.

16.11 No Partnership. Nothing in this Declaration nor any acts of the Owners shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any other business association among the Owners.

16.12 Severability. If any term, restriction, covenant or condition contained in this Declaration shall, to any extent, be invalid or unenforceable, the remainder of this Declaration (or the application of such term, restriction, covenant or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms, regulations, covenants or conditions which were made subject to or conditioned upon such invalid or unenforceable term, regulations, covenant or condition, shall not be affected thereby, and each term, restriction, covenant and condition of this Declaration shall be valid and enforceable to the fullest extent permitted by law, unless enforcement of this Declaration as so invalidated would be unreasonable or grossly inequitable under all circumstances or would frustrate the purposes of this Declaration.

16.13 Successors. This Declaration shall, except as otherwise provided herein, run with the land, both as respects benefits and burdens stated herein, and shall be binding upon and inure

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to the benefit of the Owners and their respective heirs, executors, administrators, successors and assigns.

16.14 Time of Essence. Time is of the essence with respect to the performance of each of the terms, regulations, covenants and conditions contained in this Declaration.

16.15 Notices. Any notice, demand, request, consent, approval, designation or other communication which any Owner or the Association is required or desires to give or make or communicate to the other Owners, to the Association or to the City hereunder shall be in writing and shall be given or made or communicated either by personal delivery (which includes delivery by telephonic facsimile, telex or private courier or messenger service) or by United States registered or certified mail, return receipt requested, addressed, in the case of Declarant or Operator to:

If to Declarant: GARMONT ENTERPRISES, LLC
Westlake Corporate Centre
875 Westlake Blvd. #114
Westlake Village, California 91361

If to an Owner: The address to which the deed conveying title to such Owner's Unit is returned by the County Recorder of Riverside County

subject to the right of Declarant and any Owner, to designate a different address by notice similarly given at least ten (10) days before the change is to become effective. Any notice, demand, request, consent, approval, designation, including any duplicate original, or other communication shall be deemed to have been given, made or communicated, as the case may be (a) on the date personal delivery was effected (if personally served) or, (b) if the same was sent by the United States mail as registered or certified matter, with postage thereon fully prepaid, then on the delivery date or attempted delivery date shown on the return receipt, or (c) on the date the notice is delivered by courier service (including Federal Express, Express Mail or similar service) to the address of the Person to whom it is directed. Refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat nor delay the giving of a notice.

16.16 No Third Party Beneficiary. Except for the provisions of this Declaration which are for the benefit of a Mortgagee, the City or any other governmental agency, the provisions of this Declaration are for the exclusive benefit of the Owners, Declarant, and their successors and assigns, and not for the benefit of any third party, and this Declaration shall not be deemed to confer any rights, express or implied, upon any third party.

16.17 Construction by Declarant. Except as specifically set forth in this Declaration, nothing shall limit the right of Declarant to alter any portion of the Project still owned by Declarant, or to construct such additional Improvements as Declarant deems advisable. Such rights shall include, but shall not be limited to, erecting, constructing and maintaining on the Project such structures and displays not specifically prohibited hereunder which may be

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reasonably necessary for the conduct of business of completing the development of the Project and disposing of the same by sale, lease or otherwise. Declarant shall be obligated to repair any damage to and complete any restoration of the Project caused by such activities of Declarant within a reasonable time after the occurrence of such damage or need for restoration. Nothing in this Declaration shall limit the right of Declarant at any time prior to the acquisition of title by a purchase from Declarant to establish on the Project additional licenses, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary and proper to the development and disposal of the Project. Declarant reserves the unilateral right to alter its construction plans and designs as it deems appropriate.

16.18 Attorneys' Fees. In any action or arbitration proceeding to enforce or interpret the terms of this Declaration, the party prevailing in that action shall be entitled to recover its reasonable attorneys' fees and costs of suit, both at trial and on appeal.

16.19 Mitigation of Damages. In all situations arising out of this Declaration, Owners shall attempt to avoid and mitigate the damages resulting from the conduct of any other Owner. Each Owner shall take all reasonable measures to effectuate the provisions of this Declaration.

16.20 Amendments. Prior to Close of Escrow for the sale of a Condominium to Owner, this Declaration may be amended, restated or terminated by an instrument executed by Declarant provided that such instrument is also first approved by the City. At any time subsequent to the conveyance of a Unit to an Owner (other than Declarant), this Declaration may be amended only by an affirmative vote, in person or by proxy, or by written consent of: (i) Declarant, so long as Declarant owns any portion of the Project subject to this Declaration; and (ii) the fee Owners of at least fifty one percent (51%) of the gross square footage of the Project (excluding Declarant); provided, however, that the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed to be taken under said provision. In addition, if any Mortgagees have filed a written request with Declarant or the Association to receive a copy of any such amendment, Declarant or the Secretary of the Board of Directors of the Association shall deliver a copy of such amendment to such Mortgagees at the address specified in the request. Each such Mortgagee shall be deemed to have approved the amendment if such Mortgagee fails to deliver a written response to the Association within thirty (30) days after the first Mortgagee receives the notice. Notice of the subject matter of a proposed amendment to this Declaration in a reasonably detailed form must be included in the notice of any meeting or written communication in which a proposed amendment is to be considered. An amendment made in accordance with the provisions set forth in this Section 16.20 shall be effective when executed by the Board, which shall certify that the amendment has been approved by the membership and, where appropriate by the first Mortgagees, in the percentages set forth herein above and recorded in the Office of the County Recorder of Riverside County. Upon such recordation, the amendment shall be effective and binding upon all Owners and all Mortgagees, regardless of whether such Owner or such Mortgagee consented to the amendment.

Notwithstanding any other provision of this Section 16.20, every proposed amendment of this Declaration which purports to alter, modify or terminate any provision herein shall not become effective until the City has approved such change or termination. The City may impose

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appropriate conditions on its approval reasonably necessary to ensure that the Conditions of Approval will continue to be applicable to and enforceable on the Project, the Units and the Owners. The Declarant or the Association, if Declarant is no longer an Owner, shall send a written request for approval by first class mail, return receipt requested, addressed to the City's Community Development Director and shall enclose a copy of the proposed amendment. The request shall specify that a response is required within thirty (30) days of receipt of such notice either to approve or disapprove in writing the proposed amendment. If the City fails either to approve or to disapprove the proposed amendment within said thirty (30) day period, then the City will be deemed to have consented to such amendment.

Notwithstanding any other provisions to the contrary set forth herein, so long as Declarant is an Owner of a Condominium in the Project, this Declaration, may not be amended without the prior written consent of Declarant, which consent shall not be unreasonably withheld.

16.21 Term. Except as otherwise set forth herein, the covenants, conditions and regulations of this Declaration shall run with and bind the Project and shall inure to the benefit of and be enforceable by Declarant, the Operator or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded in the Official Records of the County, after which time said covenants, conditions and regulations shall automatically be extended for successive periods of ten (10) years, unless an instrument executed by Declarant (for so long as Declarant is an Owner), and by a sixty-seven percent (67%) vote of the Owners is recorded at least one (1) year prior to the end of any such period, agreeing to change said covenants, conditions and regulations in whole or in part, or to terminate this Declaration in its entirety.

16.22 Indemnification of Directors, Officers, Employees and Agents. The Association shall indemnify its directors, officers, employees and agents as provided for in California Corporations Code Section 7237, and any successor or companion statute.

16.23 Limitation of Liability. Neither the Declarant nor the Association nor any officer or director of the Operator shall be liable to any Owner, or to any other Person, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of Declarant, the Operator, or any such officer or director provided they have acted in good faith and without willful or intentional misconduct.

16.24 Force Majeure. Declarant and each Owner shall be excused from performing any of their respective obligations or undertakings provided for in this Declaration, except any obligation to pay any sums of money under applicable provisions hereof, in the event and for so long as the performance of such obligation is prevented, delayed, retarded, or hindered by (a) fire or explosion; (b) earthquake, flood, action of elements, or any other Act of God; (c) war, invasion, insurrection, riot, mob, violence, sabotage or malicious mischief; (d) inability to procure or general shortage of labor, equipment, facilities, materials, or supplies in the open market or failure of transportation; (e) strike, lockout, or other action of any labor union; (f) condemnation, requisition, law, order of government or civil or military or naval authority; or (g)

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any other cause (excluding financial inability), whether similar or dissimilar to the foregoing, not within the reasonable control of such Person. For the purpose of this Section, a cause shall be beyond the control for the Person whose obligation is hindered or prevented only if such cause would prevent or hinder the performance of an obligation by any Person similarly situated (such as a transportation strike), and this Section shall not apply to causes peculiar to the Person claiming the benefit of this Section (such as financial inability or failure to order materials in a timely fashion). Notwithstanding the foregoing, each Person having an obligation under this Declaration shall take all reasonable actions to mitigate the effects of any such cause by engaging substitute performance or otherwise.

16.25 Conflicts. If there is a conflict among the provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations, the following shall govern the interpretation thereof:

- a. This Declaration shall prevail over the Articles, Bylaws and Rules and Regulations;
- b. The Articles shall prevail over the Bylaws and Rules and Regulations; and
- c. The Bylaws shall prevail over the Rules and Regulations.

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Declarant has executed this instrument on August 3, 2006, to be effective upon its recordation in the Official Records of Riverside County, California.

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"DECLARANT"

GARMONT ENTERPRISES, LLC, a California limited liability company

By: [Signature]
Name: Amey Brown
Its: MANAGER

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STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

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On August 3, 2006, before me, Helen Kim, Notary Public personally appeared Gary Brown, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Helen Kim
Notary Public in and for said State

(Seal)



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CONSENT OF LIENHOLDER AND SUBORDINATION OF LIEN

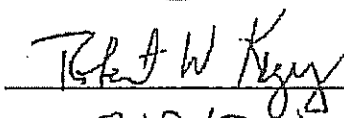
The undersigned, First Private Bank & Trust, a National Banking Association, as beneficiary of the Deed of Trust recorded on August 22, 2005, as Instrument No. 2005-0686786, and modified by an instrument recorded on May 18, 2006, as Instrument No. 2006-0339540, in the Official Records of Orange County, California does hereby consent to the execution and recordation of the attached, and does hereby subordinate the Deed of Trust to the Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Desert Springs Professional Office Park (the "Declaration"), and to any amendment that may be required for the purpose of complying with any law, regulation, or other requirement City, County of any State or Federal agency, to the same extent and with the same force and effect as if the Declaration had been executed and recorded prior to the execution and recordation of the Deed of Trust. Nothing contained in this Consent and Subordination shall be deemed to release the Trustor under said Deed of Trust from any obligations under the Deed of Trust or any other loan documents executed in connection with the loan secured by said Deed of Trust.

Dated: AUGUST 4, 2006

"BENEFICIARY"

First Private Bank & Trust,
a National Banking Association

By: 
Its: EXEC. J. P. 15

By: 
Its: SVP/Regional VP

18/03/06

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STATE OF CALIFORNIA)
)SS:
COUNTY OF LOS ANGELES

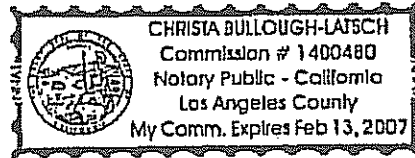
On this 4 day of August, 2006 before me, CHRISTA BULLOUGH-LATSCH notary public, personally appeared

E. Wayne Lewis

NAME(S) OF SIGNER(S)

personally known to me -OR- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Christa

SIGNATURE OF NOTARY
Christa Bullough-Latsch, Notary Public

(SEAL)

STATE OF CALIFORNIA)
)SS:
COUNTY OF LOS ANGELES

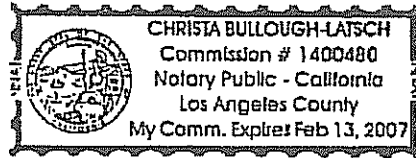
On this 4 day of August, 2006 before me, CHRISTA BULLOUGH-LATSCH notary public, personally appeared

Robert W. Kasv

NAME(S) OF SIGNER(S)

personally known to me -OR- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Christa

SIGNATURE OF NOTARY
Christa Bullough-Latsch, Notary Public

(SEAL)

06 2202686

10/03/06

This is a true and certified copy of the record
if it bears the seal, imprinted in purple ink,
of the Registrar-Recorder/County Clerk

Greg B. Melnick REGISTRAR-RECORDER/COUNTY CLERK
LOS ANGELES COUNTY, CALIFORNIA

