

Kim Bryant

Recording Requested By  
and  
When Recorded Return To:

MCDONALD, RIDDLE, HECHT & WORLEY  
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617 Financial Square  
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San Diego, California 92101

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DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, made this 14<sup>th</sup> day of Feb., 1977, by TECHBILT CONSTRUCTION CORP., a California corporation, hereinafter called "Declarant;"

This Declaration is made with reference to the following

RECITALS:

A. Declarant is the owner of the real property located in the City of San Diego, County of San Diego, California, more particularly described on Exhibit "A" attached hereto, hereinafter called the "Real Property."

B. Declarant has or will hereafter file a Condominium Plan with the Office of the County Recorder of San Diego County, California covering a portion of the Real Property, to wit:

Lot 11 of LA JOLLA ALTA P.R.D. UNIT NO. 5  
according to Map thereof No. 8256 filed in  
the Office of the County Recorder of San  
Diego County, California on February 11, 1976,

hereinafter called the "Condominium Property;"

C. Declarant has or intends to improve the Condominium Property by constructing thereon condominium units and intends to establish a condominium project under the provisions of the California Condominium Act providing for separate title to Living Units and Garages (as hereinafter defined) appurtenant to which will be an undivided fractional interest in all of the Condominium Property other than the Living Units and Garages.

D. The development of the Condominium Property is the first phase of a planned six (6) phase overall condominium project. The second phase is planned to be constructed on Lot 12 of La Jolla Alta P.R.D. Unit No. 5 and to consist of 16 Condominiums.

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The third phase is planned to be constructed on Lot 13 of La Jolla Alta P.R.D. Unit No. 6 and to consist of 12 Condominiums. The fourth phase is planned to be constructed on Lot 14 of La Jolla Alta P.R.D. Unit No. 6 and to consist of 22 Condominiums. The fifth phase is planned to be constructed on Lots 17 and 18 of La Jolla Alta P.R.D. Unit No. 7 and to consist of 28 Condominiums. The sixth phase is planned to be constructed on Lot 19 of La Jolla Alta P.R.D. Unit No. 8 and on Lot 7 of La Jolla Alta P.R.D. Unit No. 2 and to consist of 28 Condominiums: There is no guarantee that the phasing of the Condominium Project will be as set forth above. There is no guarantee that all phases will be constructed or completed. The owners of a condominium in each phase will receive title to a Living Unit and Garage plus an undivided fractional interest as tenant in common to the Common Area (as hereinafter defined) located within that phase. In addition, each owner of a condominium will receive the exclusive right to use and occupancy of a portion of the Common Area within that phase designated as Patios, Entryways and, in some cases, Balconies, all as shown on the Condominium Plan (as hereinafter defined) covering that phase. Each owner of a condominium will also receive an easement for ingress, egress and recreational use over portions of the Common Area of each of the other phases. If all phases are completed as planned there will be a total of 122 Condominiums in the overall Condominium Project. Each Condominium shall have appurtenant to it a membership in LA JOLLA ALTA COMMON COUNCIL NO. 1, a California corporation not for profit ("Corporation"), which will be the management body for the overall condominium project.

E. The development of the Condominium Property and of the overall condominium project consisting of the six (6) phases described above in Paragraph D are also phases of the overall planned development of the Real Property, of which the six (6) phases are only a part. The overall planned development of the Real Property will consist of detached and attached single-family homes on separate lots as well as condominiums. Each condominium in the Condominium Property has appurtenant to it a membership in LA JOLLA ALTA MASTER COUNCIL, a California corporation nor for profit ("Association") which is the management body for the overall planned development of the Real Property. It is planned that all phases of the condominium project described in Paragraph D above shall have appurtenant to it a membership in the Association. Upon the development of the remainder of the Real Property owners of lots and condominiums therein may become members of the Association. There is no guarantee that the remainder of the Real Property will be developed or that all of the owners of lots or condominiums therein will become members of the Association. In the event all of the Real Property is developed as planned there will be approximately 649 total residential dwellings each of which may have appurtenant to it a membership in the

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Association. The Association will own the Recreation Area as hereinafter defined and may own certain additional property.

F. Before selling or conveying any interests in the Condominium Property Declarant desires to subject the Condominium Property in accordance with a common plan to certain covenants, conditions and restrictions for the benefit of Declarant and any and all present and future owners of the Real Property.

NOW, THEREFORE, Declarant hereby certifies and declares and does hereby establish the following general plan for the protection and benefit of all of the Real Property described above and has fixed and does hereby fix the following protective covenants, conditions and restrictions upon each and every ownership interest in the Condominium Property described above, under which said covenants, conditions and restrictions each ownership interest in the Condominium Property shall be hereafter held, used, occupied, leased, sold, encumbered, conveyed and/or transferred. Each and all of said covenants, conditions and restrictions are for the purpose of protecting the value and desirability of and shall inure to the benefit of all of the Real Property described above and shall run with and be binding upon and pass with the Condominium Property and each and every ownership interest therein and shall inure to the benefit of, apply to and bind the respective successors in title or interest of Declarant.

## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to LA JOLLA ALTA MASTER COUNCIL, a California corporation not for profit, its successors and assigns.

Section 2. "Board A" shall mean and refer to the Board of Directors of the Association.

Section 3. "Corporation" shall mean and refer to LA JOLLA ALTA COMMON COUNCIL NO. 1, a California corporation not for profit, its successors and assigns.

Section 4. "Board B" shall mean and refer to the Board of Directors of the Corporation.

Section 5. "Real Property" shall mean and refer to that real property located in the City of San Diego, County of San Diego, California, described on Exhibit "A" attached hereto.

Section 6. "Condominium Property" shall mean and refer to that certain real property located in the City of San Diego,

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County of San Diego, State of California, more particularly described as:

Lot 11 of LA JOLLA ALTA P.R.D. UNIT NO. 5 according to Map thereof No. 8256 filed in the Office of the County Recorder of San Diego County, California on February 11, 1976.

Section 7. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or Parcel Map of the Real Property with the exception of the Recreation Area, the Owner of which is required by Declaration to be a member of the Association; provided, however, that in the event a Condominium Plan is recorded covering a Lot, then "Lot" shall mean and refer to each Condominium as shown and described on the Condominium Plan.

Section 8. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of fee simple title to any Lot which is a part of the Real Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Recreation Area" shall mean all real property (including improvements thereon) owned by the Association for the common use and enjoyment of the Owners. The Recreation Area to be owned by the Association at the time of the conveyance of the first Lot in the third phase of the condominium project as described in Recital D. above, is described as follows:

Lots 8 and 9 of LA JOLLA ALTA P.R.D. UNIT NO. 3 according to Map thereof No. 8251 filed in the Office of the County Recorder of San Diego County, California on February 3, 1976.

Section 10. "Condominium Plan" shall mean and refer to the Condominium Plan(s) recorded pursuant to California Civil Code Section 1351 covering the Condominium Property and all property annexed thereto, including such amendments thereto as may from time to time be recorded.

Section 11. "Condominium" shall mean and refer to a fee simple estate in the Condominium Property as defined in Section 783 of the California Civil Code and shall consist of a separate interest in a Living Unit and Garage and an undivided fractional interest as tenant in common in the Common Area.

Section 12. "Living Unit" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan; provided, however, that the following are not part of any Living Unit: Bearing walls, columns, floors, roofs, foundations, central heating, central refrigeration and central air conditioning equipment, reservoir tanks, pumps and

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other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Living Unit.

Section 13. "Garage" shall mean and refer to those portions of the Condominium Property shown and described as such on the Condominium Plan; provided, however, that the following are not part of any Garage: Bearing walls, columns, floors, roofs, foundations, central heating, central refrigeration and central air conditioning equipment, reservoir tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Garage.

Section 14. "Common Area" shall mean and refer to all portions of the Condominium Property not located within a Living Unit or Garage.

Section 15. "Exclusive Use Area" shall mean and refer to those portions of the Common Area to which an exclusive right to use is granted to an Owner as shown and described on the Condominium Plan and shall consist of Patios, Entryways and Balconies.

Section 16. "Declarant" shall mean and refer to TECHBILT CONSTRUCTION CORP., a California corporation, its successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

Section 17. "Mortgage" shall mean and refer to a Deed of Trust as well as a mortgage.

Section 18. "Mortgagee" shall mean and refer to a beneficiary under or holder of a Deed of Trust as well as a mortgagee.

ARTICLE II

PROPERTY RIGHTS IN RECREATION AREA

Section 1. Every Owner of a Lot shall have a right and easement of ingress and egress and of enjoyment in and to the Recreation Area which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Recreation Area;

(b) The right of the Association, after an opportunity for a hearing before Board A as provided in the Bylaws of the

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Association, to suspend the voting rights and right to use of the recreational facilities by an Owner for nonpayment of any assessment by the Association against his Lot or he is otherwise in breach of his obligations under this Declaration, the Articles of Incorporation or Bylaws of the Association or the rules and regulations of Board A all as set forth in the Bylaws of the Association.

(c) The right of the Association to dedicate or transfer all or any part of the Recreation Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective except upon the vote or written consent of two-thirds (2/3) of each class of members of the Association.

(d) The right of Board A to adopt rules and regulations regarding reasonable use of the Recreation Area.

Section 2. Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Recreation Area and facilities to the members of his family, his tenants or contract purchasers who reside on his Lot; provided, however, that if any Owner delegates such right of enjoyment to tenants or contract purchasers, neither the Owner nor his family shall be entitled to use such facilities during the period of delegation. Guests of an Owner may use such facilities only in accordance with rules and regulations adopted by Board A.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Every Owner shall promptly, fully and faithfully comply with and abide by the Articles of Incorporation and Bylaws of the Association and the rules and regulations adopted from time to time by Board A and the officers of the Association.

Section 2. The Association shall have two (2) classes of voting membership, as set forth in the Bylaws of the Association.

Section 3. The Association, acting through Board A, shall have the sole and exclusive right and duty to manage, operate, control, repair, replace and restore the Recreation Area together with the improvements, trees, shrubbery, plants and grass thereon, all as more fully set forth in the Bylaws of the Association.

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Section 4. In discharging their duties and responsibilities, Board A acts on behalf of and as the representative of the Association which acts on behalf of and as the representative of the Owners and no member of Board A shall be individually or personally liable for performance or failure of performance of his duties and responsibilities unless he fails to act in good faith.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 1. The Declarant, for each Lot owned within the Condominium Property, hereby covenants, and each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (i) regular assessments, and (ii) special assessments, such assessments to be established and collected as provided in the Bylaws of the Association. The regular and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of its members and for the improvement and maintenance of the Recreation Area.

Section 3. Both regular and special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis or otherwise as determined by Board A.

Section 4. The regular assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance by Declarant of a Lot in the third phase of the development of the condominium project as set forth in Recital D. above to an Owner. Regular assessments for Lots in subsequent phases of the development of the Real Property shall commence on the first day of the month following the conveyance by Declarant of a Lot to an Owner in that phase. Written notice of the regular assessment shall be sent to every Owner subject thereto. The amount and due dates of the regular assessment shall be established by Board A as provided in the Bylaws of the Association. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the

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Association setting forth whether the assessments on a specified Lot have been paid.

Section 5. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate provided in the Bylaws of the Association. The Association may bring an action at law against the Owner personally obligated to pay the same, and in addition thereto or in lieu thereof may foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Recreation Area or abandonment of his Lot.

Section 6. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage made in good faith and given for value. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage, foreclosure or deed in lieu of foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V

##### MEMBERSHIP AND VOTING RIGHTS IN CORPORATION

Section 1. Every Owner of a Condominium shall be a member of the Corporation. Membership shall be appurtenant to and may not be separated from ownership of any Condominium. Each Owner is obligated promptly, fully and faithfully to comply with and conform to the Articles of Incorporation and Bylaws of the Corporation and the rules and regulations adopted thereunder from time to time by Board B and officers of the Corporation.

Section 2. Except as otherwise provided herein, the Corporation acting through Board B and officers shall have the sole and exclusive right and duty to manage, operate, control, repair, replace or restore all of the Common Area or any portion thereof, together with the improvements, trees, shrubbery, plants and grass thereon, all as more fully set forth in this Declaration of Restrictions, the Articles of Incorporation and the Bylaws of the Corporation.

Section 3. Board B shall have the right to adopt reasonable rules not inconsistent with the provisions contained in this Declaration, and to amend the same from time to time relating to the use of the Common Area and the recreational and other facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to traffic, automobile parking, outside storage of boats, trailers, bicycles and



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other objects, disposal of waste materials, drying of laundry, control of pets and other activities which, if not so regulated, might detract from the appearance of the community or offend or cause inconvenience or danger to persons residing or visiting therein. Such rules may provide that the Owner of a Condominium whose occupant leaves property on the Common Area in violation of the rules may be assessed to cover the expense incurred by the Corporation in removing such property and storing or disposing thereof.

Section 4. Board B shall have the right to enter upon any Living Unit, Garage and Exclusive Use Area to the extent such entry is necessary to carry out the repainting or repair of the exterior surfaces of any building, or to perform any work required in the maintenance and upkeep of the Common Area, or for any other purpose reasonably related to the performance by Board B of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such manner as to interfere with the possession and the enjoyment of the occupant of such Living Unit, Garage and Exclusive Use Area as little as is reasonably possible and shall be preceded by reasonable notice wherever the circumstances permit.

Section 5. In discharging their duties and responsibilities, Board B acts on behalf of and as representative of the Corporation which acts on behalf of and as representative of the Owners, and no member of Board B shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he fails to act in good faith.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS TO CORPORATION

Section 1. The Declarant, for each Condominium owned within the Condominium Property, 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 agrees to pay to the Corporation in accordance with the Bylaws of the Corporation: (i) regular assessments, and (ii) special assessments, such assessments to be established and collected as provided in the Bylaws of the Corporation. The regular assessments and any special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Condominium against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person or persons who were the Owner of such property at the time when the assessment fell due.

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The personal obligation for delinquent assessments shall not pass to an Owner's bona fide and for value successors in title unless expressly assumed by them.

Section 2. Both regular assessments and special assessments shall be fixed for all Condominiums in approximate proportion to the floor area of the Living Unit as hereinafter set forth and may be collected on a monthly basis or otherwise as determined by Board B. The regular and special assessments for each Condominium shall be determined by allocating the budget for the Corporation among the Condominiums so that (i) all Condominiums containing a Living Unit with a floor area of less than 2,000 sq. ft. are assessed equally and all Condominiums containing a Living Unit with a floor area of more than 2,000 sq. ft. are assessed equally, and (ii) the ratio of assessment for the Condominiums containing Living Units with a floor area of more than 2,000 sq. ft. to the assessments for Condominiums containing Living Units with a floor area of less than 2,000 sq. ft. is 10 to 7. Condominium Units 1, 2, 3, 4, 5, 9, 10, 11, 13, 14, 15 and 16, as shown on the Condominium Plan, contain Living Units with a floor area of less than 2,000 sq. ft. and Condominium Units 6, 7, 8 and 12, as shown on the Condominium Plan, contain Living Units with a floor area of more than 2,000 sq. ft.

Section 3. Board B shall fix the amount and due dates of regular assessments against each Condominium as provided for in the Bylaws of the Corporation. Written notice of the assessment shall be sent to every Owner subject thereto. The Corporation shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Corporation setting forth whether the assessments on a specified Condominium have been paid.

Section 4. Any assessment not paid within thirty (30) days after the date due shall bear interest from the date due at the rate provided for in the Corporation's Bylaws. The Corporation may bring an action at law against the Owner personally obligated to pay the same and, in addition thereto or in lieu thereof, foreclose the lien against the property as set forth in the Bylaws of the Corporation. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or Recreation Area or abandonment of his Condominium or any part thereof.

Section 5. At any time after any assessments levied by the Corporation affecting any Condominium have become delinquent, Board B may file for recording in the Office of the San Diego County Recorder a notice of delinquency as to such Condominium, which notice shall state all amounts which have become delinquent with respect to such Condominium and the costs (including

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attorney's fees) and interest which have accrued thereon, the amount of any assessments relating to such Condominium which are due and payable although not delinquent, a description of the Condominium with respect to which the delinquent assessments are owed, and the name of the record or reputed record Owner of such Condominium. Such notice shall be signed by the President or other officer of Board B, or by a majority of the members of the Board, or by the Corporation's attorney. In the event the delinquent assessments and all other assessments which have become due and payable with respect to the same Condominium together with all costs (including attorney's fees) and interest which have accrued on such amounts are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien. Immediately upon recording of any notice of delinquency pursuant to the foregoing provisions of this Section, the amounts delinquent, as set forth in such notice, together with the costs, including attorney's fees, penalties and interest accruing thereon, shall be and become a lien upon the Condominium described therein, which lien shall also secure all other payments and/or assessments which shall become due and payable with respect to said Condominium following such recording, and all costs, including attorney's fees, penalties and interest accruing thereon.

Section 6. Each assessment lien of the Corporation may be foreclosed as and in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to Section 2924 of the California Civil Code, and to that end a power of sale is hereby conferred upon the Corporation.

Section 7. The Corporation's lien of the assessments provided for herein shall be subordinate to the lien of any mortgage made in good faith and for value upon any Condominium. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a mortgage made in good faith and for value or any conveyance in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from lien rights for any assessments thereafter becoming due.

Section 8. Upon acquisition of record title to a Condominium from Declarant, each such Owner shall make a contribution to the capital of the Corporation in an amount equal to two (2) times the amount of the regular monthly assessment for that Condominium as determined by Board B.

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ARTICLE VII

USE OF LIVING UNITS, GARAGES AND COMMON AREA  
AS DESCRIBED IN CONDOMINIUM PLAN

Section 1. Each Living Unit shall be improved, used and occupied for private, single-family dwelling purposes only, and no portion thereof the Garage nor the Common Area shall be used for any commercial purpose whatsoever; provided, however, Declarant may use any of the Living Units and Garages owned by Declarant as model homes and sales offices during that period of time commencing when the Condominiums are first sold or offered for sale to the public and ending when all the Condominiums in all phases of the project are sold and conveyed by Declarant to separate owners thereof.

Section 2. Each Owner shall have the right to lease his Living Unit and Garage together provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of this Declaration, the Bylaws of the Corporation and the rules and regulations of Board A and Board B; and, provided further, that no such lease shall be for transient or hotel purposes.

Section 3. No Living Unit, Garage or improvements situated therein shall be occupied or used for any purpose or in any manner which shall cause such improvements to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any such policy or policies representing such insurance to be cancelled or suspended, or the company issuing the same to refuse renewal thereof.

Section 4. Not exceeding one (1) usual and ordinary household pets (exclusive of caged birds and aquarium fish) may be kept in any Living Unit and Garage without the prior written consent of Board B. Pets shall not be allowed on the Common Area except as may be permitted by rules made by Board B. Except as provided hereinabove, no animals, livestock, birds or poultry shall be brought within the Condominium Property or kept in any Living Unit or Garage or on any portion of the Common Area.

Section 5. No Living Unit or Garage shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other such areas or annoy them by unreasonable noise or otherwise, nor shall any nuisance be committed or permitted to occur in any Living Unit, Garage or on the Common Area.

Section 6. No signs other than one (1) sign of customary and reasonable dimensions advertising a Condominium for sale or

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lease shall be erected or displayed in any Living Unit or Garage so that it is visible from without such area without the prior written permission of Board B, and all signs must conform with applicable City of San Diego ordinances. No signs shall be erected or displayed on the Common Area except signs placed by authority of Board B. Anything contained in this Declaration to the contrary notwithstanding, Declarant shall have the right to install and maintain during the sales period set forth in Section 1 above such signs, poles and advertisements as it deems appropriate in connection with its sales program for the sale to the public of Condominiums.

Section 7. There shall be no outside television or radio antennae, masts, poles or flag poles constructed, installed or maintained on the Condominium Property for any purpose whatsoever without the prior written consent of Board B.

Section 8. Except as otherwise specifically provided herein, nothing herein contained shall give the Owner the right to paint, decorate, remodel, landscape, adorn, alter, improve or modify any part or parcel of the Common Area without the written consent of Board B.

Section 9. No noxious or offensive activity shall be carried on in any Living Unit or Garage or on the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners other than construction or repair of improvements made at Board B's instruction or at Declarant's instruction. Nothing shall be done in any Living Unit or Garage or in, on or to the Common Area which will impair the structural integrity of any building, or which would structurally change any building located therein. Except as otherwise provided herein, nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of Board B. All equipment, garbage cans, wood piles or storage piles shall be kept screened and concealed from view of neighboring Living Units, Garages, streets and Common Area. All rubbish, trash or garbage shall be regularly removed from each Living Unit and Garage and shall not be allowed to accumulate thereon or on the adjacent Common Area. No fences, hedges or walls shall be erected or maintained upon the Condominium Property except such as are installed in accordance with the initial construction of the buildings located on the Condominium Property or as provided by Board B. No exterior clothes lines shall be erected or maintained, and there shall be no outside drying or laundering of clothes on the Common Area.

Section 10. The door to each Garage shall be kept closed except when entering and leaving the Garage and except for such other times as may be established by rules and regulations

adopted by Board. B. Each Garage shall be used solely for the storage of vehicles and household personal property and for no other purpose except according to rules and regulations adopted by Board B.

Section 11. Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

(i) affording vehicular passage and pedestrian movement within the Condominium Property, including access to the Living Units and Garages;

(ii) recreational use by the Owners and occupants of Living Units in the Condominium Property and their guests, subject to rules established by Board B;

(iii) beautification of the Common Area and providing privacy to the residents of the Condominium Property through landscaping and such other means as Board B shall deem appropriate;

(iv) parking of automotive passenger vehicles in areas provided therefor as may be designated and approved by Board B by such persons, upon such terms and conditions and for such fees as may from time to time be determined by Board B. No space designated as a parking space as provided in Planned Residential Development Permit No. 80 granted by the City of San Diego shall be converted for any other use at any time;

(v) as Exclusive Use Areas to be used in the manner hereinafter described. Nothing herein contained shall be deemed to allow persons other than the Owner of a Living Unit to which an Exclusive Use Area is appurtenant (or his tenants and licensees) to enjoy the use thereof;

(vi) installation and maintenance of air conditioning equipment and facilities to serve Living Units and Garages at such locations as Board B may determine appropriate, subject to such sound control and screening requirements as may be imposed by Board B. The installation and maintenance of all such air conditioning equipment and facilities shall be the responsibility of the Owner of the Living Unit served thereby and the Corporation shall not incur any responsibility or cost in connection therewith.

No part of the Common Area shall be obstructed so as to interfere with its use for the purposes hereinabove permitted, nor shall any part of the Common Area be used for storage purposes (except as incidental to one of such permitted uses, or for storage of

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maintenance equipment used exclusively to maintain the Common Area), nor in any manner which shall increase the rate of which insurance against loss by fire, or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or bodily injury, or property damage liability insurance covering the Common Area and improvements situated thereon may be obtained, or cause such premises to be uninsurable against such risks or any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse renewal thereof.

Section 12. Each Owner shall be legally liable to the Corporation for all damages to the Common Area or to any improvements thereof or thereto, including but not limited to the buildings, recreation facilities and landscaping caused by such Owner, his licensee(s) or any occupant of such Owner's Living Unit and Garage.

Section 13. Each Owner shall have the right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim and perimeter walls of his Living Unit and Garage, and the surfaces of the bearing walls and partitions located within the Living Unit and Garage. Said Owners shall have the right to substitute new finished surfaces in place of those existing on said ceiling, floors, walls and doors of said Living Unit and Garage. Each Owner shall have the obligation to keep in good repair all items mentioned in this Section 13.

Section 14. Each Exclusive Use Area shall be (i) appurtenant to the Condominium, the Living Unit and Garage of which bear the same number as the Exclusive Use Area as set forth on the Condominium Plan, and (ii) used only for the purposes set forth in this Declaration. The right to so use an Exclusive Use Area shall be exercisable only by the Owner(s) of the Condominium appurtenant thereto and/or said Owner's tenants and licensee(s). Conveyance of a Condominium shall effect conveyance of Exclusive Use Areas appurtenant thereto and transfer of all rights thereto to the vested Owner of the Condominium. Any license(s) thereto shall be terminated upon such conveyance. No Exclusive Use Area or any rights thereto (other than said revokable licenses) shall be transferred or conveyed apart from conveyance of the Condominium to which it is appurtenant. Each Exclusive Use Area shall be deemed to be Common Area for all those purposes set forth in this Declaration which are not inconsistent with this Article VII or Article VIII.

Section 15. Each Owner shall have the following rights with regard to any Patio and Entryway which he has the exclusive right to use:

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(i) To place furniture and potted plants upon said area.

(ii) To plant flowers and shrubs and install other landscaping which do not unreasonably interfere with the enjoyment of adjacent Living Units, Patios and Entryways.

Each Owner shall have the right to place furniture and potted plants upon the Balcony which he has the exclusive right to use.

Except as provided in this Section 15, nothing contained herein shall give any Owner the right to paint, decorate, remodel or alter said Exclusive Use Areas or any other part of the Common Area without the prior written consent of Board B.

ARTICLE VIII

RESPONSIBILITIES OF OWNERS

Section 1. Each Owner of a Condominium shall be responsible for the maintenance and repair of the glass doors and windows enclosing his Living Unit and Garage, including the metal frames and tracks of glass doors and windows, the interior of his Living Unit and Garage and all appliances whether "built-in" or free-standing within the Living Unit and Garage, the interior surfaces of the Living Unit and Garage, and shall also be responsible for the maintenance and repair of the plumbing, electrical and heating systems servicing his Living Unit and Garage and located either within or without the outside perimeter of the exterior bearing walls thereof, so long as those systems are used exclusively by such Owner and not in common, including television cable equipment and connections and all appliances and equipment located in said Living Unit and Garage. Each Owner shall also be responsible for the maintenance of the areas which he has the exclusive right to use, including the interior, interior surfaces and any windows, and shall make repairs in such manner as shall be deemed necessary in the judgment of Board B to preserve the attractive appearance thereof and protect the value thereof.

Section 2. In the event an Owner fails to maintain the areas as set forth above, and the plumbing, electrical and heating systems thereof as provided above or make repairs thereto in such manner as shall be deemed necessary in the judgment of Board B to preserve the attractive appearance thereof and protect the value thereof, Board B shall give written notice to such Owner, stating with particularity the work of maintenance or repair which Board B finds to be required and requesting that the same be carried out within a period of thirty (30) days from the giving of such



notice. In the event the Owner fails to carry out such maintenance or repair within the period specified by the notice, the Board shall cause such work to be done and shall assess the cost thereof to such Owner.

Section 3. No Owner may sell, assign, lease or convey (i) his interest in the Common Area, separate and apart from his Living Unit and Garage, nor (ii) his Living Unit, separate and apart from his Garage, nor (iii) his interest in any Exclusive Use Area separate and apart from his interest in the Common Area, his Living Unit and Garage.

ARTICLE IX

PARTITION PROHIBITED

Each of the Owners of a Condominium, whether such ownership is in fee simple or as a tenant in common, is hereby prohibited from partitioning or in any other way severing or separating such ownership from any of the other ownerships in the Condominium Property, except upon the showing that: (i) three (3) years after damage or destruction to the project which renders a material part thereof unfit for its use prior thereto the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or (ii) that three-fourths (3/4) or more of the project has been destroyed or substantially damaged, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the project, or (iii) that the project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the project; provided, however, that if any Condominium shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing herein shall be deemed to prevent a judicial partition as between such co-tenants.

ARTICLE X

POWER OF ATTORNEY

The Corporation is hereby granted an irrevocable power of attorney to sell the Condominium Property for the benefit of all the Owners thereof when partition of the Owners' interests in said Condominium Property may be had pursuant to Article IX above. The power of attorney herein granted may be exercised upon the vote or written consent of Owners holding in the aggregate at least two-thirds (2/3) of the interest in the Common Area by any two (2) members of Board B who are hereby authorized to record a certificate of exercise in the Office of the County Recorder, San

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Diego County, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith.

ARTICLE XI

SPECIAL RESTRICTIONS

Unless at least seventy-five percent (75%) of the first Mortgagees of Mortgages encumbering Condominiums (based upon one (1) vote for each mortgage) have given their prior written approval, neither the Owners nor the Association nor the Corporation shall:

(i) Seek, by act or omission, to abandon the Condominium Project or the planned development project covering the Real Property or to terminate the Condominium Plan or this Declaration, or change, waive or abandon any scheme of regulation or enforcement thereof, pertaining to the architectural design or the exterior appearance or maintenance of Living Units, Garages or the Common Area or the Recreation Area;

(ii) Change the pro rata interest or obligations of any Condominium for purposes of levying assessments or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the pro rata share of the Common Area appurtenant to each Living Unit and Garage;

(iii) Partition or subdivide any Condominium, or the Recreation Area;

(iv) Seek, by act or omission, to abandon, partition, subdivide, encumber, sell or transfer the Common Area or Recreation Area; provided, however, that the granting of easements for public utility or other public purposes consistent with the uses of the Common Area and Recreation Area shall not be deemed a transfer within the meaning of this provision; or

(v) Use hazard insurance proceeds for losses to any portion of the Condominium Property or Recreation Area for other than the repair, replacement or reconstruction of the Condominium Property or Recreation Area, as the case may be, except as may be provided by statute or upon substantial loss to the Living Units, Garages, Common Area and Recreation Area, respectively.

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ARTICLE XII

DAMAGE, DESTRUCTION AND CONDEMNATION OF COMMON AREA

Section 1. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than \$5,000.00, Board B shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefor.

(b) If the cost of repairing or rebuilding exceeds the amount of available insurance proceeds by more than \$5,000.00, and if the Owners holding in aggregate more than fifty percent (50%) interest in the Common Area agree to the repair or restoration of the project, then Board B shall contract as provided in (a) above. If said Owners do not so agree, then all insurance proceeds shall be paid to the account of the Corporation to be held for the benefit of the Owners and their Mortgagees as their respective interests shall appear.

(c) Anything in the immediately preceding paragraph to the contrary notwithstanding, Board B shall contract for such repair or rebuilding of Common Area which consists of building(s) containing Living Units (or or Garages portions thereof and/or improvements thereto) if fifty percent (50%) or more of the Owners owning Living Units and Garages in said building(s) agree to the repair or restoration of said buildings.

(d) If a bid to repair or rebuild is accepted, Board B shall levy a special assessment in proportion to the interest of each Owner in the Common Area a portion of which has been damaged or destroyed to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to the account of the Corporation to be used for such rebuilding.

Section 2. If any portion of the Condominium Property is taken by condemnation, eminent domain or any proceeding in lieu thereof then:

(a) In the event of any taking of a Living Unit or Garage, the Owner (and his Mortgagee as their interests may appear) of the Living Unit and Garage shall be entitled to receive the award for such taking and after acceptance thereof he and his Mortgagee shall be divested of all further interest in the Condominium Property if such Owner shall vacate his Living

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Unit and Garage as a result of such taking. In such event said Owner shall grant his interest in the Common Area, if any, to the other Owners owning a fractional interest in the same Common Area, such grant to be in proportion to the fractional interest in the Common Area then owned by each.

(b) In the event of any taking of the Common Area, the Owners of the Common Area, and their Mortgagees, shall be entitled to receive the award for such taking in proportion to the interest of each in the Common Area; provided, however, that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Corporation for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in Article XII, Section 1 for repairing damaged or destroyed portions of the Common Area. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in Article XII, Section 1 for determining whether to rebuild or repair following damage or destruction.

#### ARTICLE XIII

##### DAMAGE AND DESTRUCTION OF LIVING UNITS OR GARAGES

In the event of damage or destruction to any Living Unit or Garage, the Owner thereof shall reconstruct the same as soon as reasonably practicable and substantially in accord with the original plans and specifications therefor; provided, however, that any such Owner may, with the written consent of Board B, reconstruct or repair the same pursuant to new or changed plans and specifications. In the event Board B fails to approve or disapprove such changed plans and specifications within sixty (60) days of the receipt thereof, they shall be deemed to have been approved.

#### ARTICLE XIV

##### ENFORCEMENT

Section 1. The Association, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by Articles II, III and IV of this Declaration.

Section 2. The Corporation, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of Articles V through XIII of this Declaration.

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Section 3 Failure by the Association, the Corporation, Declarant or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. A breach of any of the covenants, conditions, restrictions or other provisions of this Declaration shall not affect or impair the lien or charge of any bona fide Mortgage made in good faith and for value on any Condominium; provided, however, that any subsequent Owner of the Condominium shall be bound by the provisions of this Declaration, whether such Owner's title was acquired by foreclosure or by a trustee's sale or otherwise.

#### ARTICLE XV

##### GENERAL PROVISIONS

Section 1. Should any provision in this Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions hereof shall be and remain in full force and effect.

Section 2. Articles II, III and IV, Section 1 of Article XIV, Sections 2, 4 and 7 of Article XV of this Declaration may be amended at any time and from time to time by an instrument in writing signed by members of the Association entitled to exercise sixty-six and two-thirds percent (66-2/3%) or more of the voting power of each class of members of the Association, and all other provisions of this Declaration may be amended at any time and from time to time by an instrument in writing signed by members of the Corporation entitled to exercise sixty-six and two-thirds percent (66-2/3%) or more of the voting power of each class of members of the Corporation, any which amendment shall become effective upon the recording thereof with the Office of the County Recorder of San Diego County, California; provided, however, that no material change may be made to this Declaration without the prior written consent of seventy-five percent (75%) or more of the Mortgagees of first Mortgages encumbering Condominiums within the Condominium Property (based upon one (1) vote for each such Mortgage).

Section 3. Each and all of these covenants, conditions and restrictions shall terminate on December 31, 2026, after which date they shall automatically be extended for successive periods of ten (10) years unless the Owners have executed and recorded at any time within six (6) months prior to December 31, 2026, or within six (6) months prior to the end of any such ten (10) year period, in the manner required for a conveyance of real property, a writing in which it is agreed that said restrictions shall

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terminate on December 31, 2026, or at the end of any such ten (10) year period.

Section 4.

(a) The Condominium Property is the first phase of a projected six (6) phase staged condominium development as set forth in Recital D. of this Declaration. When completed, Declarant contemplates that the entire condominium project will consist of approximately 122 condominiums. Nothing contained herein, however, shall require Declarant to complete the future phases of the planned overall condominium project.

(b) If, within three (3) years of the date of the original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report covering a phase of the overall condominium project, Declarant should develop additional lands within the property described in Recital D. of this Declaration, such additional lands or any portion thereof may be added to and included within the jurisdiction of the Corporation by action of Declarant without the assent of members of the Corporation; provided, however, that the development of the additional lands shall be in accord with the plan of development submitted to the Department of Real Estate prior to the time a Final Subdivision Public Report is issued in connection with the Condominium Property. Said annexation may be accomplished by the recording of a Declaration of Annexation or by the recording of a separate Declaration of Restrictions which requires Owners of Condominiums therein to be members of the Corporation. The obligation of Condominium Owners to pay dues to the Corporation and the right of such Condominium Owners to exercise voting rights in the Corporation shall not commence until the first day of the month following close of the first sale of a Condominium by Declarant in that particular phase of development.

(c) Subject to annexation of additional property as set forth above:

(i) Declarant hereby reserves for the benefit of and appurtenant to the condominiums hereinafter located on Lots 12, 13, 14, 17, 18, 19 and 7 and their respective Owners, non-exclusive easements to use the Common Area in the Condominium Property pursuant to and in the manner set forth in this Declaration of Restrictions to the same extent and with the same effect as if each of the Owners of a Condominium in said Lots owned an undivided interest in the Common Area in the Condominium Property.

(ii) Declarant hereby grants, for the benefit of and appurtenant to each Condominium in the Condominium Prop-

erty, and their Owners, the non-exclusive easement to use the common areas in Lots 12, 13, 14, 17, 18, 19 and 7, as the case may be, pursuant to the provisions of and in the manner prescribed by this Declaration of Restrictions to the same extent and with the same effect as if each of the Owners of a Condominium in the Condominium Property owned an undivided interest in the common areas of the property so annexed.

The reciprocal cross-easements set forth herein shall be effective as to Lots 12, 13, 14, 17, 18, 19 and 7, respectively, and as to the Condominium Property only at such time as Lots 12, 13, 14, 17, 18, 19 and 7, respectively, have been annexed by the recording of a Declaration of Annexation or separate Declaration of Restrictions by Declarant and prior to that time the Condominium Property shall not be affected hereby nor shall the Owners of Lots 12, 13, 14, 17, 18, 19 and 7, respectively, have such rights in the Common Area within the Condominium Property.

(d) The Condominium Property is also the first phase of the overall planned development of the Real Property as set forth in Recital E. to this Declaration. When completed, Declarant contemplates that the entire planned development will consist of approximately 649 dwelling units. Some dwelling units will be condominiums, some detached single-family dwellings and some attached single-family dwellings. Nothing contained herein, however, shall require Declarant to complete the future phases of the overall planned development of the Real Property.

(e) If, within three (3) years of the date of the original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report for a phase of the overall planned development of the Real Property, Declarant should develop additional lands within the Real Property, such additional lands or any portion thereof may be added to and included within the jurisdiction of the Association by action of Declarant without the assent of members of the Association; provided, however, that the development of the additional lands shall be in accord with the plan of development submitted to the Department of Real Estate prior to the time a Final Subdivision Public Report is issued in connection with the Condominium Property. Said annexation may be accomplished by the recording of a Declaration of Annexation or by the recording of a separate Declaration of Restrictions which requires owners of lots described therein to be members of the Association. The obligation of such owners to pay dues to the Association and the right of such owners to exercise voting rights in the Association shall not commence until the first day of the month following close of the first sale of a Lot by Declarant in that particular phase of development.

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(f) As additional land within the Real Property is developed Declarant will convey additional lands to the Association which, upon conveyance to the Association, will become part of the Recreation Area. Said additional lands are described as follows:

- Lots 15 and 16 of La Jolla Alta P.R.D. Unit No. 6.
- Lot 166 of La Jolla Alta P.R.D. Unit No. 10.
- Lot 29 of La Jolla Alta P.R.D. Unit No. 12.
- Lot 32 of La Jolla Alta P.R.D. Unit No. 13.
- Lot 38 of La Jolla Alta P.R.D. Unit No. 15.
- Lot 39 of La Jolla Alta P.R.D. Unit No. 16.
- Lot 86 of La Jolla Alta P.R.D. Unit No. 17.
- Lot 156 of La Jolla Alta P.R.D. Unit No. 21.
- Lot 160 of La Jolla Alta P.R.D. Unit No. 22.
- Lot 161 of La Jolla Alta P.R.D. Unit No. 22.
- Lot 159 of La Jolla Alta P.R.D. Unit No. 23.

Said lands may be conveyed to the Association by Declarant without the consent of the Association or its members at any time during which Declarant retains the right to annex additional lands to the jurisdiction of the Association as set forth in subsection (e) above. Nothing contained herein shall require Declarant to convey any of said land to the Association.

(g) This Section 4 of Article XV shall not be amended without the written approval of Declarant attached to the instrument of amendment.

Section 5. In the event any person or entity shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, the prevailing party in such litigation shall be entitled to costs of suit and such attorney's fees as the Court may adjudge reasonable and proper. The "prevailing party" shall be the party in whose favor a final judgment is entered.

Section 6. The Owner of each Condominium is hereby declared to have an easement over all adjoining Living Units, Garages and the Common Area for the purpose of accommodating any encroach-



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ments due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful misconduct of any Owner. In the event any portion of a structure on the Condominium Property is partially or totally destroyed and then repaired or rebuilt, each Owner agrees that minor encroachments over adjoining Living Units, Garages or Common Area shall be valid easements for the maintenance of said encroachments so long as they shall exist.

Section 7. In the event that the improvements to be installed by Declarant to the Recreation Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the Condominium Property, and in the further event that the Association is the obligee under a bond to secure performance by the Declarant to complete such improvements, then if such improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, Board A shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any such improvement then Board A shall consider and vote on said question if such improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event that Board A determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as provided, then, in either such event, upon petition signed by members representing ten percent (10%) or more of the voting power of the Association (excluding the voting power of Declarant), Board A shall call a special meeting of the members of the Association to consider the question of overriding the decision of Board A or of requiring Board A to take action on the question of enforcing the obligations secured by the bond. Said meeting of members shall be held not less than fifteen (15) days nor more than thirty (30) days following receipt of the petition. At said meeting a vote of a majority of the voting power of the members of the Association, excluding the vote of Declarant, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and Board A shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

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Section 8. In the event that the improvements to be installed by Declarant to the Common Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the Condominium Property, and in the further event that the Corporation is the obligee under a bond to secure performance by the Declarant to complete such improvements, then if such improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, Board B shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Corporation has given an extension in writing for the completion of any such improvement then Board B shall consider and vote on said question if such improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event that Board B determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then, in either such event, upon petition signed by members representing ten percent (10%) or more of the voting power of the Corporation, (excluding the voting power of Declarant), Board B shall call a special meeting of the members of the Corporation to consider the question of overriding the decision of Board B or of requiring Board B to take action on the question of enforcing the obligations secured by the bond. Said meeting of members shall be held not less than fifteen (15) days nor more than thirty (30) days following receipt of the petition. At said meeting a vote of a majority of the voting power of the members of the Corporation, excluding the vote of Declarant, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Corporation, and Board B shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Corporation.

Section 9. Declarant is undertaking the work of construction of residential condominium dwellings and incidental improvements upon the property described in Recital D. of this Declaration. The completion of that work, and the sale, rental and other disposal of the condominium dwellings is essential to the establishment and welfare of the Condominium Property as a residential community. In order that said work may be completed and the Condominium Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors or subcontractors from doing on the Condominium Property or any Living Unit or Garage, whatever is reasonably necessary or advisable in connection with the completion of said work; or

