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GLEN COVE HARBOR HOMES

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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GLEN COVE HARBOR HOMES

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth, by **ZEKA INTERNATIONAL, INC.**, a California corporation ("Declarant"), is made with reference to the following facts:

A. Declarant is the owner of certain property located in the City of Vallejo ("City"), County of Solano, State of California, more particularly described on the map entitled "Harbor Homes Unit I," filed for record in the Office of the Recorder of the County of Solano, State of California, on April 10, 1989, in Book 54 of Maps, page(s) 90.

B. The development shall be referred to as the "project" as defined in section 1.22. The project will be developed in two (2) phases, as provided in Section 2.1.

Each lot shall have appurtenant to it a membership in the **GLEN COVE HARBOR HOMEOWNERS ASSOCIATION**, a nonprofit mutual benefit corporation, which shall own the common area.

C. Declarant intends by this document to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of lots. Phase I of the project will be subject to this Declaration upon recordation hereof. Phase II will subsequently be subject to this Declaration upon recording of a Declaration of Annexation applicable to such phase as provided in section 2.7, provided that the property in such phase is subject to section 4.12 to the extent applicable.

NOW, THEREFORE, Declarant hereby declares that Phase I (and the property in Phase II to the extent described in Recital C) described above shall be held, sold, leased, mortgaged, encumbered, rented, used, occupied, improved and conveyed subject to the following declarations, limitations, easements, restrictions, covenants, and conditions, which are imposed as equitable servitudes pursuant to a general plan for the development of the property for the purpose of enhancing and protecting the value and desirability of the property and every part thereof, and which shall run with the property and be binding on Declarant and its successors and assigns, and on all parties having or acquiring any right, title or interest in or to the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as amended from time to time.

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1.2 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each lot owner as determined by the Association.

1.3 "Association" shall mean and refer to the GLEN COVE HARBOR HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation, the members of which shall be the owners of lots in the project.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time.

1.6 "Common area" shall mean and refer to the portions of the property and all improvements thereon owned by the Association for the common use and enjoyment of the owners consisting upon recordation of the Map and conveyance by deed to the Association of Lots A through F, described on the Map.

1.7 "Common expenses" means and includes the actual and estimated expenses of operating the common area and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the Declaration, Articles, or Bylaws.

1.8 "Declarant" shall mean and refer to Zeka International, Inc. and any successor or assign that expressly assumes the rights and duties of the Declarant hereunder, in a recorded written document.

1.9 "Declaration" shall mean and refer to this Declaration, as amended or supplemented from time to time.

1.10 "Eligible holder mortgages" shall mean mortgages held by "eligible mortgage holders".

1.11 "Eligible mortgage holder" shall mean a first lender who has requested notice of certain matters from the Association in accordance with section 8.5C.

1.12 "Eligible insurer or guarantor" shall mean an insurer or governmental guarantor of a first mortgage who has requested notice of certain matters from the Association in accordance with section 8.5C.

1.13 "First lender" shall mean any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any lot.

1.14 "Lot" shall mean and refer to each lot or parcel shown on the map with the exception of the common area.

1.15 "Map" shall mean and refer to that Map entitled "Harbor Homes Unit I," filed for record the 10th day of April, 1989, in Book 54 of Maps at page 90, in the records of Solano County, and upon annexation thereof, shall also mean and refer to that Map entitled "Harbor Homes Unit II."

1.16 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

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1.17 "Mortgage" shall include a deed of trust as well as a mortgage.

1.18 "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a mortgagee.

1.19 "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

1.20 "Owner" or "owners" 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 project but excluding those persons or entities having an interest merely as security for the performance of an obligation. If a lot is sold under a contract of sale and the contract is recorded, the purchaser, rather than the fee owner, shall be considered the "owner" from and after the date the Association receives written notice of the recorded contract.

1.21 "Person" means a natural person, a corporation, a partnership, a trust, or other legal entity.

1.22 "Project" shall mean and refer to the real property described on the Map and all improvements thereon, subject to this Declaration.

1.23 "Project documents" shall mean and refer to this Declaration, together with the other basic documents used to create and govern the project, including the Map, the Articles, and the Bylaws (but excluding unrecorded rules and regulations adopted by the Board or the Association).

1.24 "Property" shall mean and refer to all the real property described on the Map and all improvements thereon, subject to this Declaration.

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

2.1 **Description of Project:** The project is a planned development consisting of common area, sixty (60) residential lots, and all improvements thereon. The project is divided into the following phases:

<u>Phase</u>	<u>Map</u>	<u>Lot Nos.</u>	<u>Total Residential Lots</u>	<u>Common Area Lot Nos.</u>
I	Harbor Homes Unit I	1-26	26	A-F
II	Harbor Homes Unit II	1-34	60	A-F

Phase I is subject to the terms of this Declaration upon recordation hereof. Phase II will be subject to this Declaration upon recording of a Declaration of Annexation applicable to such phase as provided in section 2.7.

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2.2 Easements; Dedication of Common Area: Each of the lots shown on the Map shall have appurtenant to it as the dominant tenement an easement over the common area(s) now or hereafter owned by the Association as the servient tenement(s) for ingress and egress, and for use, occupancy and enjoyment, and where applicable, for the construction, maintenance and operation of utilities. Declarant hereby reserves to itself, and its successors and assigns, the right to, and agrees that it will, grant to, the owners of lots in subsequent phases of the project, as the dominant tenement, nonexclusive easements for ingress and egress and construction activities over the common area of Phase I of the project as the servient tenement. All of the foregoing easements are subject to the following:

A. The right of the Association to discipline members and to suspend the voting rights of a member and right to the use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid, and for any infraction of the Declaration, Bylaws, Articles or written rules and regulations in accordance with the provisions of sections 4.10, 5.2.F and 8.1 hereof.

B. The right of the Association to dedicate, transfer or mortgage all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, provided, that in the case of the borrowing of money and the mortgaging of its property as security therefor, the rights of such mortgagee shall be subordinate to the rights of the members of the Association. No such dedication, transfer or mortgage shall be effective unless an instrument signed or approved by two-thirds (2/3) of each class of members agreeing to such dedication, transfer or mortgage has been recorded.

C. The right of the Association to grant easements under, in, upon, across, over, above or through any portion of the common area for purposes, including, without limitation, access, utilities, and parking, which are beneficial to the development of the property in accordance with the general plan established by this Declaration.

D. The right of the Association or Declarant to install or have installed a cable or central television antenna system. The system, if and when installed, shall be maintained by the Association or cable television franchisee. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each lot for the purpose of connecting the same with the master cable television terminal, central television antenna or line. Each lot shall be subject to an easement in favor of all other lots and in favor of the entity holding the CATV franchise, to provide for the passage through the lot and any structure thereon of television connections from any other lot to the cable system, and shall be subject to a further easement for the placement and maintenance of such connections.

E. Easements for work necessary to complete development and construction of the project, including all parcels annexed or to be annexed, as more particularly described in section 8.9.

The foregoing easements are granted and reserved subject to the condition that their use and enjoyment shall not unreasonably interfere with the use, occupancy or enjoyment of all or any part of the lot servient to them or to which they are appurtenant.

No portion of the landscaped areas within Lots A, B, C, D, E and F shall be used other than for landscaping, and no portion of the private streets shall be used other than for parking purposes and for ingress and egress. Each lot owner may use the common areas in accordance with the purpose for which they are intended, so long as said lot owner does not hinder the exercise of, or encroach upon, the rights of any other lot owners.

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2.3 Easements to Accompany Conveyance of Lot: Easements that benefit or burden any lot shall be appurtenant to that lot and shall automatically accompany the conveyance of any lot, even though the description in the instrument of conveyance may refer only to the fee title to the lot.

2.4 Delegation of Use: Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers, who reside on the property. Nonresident members, their families, guests and relatives, are not permitted to use the recreational facilities during periods when their lot is leased to and/or occupied by others (nonfamily members).

2.5 Conveyance of Common Area to Association: On or before conveyance of title to the first lot Declarant shall deed the common area to the Association to be held for the benefit of the members of the Association.

When any common area is conveyed by Declarant to the Association, an easement is automatically reserved over the common area for the benefit of the remaining phases not yet annexed, for ingress and egress, and for the construction of utilities, landscaping, residences and other improvements on lots which have not yet been annexed to the project (as of the date of conveyance to the Association). The easement shall continue for the period of time provided for annexation under section 2.7A(1), plus a reasonable period of time thereafter (not to exceed an additional two (2) years) to complete construction of improvements.

2.6 Owners' Rights and Easements for Utilities: The rights and duties of the owners of lots within the project with respect to sanitary sewer, drainage, water, electric, gas, television receiving, telephone equipment, cables and lines, exhaust flues, and heating and air conditioning facilities (hereinafter referred to, collectively, as "utilities facilities") shall be as follows:

A. Whenever utilities facilities are installed within the project, which utilities facilities or any portion thereof lie in or upon a lot or lots owned by other than the owner of a lot served by said utilities facilities, the owners of any lots served by such utilities facilities shall have the right of reasonable access for themselves or for utility companies or the City of Vallejo to repair, to replace and generally maintain said utilities facilities as and when the same may be necessary, due to failure or inability of the Board to take timely action to make such repairs or perform such maintenance.

B. Whenever utilities facilities are installed within the project which serve more than one (1) lot, the owner of each lot served by said utilities facilities shall be entitled to the full use and enjoyment of such portions of said utilities facilities as service his lot.

C. In the event of a dispute between owners with respect to the repair or rebuilding of said utilities facilities, or with respect to the sharing of the cost thereof, then, upon written request of one (1) owner addressed to the other owner(s), the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the Arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction.

2.7 Annexation of Additional Property: Additional property may be annexed to and become subject to this Declaration by any of the following methods set forth in this section. Upon annexation the additional property shall become subject to this Declaration without the necessity of amending individual sections hereof.

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A. Annexation Pursuant to Plan: At the sole discretion of Declarant, any or all of the property described in section 2.1 as Phase II may be annexed to and become a part of the project, subject to this Declaration, and subject to the jurisdiction of the Association, without the necessity of amending individual sections of this Declaration, without the assent of the Association or its members, and without the assent of lot owners on condition that:

1. **Date for Annexation:** Any annexation pursuant to this section shall be made prior to the third anniversary of the issuance of the original public report for the immediately preceding phase of the project.

2. **Plan Approved:** The annexation and development of additional phases shall be in accordance with a plan of development approved by the Department of Real Estate of the State of California.

3. **Declaration of Annexation:** A Declaration of Annexation shall be recorded covering the applicable portion of the property to be annexed. The Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this Declaration. The Declaration of Annexation shall require the payment by the Declarant to the Association, concurrently with the closing of the escrow for the first sale of a lot in an annexed phase, of appropriate amounts for reserves for replacement or deferred maintenance of common area improvements in the annexed phase necessitated by or arising out of the use and occupancy of residential lots and under a rental program conducted by the Declarant which has been in effect for a period of at least one (1) year as of the date of closing of the escrow for the first sale of a residential lot in the annexed phase.

B. Annexation Pursuant to Approval: Upon approval in writing of the Association, pursuant to vote or written consent of a two-thirds (2/3) majority of the voting power of its members, excluding the Declarant, and the approval of eligible mortgage holders as may be required under section 8.5D, the Department of Real Estate of the State of California, and of seventy-five percent (75%) of all mortgagees of all lots, the Association and the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Declaration of Annexation in the manner described in section 2.7A(3), above.

C. Effect of Annexation: Assessments collected from owners in the property may be expended by the Association without regard to the particular phase from which such assessments came. All owners shall have ingress and egress to all portions of the common area throughout the property, subject to the provisions of this Declaration, the Bylaws and to the rules and regulations of the Association in effect from time to time.

D. Quality of Construction: Future improvements to the project will be consistent with initial improvements in terms of quality of construction.

E. Failure to Annex: If any remaining phase is not annexed as provided above and the property in that phase requires ingress and egress access over private streets located within the project and access to and use of common utilities, easements shall exist for reasonable vehicular and pedestrian traffic and reasonable use of the common utilities for residential developments of comparable size and density, provided however, that the properties not annexed (and the owner(s) thereof) shall be obligated to pay their equitable share of the cost of maintenance and repair of said private streets, and utilities and shall be

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subject to a lien or liens for said maintenance and repair costs, as provided in section 4.12 hereof.

F. Right of Successor Declarant to Annex: The right of unilateral annexation provided for in section 2.6A constitutes a covenant running with the land, and is as such enforceable by any successor or assignee of Declarant who acquires the property or any part thereof, and who assumes the role of Declarant as provided in section 1.8.

2.8 Encroachment Easements: Each lot as the dominant tenement shall have an easement over adjoining lots and common area as the servient tenements for the purpose of accommodating any encroachment due to foundations, exterior wall, windows, roof overhang, eaves, and fences or walls which are built in accordance with the original design, plans and specifications of Declarant, or due to engineering errors, errors or adjustments in original construction, settlement or shifting of the building, or similar causes. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the intentional conduct of said owner or owners other than adjustments by Declarant in the original construction. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each adjoining lot agree that minor encroachments over adjoining lots and common area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. In the event that an error in engineering, design or construction results in an encroachment of a building into the common area, or into or onto an adjoining lot, or into a required setback area, a correcting modification may be made in the subdivision map. Said modification shall be in the form of a certificate of correction and shall be executed by Declarant (so long as Declarant is the sole owner of the property) and by Declarant's engineer and by the city engineer. If the correction occurs after title to the common area has been conveyed to the Association, the Association shall also execute the certificate of correction. The Board of Directors may, by vote or written approval of a majority of the directors, authorize the execution of the certificate of correction.

2.9 Side Yard Easements:

A. Easements: In all cases where a structural wall of a residence that was built as part of the original construction is located on or adjacent to the boundary line between adjacent lots, the owner of the residence as the dominant tenement shall have a nonexclusive easement over the adjacent lot as the servient tenement for access to and use of that portion of the servient tenement as may be reasonably necessary for the maintenance of the wall, the reconstruction of the wall in the event of the partial or total destruction of the same, and the drainage associated with the wall or the residence of which the wall is a part, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the residence or residences on the lot or lots. The owner of a lot having a structural wall situated on the boundary line between his lot and the adjoining lot shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining lot, and the owner of the adjoining lot upon which such a wall is situated shall not attach anything to the outside of the wall without (in each case) the consent and permission of the owner of the adjoining lot upon which the residence of which the wall is a part is situated.

B. Arbitration: In the event of any dispute arising concerning the provisions of this section, upon written request of one (1) owner addressed to the other owner(s), the matter shall be submitted to binding arbitration within sixty (60) days pursuant

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to the rules of the American Arbitration Association, or any successor thereto, and judgment may be entered thereon in any court having jurisdiction.

2.10 Party Walls:

A. General Rules of Law to Apply: Each wall that is built as part of the original construction of a residence, is located on the boundary line with an adjacent lot and either is used in common with the residence on the adjacent lot or abuts against a similar wall on the adjacent lot shall constitute a party wall. To the extent not inconsistent with this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

C. Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; provided, however, that the owner or owners whose negligent act or omission proximately caused the damage or destruction, shall bear the full cost of restoration that is not covered by insurance.

D. Weatherproofing: Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Right to Contribution Runs with Land: The right of any owner to contribution from any other owner under this section shall be appurtenant to the land and shall pass to such owner's successors in title.

F. Arbitration: In the event of any dispute arising concerning a party wall, or concerning the provisions of this section, upon written request of one (1) owner addressed to the other owner(s), the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and judgment may be entered thereon in any court having jurisdiction.

2.11 Maintenance Easement: An easement over each lot as the servient tenement is reserved by Declarant in favor of each other lot as the dominant tenement for the purpose of allowing the Association's agents to enter the lot to perform such maintenance, if any, as the Association may do in accordance with the provisions of section 5.1.A of this Declaration.

2.12 Drainage Easements: An easement over and under each lot as the servient tenement is reserved in favor of each other lot as the dominant tenement for the purpose of allowing the Association's agents to enter the lot to maintain that portion of an in-tract storm drainage system located thereon. No owner or occupant shall commit any act that would interfere with the operation of any drainage system (including drainage swales) installed on the owner's lot. The owner shall maintain the system free of debris and other obstacles at all times. Reciprocal appurtenant easements between each lot and the common area and between adjoining lots are reserved for the flow of surface water.

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2.13 Other Easements: The common area and each lot are subject to all easements, dedications, and rights of way granted or reserved in, on, over and under the property as shown on the Map.

2.14 Rights of Entry and Use: The lots and common area (including restricted common area) shall be subject to the following rights of entry and use:

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

B. The access rights of the Association to maintain, repair or replace improvements or property located in the common area as described in section 5.2E;

C. The easements described in this Article II;

D. The right of the Association's agents to enter any lot to perform maintenance as described in section 8.6;

E. The rights of the Declarant during the construction period as described in section 8.9.

2.15 Partition of Common Area: There shall be no subdivision or partition of the common area, nor shall any owner seek any partition or subdivision thereof.

Notwithstanding any provisions to the contrary contained in this Declaration and in order to provide for a means of terminating the project if this should become necessary or desirable, on occurrence of any of the conditions allowing an owner of a lot to maintain an action for partition (as such conditions are presently set forth in California Civil Code §1359 or as such conditions in the future may be set forth in any amendment thereto or comparable provisions of law), two-thirds (2/3) of the owners of lots shall have the right to petition the Superior Court having jurisdiction to alter or vacate the Map under California Government Code §66499.21, et seq., or any comparable provisions of law, and to vest title to the property in the owners as tenants in common and order an equitable partition of the property in accordance with the laws of the State of California.

Nothing herein shall be construed to prohibit partition of a joint tenancy or co-tenancy in any lot.

**ARTICLE III
ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS**

3.1 Association to Own and Manage Common Areas: The Association shall own and manage the common area in accordance with the provisions of this Declaration, and the Articles and Bylaws.

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3.2 Membership: The owner of a lot shall automatically, upon becoming the owner of same, be a member of the Association, and shall remain a member thereof until such time as his ownership ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a lot. Membership shall be held in accordance with the Articles and Bylaws.

3.3 Transferred Membership: Membership in the Association shall not be transferred, encumbered, pledged, or alienated in any way, except upon the sale or encumbrance of the lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such lot. On any transfer of title to an owner's lot, including a transfer on the death of an owner, membership passes automatically with title to the transferee.

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

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

Class A. Class A members shall be all owners with the exception of the Declarant (as defined in section 1.8) and shall be entitled to one (1) vote for each lot owned. When more than one (1) person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Class B. The Class B member shall be the Declarant whose voting rights shall be the same as for Class A memberships, except that the Class B member may triple its votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) On the second anniversary of the issuance of the original final public report for the most recent phase of the project; or

(b) On the fourth anniversary date of the issuance of the original final public report for the first phase of the project.

Any action by the Association which must have the approval of the members before being undertaken shall require the vote or written assent of a majority of each class of membership during the time that there are two (2) outstanding classes of membership. Where the vote or written assent of each class of membership is required, any requirement that the vote of Declarant be excluded is not applicable, except as provided in section 8.13 hereof. After the conversion of Class B membership to Class A membership, any provision herein requiring the approval of members other than Declarant, except as provided in section 8.13, shall mean the vote or written assent of a majority of the total voting power of the Association (including Declarant's vote(s)) and the vote or written assent of a majority of the total voting power of members other than the Declarant. Voting rights attributable to lots shall not vest until assessments have been levied against those lots by the Association. Owners of lots in all phases shall have the same voting rights. A "majority vote" means a majority of votes in the project as a whole, not a majority of votes of owners in each phase.

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**ARTICLE IV
MAINTENANCE AND ASSESSMENTS**

4.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each lot owned within the project, hereby covenants, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees: (1) to pay to the Association annual assessments or charges, and special assessments for purposes permitted herein, such assessments to be established and collected as hereinafter provided; and (2) to allow the Association to enforce any assessment lien established hereunder by nonjudicial proceedings under a power of sale or by any other means authorized by law. The annual and special assessments, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, the lien to become effective upon recordation of a notice of delinquent assessment. Each such assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation (joint and several) of each person who was the owner of such property at the time when the assessment fell due. No owner of a lot may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas or by the abandonment of his lot.

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

4.3 Assessments:

A. Annual Assessments: The Board shall establish and levy annual assessments in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year.

The annual assessment shall include a portion for reserves in such amounts as the Board in its discretion considers appropriate to meet the costs of the future repair, replacement or additions to the major improvements and fixtures that the Association is obligated to maintain and repair. Reserve funds shall be deposited in a separate account and the signatures of at least two (2) persons who shall either be members of the Board or one officer who is not a member of the Board and a member of the Board shall be required to withdraw monies from the reserve account. Reserve funds may not be expended for any purpose other than repairing, replacing or adding to the major improvements or fixtures that the Association is obligated to maintain without the consent of owners holding a majority of the voting power either at a duly held meeting or by written ballot.

B. Special Assessments: The Board, at any time, may levy a special assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. Special assessments shall be allocated among the lots in the same manner as annual assessments, except in the case of an assessment levied by the Board against a member to reimburse the Association for costs incurred in bringing the member and his lot into compliance with provisions of the Project Documents.

4.4 Restrictions on Annual or Special Assessments: The Board may not impose an annual assessment on any lot which is more than twenty percent (20%) greater than the annual assessment for the immediate preceding fiscal year or levy a special assessment to defray the cost of any action or undertaking on behalf of the Association which in the

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aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of members casting a majority of the votes at a meeting of the Association at which a quorum is present. For purposes of this section 4.4, a "quorum" means more than fifty percent (50%) of the members of the Association. Any meeting of the Association for purposes of complying with this section 4.4 shall be conducted in accordance with Chapter 5 (commencing with § 7510) of Part 3, Division 2 of Title 1 of the California Corporations Code and § 7613 of the California Corporations Code.

Notwithstanding the foregoing, the Board, without membership approval, may increase annual assessments or levy special assessments necessary for an emergency situation. For purposes of this section, an emergency situation is one of the following:

- (1) an extraordinary expense required by an order of a court,
- (2) an extraordinary expense necessary to repair or maintain the property or any part of it for which the Association is responsible where a threat to personal safety on the property is discovered, or
- (3) an extraordinary expense necessary to repair or maintain the property or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget, provided, however that prior to the imposition or collection of the assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process and the resolution shall be distributed to the members with the notice of the assessment.

This section 4.4 incorporates the statutory requirements of California Civil Code § 1366(b). If this section of the California Civil Code is amended in any manner, this section 4.4 automatically shall be amended in the same manner without the necessity of amending this Declaration.

4.5 Notice and Quorum for Any Action Authorized Under Section 4.4: Any action authorized under section 4.4, which requires a vote of the membership, shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (10) nor more than ninety (90) days in advance of the meeting, specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. The action may also be taken without a meeting pursuant to the provisions of California Corporations Code §7513.

4.6 Division of Assessments: All assessments, both annual and special, shall be levied equally among the lots except as provided in section 4.3. Annual assessments shall be collected on a monthly basis unless the Board directs otherwise. Special assessments may be collected in one (1) payment or periodically as the Board shall direct.

4.7 Date of Commencement of Annual Assessment; Due Dates: The annual assessments provided for herein shall commence as to all lots in Phase I on the first day of the month following the first conveyance of a lot to an owner in Phase I under authority of a public report. In subsequent phases, the annual assessments against all lots in each phase shall commence on the first day of the month following the closing of the first sale in such phase.

The first annual assessment for each added phase shall be adjusted according to the number of months remaining in the calendar year.

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Subject to the provisions of section 4.3 hereof, the Board of Directors shall use its best efforts to fix the amount of the annual assessment against each lot and send written notice thereof to every owner at least forty-five (45) days in advance of each annual assessment period, provided that failure to comply with the foregoing shall not affect the validity of any assessment levied by the Board. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. Such a certificate shall be conclusive evidence of such payment.

4.8 Effect of Nonpayment of Assessments: Any assessment not paid within fifteen (15) days after the due date shall be delinquent, shall bear interest at the rate of twelve percent (12%) per annum from thirty (30) days after the due date until paid, and shall incur a late payment penalty in an amount to be set by the Board from time to time, not to exceed the maximum permitted by applicable law.

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

Where the mortgagee of a first mortgage of record or other purchaser of a lot obtains title to the same as a result of foreclosure of any such first mortgage, such acquirer of title, and his successor and assigns, shall not be liable for the assessment by the Association chargeable to such lot which became due prior to the acquisition of title to such lot by such acquirer (except for assessment liens recorded prior to the mortgage). No amendment of the preceding sentence may be made without the consent of owners of lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and the consent of the eligible mortgage holders holding first mortgages on lots comprising fifty-one percent (51%) of the lots subject to first mortgages. The unpaid share of such assessments shall be deemed to be common expenses collectible from all owners of the lots including such acquirer, and his successors or assigns.

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

4.10 Priorities; Enforcement; Remedies: If an assessment is delinquent, the Association may record a notice of delinquent assessment and establish a lien against the lot of the delinquent owner prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deeds of trust with first priority over other mortgages or deed of trust) made in good faith and for value. The notice of delinquent assessment shall state the amount of the assessment, collection costs, attorneys' fees, late charges and interest, a description of the lot against which the assessment and other sums are levied, the name of the record owner, and the name and address of the

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trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or any management agent retained by the Association.

An assessment lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to California Civil Code § 2934(a). Any sale by the trustee shall be conducted in accordance with the provisions of §§2924, 2924h, 2924c, 2924f, 2924g and 2924h of the California Civil Code, including any successor statutes thereto, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. Nothing herein shall preclude the Association from bringing an action directly against an owner for breach of the personal obligation to pay assessments.

Fines and penalties for violation of restrictions are not "assessments", and are not enforceable by assessment lien.

The Association, acting on behalf of the owners, shall have the power to bid for the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Where the purchase of a foreclosure lot will result in a five percent (5%) or greater increase in assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association, including a majority of members other than Declarant. During the period a lot is owned by the Association, following foreclosure: (1) no right to vote shall be exercised on behalf of the lot; (2) no assessment shall be assessed or levied on the lot; and (3) each other lot shall be charged, in addition to its usual assessment, its share of the assessment that would have been charged to such lot had it not been acquired by the Association as a result of foreclosure. After acquiring title to the lot at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the lot which deed shall be binding upon the owners, successors, and all other parties. Suit to recover a money judgment for unpaid common expenses, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may temporarily suspend the voting rights and right to use recreational facilities of a member who is in default in payment of any assessment, after notice and hearing, as provided in the Bylaws.

4.11 Unallocated Taxes: In the event that any taxes are assessed against the common area, or the personal property of the Association, rather than against the lots, said taxes shall be included in the assessments made under the provisions of section 4.1 and, if necessary, a special assessment may be levied against the lots in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

4.12 Assessments on Lots in Phase II: In the event that Phase II is not annexed to this Declaration, pursuant to section 2.7, and the property in the phase is developed, and sold or leased to persons whose use and occupancy thereof results in use of the private streets and/or utilities within the common area, the property and the owner(s) thereof shall be subject to annual and special assessments pursuant to section 4.1 levied by the Board for the costs of maintenance and repair of said streets and/or utilities. The cost of maintenance and repair under such circumstances shall be prorated equitably between the properties and payment therefor shall be enforced pursuant to section 4.10. In the event of any disagreement as to the reasonableness of said annual and/or special assessments or the division thereof, the matter shall be submitted to binding arbitration under the rules of the American Arbitration Association.

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**ARTICLE V
DUTIES AND POWERS OF THE ASSOCIATION**

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

A. Maintenance: The Association shall maintain and repair the following:

(1) The common area, all improvements and landscaping thereon, and all property owned by the Association, including without limitation, pool, pool equipment, recreational facilities, parking areas, driveways, private streets, irrigation systems, lighting fixtures, and utility, sewer or drainage systems not maintained by a public entity, utility company, or improvement district.

(2) Landscaping of the common area. Maintenance shall include regular fertilization, irrigation and other garden management practice necessary to promote a healthy, weed free environment for optimum plant growth.

(3) The Association shall be responsible for maintaining common area landscaping in a healthy and vigorous condition. All landscape plant material and all hardscape and project amenities shall be maintained as originally approved by the City of Vallejo. The integrity of the original landscape plan shall at all times be kept intact. Notwithstanding any other provision regarding maintenance responsibilities, the City of Vallejo is hereby granted the right, but in no event the duty, to enforce the maintenance obligations of the owners and the Association for the common area and private streets described in this Declaration, to the extent that the common area and private streets be maintained in a manner which complies with all applicable City, State and Federal ordinances, statutes and regulations and which does not create or perpetuate nuisances, health or safety hazards. In the event of a breach of the maintenance provisions contained in this section, the City shall give written notice of such breach and the Association shall remedy such breach within thirty (30) days of receipt of such written notice by City. The Association recognizes that it has the primary responsibility for the enforcement of its maintenance responsibilities that are contained in this Declaration and unequivocally guarantees to institute and expeditiously prosecute any required legal action to obtain compliance with the provisions contained in this Section. The City, in enforcing the provisions contained in this Section, shall be entitled to all rights and remedies of an owner or of the Association. The City shall be entitled to all expenses of enforcement, including the enforcement by private legal counsel, and shall have the authority to lien the subject property (including individual units of owners if applicable) if the Association does not pay the City for all expenses of correction and enforcement. All funds obtained by lien or other legal proceeding by City shall be utilized by city to repay City for the costs of correcting the breach after costs of expenses of enforcement shall first have been deducted.

Notwithstanding the foregoing, no such amendment or modification to this Declaration which would affect the terms and provisions of this Declaration as it relates to the maintenance responsibilities of the Association (including maintenance of the common area and private streets), or which would terminate or materially impair the rights of the City as set forth in this Declaration shall be effective without the prior written consent of the City of Vallejo as authorized by its City Manager.

If the Association incurs any maintenance or repair costs because of the willful or negligent act or omission of any owner or the owner's agents, occupants, or invitees, and such cost was not covered by insurance maintained by the Association, the Association shall charge

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the responsible owner who immediately shall pay the charge to the Association together with interest thereon at the rate of twelve percent (12%) per annum (but not in excess of the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the charge is paid by the owner. If the owner disputes the charge, the owner shall be entitled to a notice and a hearing as provided in the Dylaws before the charge may be collected.

B. Insurance: The Association shall obtain and maintain the following insurance:

- (1) A hazard policy insuring all improvements and fixtures owned by the Association, unless the Board in its sole discretion determines that such insurance is not necessary;
- (2) A comprehensive general liability policy insuring the Association, its agents and the owners and their respective family members against any liability incident to the ownership or use of the common area or any other Association owned or maintained real or personal property; the amount of general liability insurance which the Association shall carry at all times shall be not less than \$500,000 as required by California Civil Code § 1365.7;
- (3) Workers' compensation insurance to the extent required by law;
- (4) Flood insurance on common area improvements if the project is located in an area designated by an appropriate governmental agency as a special flood hazard area;
- (5) Officers and directors liability insurance; and
- (6) Such other insurance as the Board in its discretion considers necessary or advisable.

The amount, term and coverage of any policy required hereunder (including the type of endorsements, the amount of the deductible, the named insureds, the loss payees, standard mortgage clauses, notices of changes or cancellations, and the insurance company rating) shall satisfy the minimum requirements imposed for this type of project by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor thereto. If the FNMA or FHLMC requirements conflict, the more stringent requirement shall be met. If FNMA and FHLMC do not impose requirements on any policy required hereunder, the term, amount and coverage of such policy shall be no less than that which is customary for similar policies on similar projects in the area.

Each owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including without limitation, representing the owners in any proceeding, negotiation, settlement or agreement.

Any insurance maintained by the Association shall contain "waiver of subrogation" as to the Association and its officers, directors and members, the owners and occupants of the lots (including Declarant) and mortgagees, and, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The Association shall periodically (and not less than once every three (3) years) review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

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Each owner shall obtain and maintain, at the owner's sole expense, fire and casualty coverage as may be required by any mortgagee of the owner's lot and in no event less than the amount and type of fire and casualty insurance required to be obtained and maintained as determined by the Board. All such individually carried insurance shall contain a waiver of subrogation by the carrier as to the other owners, the Association, Declarant, and the mortgagees of such lot.

The Association, and its directors and officers, shall have no liability to any owner or mortgagee if, after a good faith effort, it is unable to obtain the liability insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each member and any mortgagee entitled to notice that the liability insurance will not be obtained or renewed.

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

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

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

F. Enforcement: The Association shall enforce this Declaration.

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

A. Utility Service: The Association shall have the authority (but not the obligation) to obtain, for the benefit of all of the owners, all water, gas and electric service and refuse collection, janitorial service, window cleaning service and CATV.

B. Easements: The Association shall have authority (by majority vote) to grant easements where necessary for utilities, cable television and sewer facilities over the common area to serve the common areas and lots.

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

D. Adoption of Rules: The Association or the Board may adopt reasonable rules not inconsistent with this Declaration relating to the use of the common area and all

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facilities thereon, and the conduct of owners and their tenants and guests with respect to the property and other owners.

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

F. Assessments, Liens and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any owner for failure to pay assessments or for violation of any provision of the project documents. Penalties may include but are not limited to fines, temporary suspension of voting rights, rights to the use of recreational facilities or other appropriate discipline, provided the member is given notice and a hearing as provided in the Bylaws before the imposition of any fine or disciplinary action.

G. Enforcement: The Association shall have the power to enforce this Declaration.

H. Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of property shall be by document signed or approved by two-thirds (2/3) of the total voting power of the Association which shall include two-thirds (2/3) of the members other than Declarant, or where the two (2) class voting structure is still in effect, two-thirds (2/3) of the voting power of each class of members.

I. Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of two-thirds (2/3) of the total voting power of the Association including two-thirds (2/3) of the members other than Declarant, or where the two (2) class voting structure is still in effect, two-thirds (2/3) of the voting power of each class of members, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

J. Dedication: The Association shall have the power to dedicate, sell, or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication shall be effective unless an instrument has been signed or approved by two-thirds (2/3) of the total voting power of the Association including two-thirds (2/3) of the members other than Declarant, or where the two (2) class voting structure is still in effect, two-thirds (2/3) of the voting power of each class of members, agreeing to such dedication, sale or transfer.

K. Contracts: The Association shall have the power to contract for goods and/or services for the common areas, facilities and interests or for the Association, subject to limitations set forth in the Bylaws, or elsewhere herein.

L. Delegation: The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees,

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officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility;

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

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

(3) To make a decision to levy monetary fines, impose special assessments against individual units, temporarily suspend an owner's rights as a member of the Association or otherwise impose discipline;

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

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

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

N. Water and Garbage Service: The Association shall have the authority (but not the obligation) to acquire and pay for water service and trash or garbage service for all homes situated on the property. All funds collected from lot owners for water service or trash and garbage service shall be segregated from all other funds and shall be used for no purpose other than providing water service, and trash and garbage service.

O. Appointment of Trustee: The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce assessment liens by sale as provided in section 4.10 and California Civil Code § 1367(b).

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

5.3 Commencement of Association's Duties and Powers: Until incorporation of the Association, all duties and powers of the Association as described herein, including all rights of consent and approval, shall be and remain the duties and powers of Declarant. From and after the date of incorporation of the Association, the Association shall assume all duties and powers.

ARTICLE VI ARCHITECTURAL CONTROL

6.1 Approval of Plans: No building, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, trellis, improvement, or structure of any kind shall be commenced, installed, erected, painted or maintained upon the property, nor shall any alteration or improvement of any kind be made thereto, or to the exterior of any residence, until the same has been approved in writing by the Board, or by an Architectural Control Committee appointed by the Board. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such

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improvements, alterations, etc., shall be submitted to the Board or to the Architectural Control Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building set back line. No permission or approval shall be required to repaint in accordance with Declarant's original color scheme, or to rebuild in accordance with Declarant's original plans and specifications. No permission or approval shall be required to repaint in accordance with a color scheme previously approved by the Committee or the Board, or to rebuild in accordance with plans and specifications previously approved by the Committee or by the Board. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his residence, or to paint the interior of his residence any color desired.

6.2 Architectural Control Committee Action: The Architectural Control Committee shall consist of three (3) members. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the original final public report for the first phase of the project. The Declarant reserves to itself the power to appoint a majority of the members to the Committee until ninety percent (90%) of all the lots in the project including subsequent phases if any have been sold or until the fifth anniversary of the issuance of the final public report for the first phase of the project, whichever first occurs. After one (1) year from the date of the issuance of the original public report for the first phase of the project, the Board shall have the power to appoint one (1) member to the Architectural Control Committee until ninety percent (90%) of all of the lots in the overall development have been sold or until the fifth anniversary date of the issuance of the final public report for the first phase of the project, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the Architectural Control Committee. Members appointed to the Architectural Control Committee by the Board shall be from the membership of the Association. Members appointed to the Architectural Control Committee by the Declarant need not be members of the Association. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the successor shall be appointed by the person, entity or group which appointed such member until Declarant no longer has the right to appoint any members to the successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant hereto. In the event the Committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

6.3 Landscaping: No landscaping of patios or yards or portions of lots visible from the street or from any common area shall be undertaken by any owner until plans and specifications showing the nature, kind, shape, and location of the materials shall have been submitted to and approved in writing by the Architectural Control Committee, or the Board.

6.4 Governmental Approval: Before commencement of any alteration or improvements approved by the Architectural Control Committee, the owner shall comply with all appropriate governmental laws and regulations including, without limitation, conditions imposed by the City on the development of the property. Approval by the Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

ARTICLE VII USE RESTRICTIONS

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

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7.1 Use of Lot: No lot shall be occupied and used except for residential purposes by the owners, their tenants, and social guests, except that Declarant, its successors or assigns, may use the property for a model homesite or sites, and display and sales office during construction until the last lot is sold by Declarant, or, where Declarant elects to retain one (1) or more lots as an investment, until three (3) years from the date of closing of the first sale in the latest annexed phase of the project, whichever occurs first. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used on any lot at any time as a residence, either temporarily or permanently.

No health care facilities operating as a business or charity and serving the sick, elderly, disabled, handicapped or retarded shall be permitted in the project.

7.2 Nuisances: No noxious, illegal, or seriously offensive activities shall be carried on upon any lot, or in any part of the property, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective lot.

7.3 Vehicle Restrictions and Towing: No inoperable automobile or similar equipment shall be permitted to remain upon any area within the property. The Association may install a sign at each vehicular entrance to the project containing a statement that public parking is prohibited and that all vehicles not authorized to park on the project will be removed at the owner's expense. The sign shall contain the telephone number of the local traffic law enforcement agency and shall not be less than 17 x 22 inches in size with lettering not less than one inch in height.

The Association may cause the removal of any vehicle wrongfully parked on the property, including a vehicle owned by an occupant. If the identity of the registered owner of the vehicle is known or readily ascertainable, the President of the Association or his or her designee shall, within a reasonable time thereafter, notify the owner of the removal in writing by personal delivery or first class mail. In addition, notice of the removal shall be given to the local traffic law enforcement agency immediately after the vehicle has been removed. The notice shall include a description of the vehicle, the license plate number and the address from where the vehicle was removed. If the identity of the owner is not known or readily ascertainable and the vehicle has not been returned to the owner within one hundred twenty (120) hours after its removal, the Association immediately shall send or cause to be sent a written report of the removal by mail to the California Department of Justice in Sacramento, California and shall file a copy of the notice with the proprietor of the public garage in which the vehicle is stored. The report shall be made on a form furnished by the Department of Justice and shall include a complete description of the vehicle, the date, time and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal and the name of the garage or place where the vehicle is stored. Notwithstanding the foregoing, the Association may cause the removal, without notice, of any vehicle parked in a marked fire lane, within fifteen (15) feet of a fire hydrant, in a parking space designated for handicapped without proper authority or in a manner which interferes with any entrance to, or exit from, the project or any lot, parking space or garage located thereon. The Association shall not be liable for any damages incurred by the vehicle owner because of the removal in compliance with this section or for any damage to the vehicle caused by the removal, unless such damage resulted from the intentional or negligent act of the Association or any person causing the removal of or removing the vehicle. If requested by the owner of the vehicle, the Association shall state the grounds for the removal of the vehicle.

The parking places located on the private streets shall be reserved for the exclusive use of guests of owners, and shall not be used by any owner for vehicle parking. All vehicle

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parking on the property shall conform with the ordinance of the City of Vallejo concerning parked vehicles.

7.4 Commercial Activity: No business, professional, or commercial activity of any kind shall be conducted on any lot.

7.5 Storage in Common Area: Nothing shall be stored in the common area without the prior consent of the Board.

7.6 Signs: No signs shall be displayed to the public view on any lot or on any portion of the property except such signs as are approved by the Board or committee appointed by the Board. "For Sale" or "For Rent" signs shall be allowed, provided they do not exceed five (5) square feet in size. Only one (1) such sign shall be permitted on any lot. The sign shall not be attached to the outside of the house or fence. It may be displayed in the window, or staked in the yard.

7.7 Animals: Owners may keep pets on their lots, in conformance with all applicable City of Vallejo and County of Solano ordinances, rules and regulations. Owners shall be fully responsible for any damage caused by their pets.

7.8 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the lots, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, and shall be screened from view of neighboring lots, common areas and streets.

7.9 Radio and Television Antennas: In order to receive television transmissions, owners must either contract with a cable television company to have conduit connected to that lot, or have an internal antenna. No owner may construct and/or use external radio and/or television antennas or satellite dishes.

7.10 Window Coverings: The Association shall be charged with the duty of enforcing the provision that all windows shall be covered by drapes, shades or shutters and shall not permit windows to be painted or covered by foil, cardboard or similar materials. The installation of such window covering shall be accomplished within thirty (30) days from occupancy of the unit.

7.11 Clothes Lines: No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes. No draping of towels, carpets, or laundry over railings shall be allowed.

7.12 Garage Conversion Prohibited: No owner or other person or entity shall convert the garage which is attached to the residential family structure on the Lot to a family room, living room, bedroom or other such room which would normally be considered living area for the owner or other occupant provided, however, that this shall not prohibit the placement of a washer, dryer, freezer or other such appliance in such garage.

7.13 Liability of Owners for Damage to Common Area: The owner of each lot shall be liable to the Association for all damage to the common area improvements (including landscaping) caused by such owner or the owner's agents, occupants, invitees, or pets, except for that portion of damage covered by insurance carried by the Association. The responsible owner shall be charged with the cost of repairing such damage (including interest thereon) as described in section 5.1A.

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7.14 Leasing of Lots: No owner shall be permitted to lease his lot for any period less than thirty (30) days. Any lease shall be in writing and shall be subject in all respects to the provisions of the Declaration, the Bylaws and all rules and regulations adopted by the Board, and any failure of the tenant to comply with the foregoing shall be a default under the lease, regardless of whether the lease so provides. In the event of such a default, the owner immediately shall take all action to cure the default including, if necessary, eviction of the tenant. Other than the foregoing, there is no restriction in the right of any owner to lease his lot. All owners leasing their lots shall promptly notify the Secretary of the Association in writing of the names of all tenants and members of tenant's family occupying such lot and of the address and telephone number where such owner can be reached.

ARTICLE VIII GENERAL PROVISIONS

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

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

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

8.4 Amendments: Prior to close of escrow on the sale of the first lot, Declarant may amend this Declaration. After sale of the first lot, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing a majority of the total voting power of the Association, and a majority of the affirmative votes or written consent of members other than the Declarant, or where the two (2) class voting structure is still in effect, a majority of each class of membership. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be certified in a writing executed and acknowledged by the President or Vice President of the Association and recorded in the Recorder's Office of the County of Solano. No amendment shall adversely affect the rights of the holder of any mortgage of record prior to the recordation of such amendment.

8.5 Rights of First Lenders: No breach of any of the covenants, conditions and restrictions contained herein, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) on any lot made in good faith and for value, but all of said covenants, conditions

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and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or Trustee's Sale, or otherwise. Notwithstanding any provision in this Declaration to the contrary, first lenders shall have the following rights:

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

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

C. **Notice of Action:** Upon written request to the Association, identifying the name and address of the eligible mortgage holder or eligible insurer or guarantor, and the lot number or address, such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of: (1) any condemnation loss or any casualty loss which affects a material portion of the project or any lot on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable; (2) any default in performance of obligations under the project documents or delinquency in the payment of assessments or charges owed by an owner of a lot subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days; (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (4) any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in section 8.5D. The Association shall discharge its obligation to notify eligible holders or eligible insurers or guarantors by sending written notices required herein to such parties, at the address given on the current request for notice, in the manner prescribed by section 8.12.

D. **Consent to Action:**

(1) Except as provided by statute or by other provision of the project documents in case of substantial destruction or condemnation of the project, and further excepting any reallocation of interests in the common area(s) which might occur pursuant to any plan of expansion or phased development contained in the original project documents:

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

(b) The consent of owners of lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of the lots subject to eligible holder mortgages, shall be required to add or amend any material provisions of the project documents which establish, provide for, govern or regulate any of the following: (i) voting; (ii) assessments, assessment liens or priority of such liens; (iii) reserves for maintenance, repair and replacement of the common area(s) (or lots if

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applicable); (iv) insurance or fidelity bond; (v) rights to use of common areas; (vi) responsibility for maintenance and repair of the several portions of the project; (vii) expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project (except as provided in paragraph D(1) above); (viii) redefinition of the boundaries of any lot; (ix) reallocation of interests in the general or restricted common areas or rights to their use; (x) convertibility of lots into common areas or of common areas into lots; (xi) leasing of lots; (xii) imposition of any right of first refusal or similar restriction on the right of a lot owner to sell, transfer, or otherwise convey his or her lot; (xiii) any provisions which are for the express benefit of mortgage holders, eligible mortgage holders, or eligible insurers or guarantors of first mortgages on lots; (xiv) restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than specified herein;

(c) An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days after the notice of the proposed addition or amendment shall be deemed to have approved such request, provided the notice has been delivered to the mortgage holder by certified or registered mail, return receipt requested.

(2) Unless the holder(s) of at least two-thirds (2/3) of the first mortgages (based upon one (1) vote for each first mortgage or deed of trust owned), or two-thirds (2/3) of the owners (other than Declarant) of the individual lots in the project have given their prior written approval, the Association and/or the owners shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the project, or abandon, partition, subdivide, encumber, sell or transfer the common area or property owned directly or indirectly, by the Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause) except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty, or in the case of a taking by condemnation or eminent domain; or

(b) Change the method of determining the obligations, assessments or dues or other charges which may be levied against an owner; or

(c) By act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of lots, the exterior maintenance of lots, the maintenance of the common area walks or fences and driveways, or the upkeep of landscaping in the common area; or

(d) Fail to maintain fire and extended coverage on insurable Association common area improvements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs); or

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

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

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F. Contracts: Any agreement for professional management of the project, or lease or any other contract providing for services of the developer, sponsor, or builder, may not exceed one (1) year. Any such agreement, contract, or lease, including a management contract entered into prior to passage of control of the Board to lot purchasers must provide for termination by either party for cause on thirty (30) days' written notice, or without cause and without payment of a termination fee or penalty on ninety (90) days' or less written notice.

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

H. Priority of Liens: Any first lender who obtains title to a lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such lot's unpaid assessments and fees, late charges, fines or interest levied in connection therewith which accrue prior to the acquisition of title to such lot by the mortgagee (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all project lots including the mortgaged lot, and except for assessment liens recorded prior to the mortgage).

I. Distribution of Insurance or Condemnation Proceeds: No owner or any other party shall have priority over any rights of first lenders pursuant to their mortgages in the case of a distribution to lot owners of insurance proceeds or condemnation awards for losses to or taking of common area property, or of individual lots.

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

K. Termination: Any action to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property requires the approval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible holder mortgages, and the consent of owners of lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

L. Reallocation of Interests: No reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of the project may be effected without the prior approval of eligible mortgage holders holding mortgages on all remaining lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining lots subject to eligible holder mortgages.

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

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N. **Payment of Taxes or Insurance by Lenders:** First lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the common area property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common area property and first lenders making such payment shall be owed immediate reimbursement therefor from the Association, provided that said lender(s) have given notice to the Association prior to the making of such payment(s) and the Association has failed to pay the same.

8.6 Owner's Right and Obligation to Maintain and Repair: Except for those portions of the project which the Association is required to maintain and repair, each lot owner shall, at his sole cost and expense, maintain and repair his lot and all landscaping thereon, keeping the same in good condition. In addition, each owner shall have the improvements on the owner's lot periodically inspected for termites and immediately shall take appropriate corrective measures therefor.

In the event an owner of any lot shall fail to maintain his lot and the improvements thereon as required herein, the Association's agents may, after notice and a hearing as provided in the Bylaws, enter the lot and perform the necessary maintenance. The cost of such maintenance shall immediately be paid to the Association by the owner of such lot, together with interest at the rate of twelve percent (12%) per annum (but not to exceed the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the cost is paid by the owner.

8.7 Damage or Destruction: If any improvement on any lot other than a common area lot is damaged or destroyed by fire or other casualty, the owner of such lot shall repair or reconstruct the improvement in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction or as authorized by the Architectural Control Committee.

If any common area improvement is damaged or destroyed by fire or other casualty, the improvement shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Architectural Control Committee, unless either of the following occurs: (1) the cost of repair or reconstruction is more than fifty percent (50%) of the current replacement costs of all project improvements, available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction, and three-fourths (3/4) of the total voting power of the Association residing in members and their first lenders vote against such repair and reconstruction; or (2) available insurance proceeds are not sufficient to substantially repair or reconstruct the improvement within a reasonable time as determined by the Board, a special assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in section 4.4, and the Board, without the requirement of approval by the owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

If the common area improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of \$20,000, the Board shall designate a construction consultant, a general contractor, and an architect for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a

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commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general contractor and architect certify within ten (10) days prior to any disbursement substantially the following:

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

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

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

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

E. That the amount held by the depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

If the cost of repair or reconstruction is \$20,000 or less, the Board shall disburse the available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

The repair or reconstruction, including the repair or reconstruction of a residence, shall commence no later than ninety (90) days after the date of such damage or destruction, and shall be completed no later than one hundred eighty (180) days after such date, subject to delays that are beyond the control of the party responsible for making the repairs. Notwithstanding the foregoing, the owner immediately shall take such steps as may be reasonably required to secure any hazardous conditions resulting from the damage or destruction and to screen any unsightly views.

If the common area improvement is not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among all owners and their respective mortgagees in the same proportion that the owners are assessed, subject to the rights of the owners' mortgagees, after first applying the proceeds to the cost of mitigating hazardous conditions on the property, making provision for the continuance of public liability insurance to protect the interests of the owners until the property can be sold, and complying with all other applicable requirements of governmental agencies.

8.8 Condemnation: If all or any part of a lot (except the common area) is taken by eminent domain, the award shall be disbursed to the owner of the lot subject to the rights of the owner's mortgagees. If the taking renders the lot uninhabitable, the owner shall be divested of any further interest in the project, including membership in the Association, and

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the interests of the remaining owners shall be adjusted accordingly. If all or any part of the common area is taken by eminent domain, the proceeds of condemnation shall be used to restore or replace the portion of the common area affected by condemnation, if restoration or replacement is possible, and any remaining funds, after payment of any and all fees and expenses incurred by the Association relating to such condemnation, shall be distributed among the owners in the same proportion as such owners are assessed, subject to the rights of mortgagees. If necessary, the remaining portion of the project shall be resurveyed to reflect such taking. The Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where lots are not valued separately by the condemning authority or by the court. The Association shall represent the lot owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common area, or part thereof.

8.9 Limitation of Restrictions on Declarant: Declarant is undertaking the work of construction of a planned development and incidental improvements upon the property. The completion of that work and the sale, rental, and other disposal of said lots is essential to the establishment and welfare of the property as a residential community. In order that said work may be completed and said 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 property or any lot, whatever is reasonably necessary or advisable in connection with the completion of said work; or

B. Prevent Declarant or its representatives from erecting, constructing and maintaining on the property (except upon lots owned by others), such structures as may be reasonable and necessary for developing said property as a residential community and disposing of the same by sale, lease or otherwise; or

C. Prevent Declarant from conducting on the property (except upon lots owned by others) its business of completing said work and of establishing a plan of residential ownership and of disposing of said property in lots by sale, lease or otherwise; or

D. Prevent Declarant from maintaining such sign or signs on the property (except upon lots owned by others) as may be necessary for the sale, lease or disposition thereof; or

E. Subject Declarant to the architectural control provisions of Article VI for the construction of any residence or other improvement on the property

The foregoing rights of Declarant shall terminate upon sale of Declarant's entire interest in the project or three (3) years after the date of recordation of the deed of the first lot to be sold in the last phase of the project to be annexed, whichever occurs first.

So long as Declarant, or its successors and assigns, owns one (1) or more of the lots described herein, Declarant, or its successors and assigns, shall be subject to the provisions of this Declaration. Declarant shall make reasonable efforts to avoid disturbing the use and enjoyment of lots and the common area by their owners, while completing any work necessary to said lots or common area.

8.10 Termination of Any Responsibility of Declarant: In the event Declarant shall convey all of its rights, title and interest in and to the property to any person, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation

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hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

8.11 Owners' Compliance: Each owner, tenant or occupant of a lot shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles and Bylaws, and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action 1) to recover sums due, 2) for damages, 3) for injunctive relief, 4) for costs and attorneys fees, or (5) any combination of the foregoing.

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

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

8.13 Special Provisions Relating to Enforcement of Declarant's Obligation to Complete Common Area Improvements: Where any phase of the project includes common area improvements which have not been completed prior to the close of escrow on the sale of the first lot in said phase, and where the Association is obligee under a bond or other arrangement (hereafter "bond") to secure performance of the commitment of Declarant to complete said improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvement for which a notice of completion has not been filed within sixty (60) days after the completion date specified for that improvement in the planned construction statement appended to the bond. If the Association has given an extension in writing for the completion of any common area improvement, the Board shall consider and vote on the aforesaid question if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. A special meeting of members of the Association for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the bond or on the failure of the Board to consider and vote on the question shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by members representing five percent (5%) or more of the total voting power of the Association. At such special meeting a vote of a majority of members of the Association other than the Declarant shall be required to take action to enforce the obligations under the bond and a vote of a majority of the voting power of the Association, excluding Declarant, shall be deemed to be the decision of the Association, and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

On satisfaction of the Declarant's obligation to complete the common area improvements, the Association shall acknowledge in writing that it approves the release of the bond and shall execute any other documents as may be necessary to effect the release of the bond. The Association shall not condition its approval of the release of the bond on the satisfaction of any condition other than the completion of the common area improvements as described on the planned construction statement. Any dispute between the Declarant and the Association regarding the completion of the common area shall be submitted to binding

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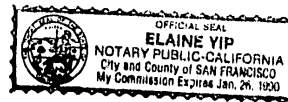
-30-

WITNESS - CORPORATION

state of California)
)SS.
County of San Francisco)

On October 23, 1987 before me, the undersigned, a Notary Public in and for said State, personally appeared Anika Bhumenthal personally known to me to be the person whose name is subscribed to the within Instrument, or proved to be such by the oath of a credible witness who is personally known to me, as being the subscribing witness thereto, said subscribing Witness being by me duly sworn, deposes and says: That this witness resides in San Mateo County and that said witness was present and saw Lorenz Kao personally known to said witness to be the same person described in and whose name is subscribed to the within and amended instrument as Vice President and did execute and deliver the same on behalf of said Corporation and acknowledged to said witness that such Corporation executed it, and thereafter that affiant subscribed his name thereto as a Witness

Signed Elaine Yip



(this area for official notary seal)

arbitration under the commercial rules of the American Arbitration Association and the prevailing party shall be entitled to recover costs, including reasonable attorneys' fees.

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

8.15 BINDING ARBITRATION: IN CASE OF ANY CLAIM OR DISPUTE BETWEEN THE DECLARANT, ITS BUILDER, GENERAL CONTRACTOR, OR BROKER, OR THEIR AGENTS OR EMPLOYEES, ON THE ONE HAND, AND ANY LOT OWNER(S), ON THE OTHER HAND, WHICH CLAIM OR DISPUTE RELATES TO THE RIGHTS AND/OR DUTIES OF THE PARTIES UNDER THE PROJECT DOCUMENTS, OR RELATES TO THE DESIGN OR CONSTRUCTION OF THE PROJECT OR ANY PART THEREOF, THE PROCEDURE SHALL BE AS FOLLOWS. THE AGGRIEVED PARTY OR PARTIES SHALL NOTIFY THE OTHER PARTY OR PARTIES OF THE GRIEVANCE, IN WRITING. WHEN SUCH A NOTICE IS RECEIVED BY DECLARANT, IT SHALL PROMPTLY RESPOND WITH AN INVESTIGATION, INSPECTION, MEETING, DISCUSSION, OR OTHER ACTION REASONABLY APPROPRIATE TO THE CIRCUMSTANCES. APPROPRIATE ACTION SHALL INCLUDE, WITHOUT LIMITATION, PROMPT COMMUNICATION WITH THE AGGRIEVED PARTY OR PARTIES, AND A PROPOSED COURSE OF ACTION TO RESOLVE THE PROBLEM. ALL PARTIES INVOLVED IN THE MATTER SHALL NEGOTIATE IN A GOOD FAITH ATTEMPT TO AMICABLY RESOLVE THE PROBLEM. IF THE PARTIES ARE UNABLE TO RESOLVE THE PROBLEM WITHIN A REASONABLE PERIOD OF TIME (NOT TO EXCEED NINETY (90) DAYS AFTER THE FIRST NOTICE OF CLAIM OR DISPUTE) THE MATTER SHALL BE SUBMITTED TO BINDING ARBITRATION PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION, PROVIDED THAT IF THE DISPUTE OR CLAIM INVOLVES A SUM NOT IN EXCESS OF THE JURISDICTIONAL LIMIT OF THE SMALL CLAIMS COURT, THE LOT OWNER SHALL HAVE THE OPTION OF TAKING THE MATTER TO SMALL CLAIMS COURT IN LIEU OF BINDING ARBITRATION.

8.16 Number; Gender. The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 20th day of October, 1989.

ZEKA INTERNATIONAL, INC.
A California Corporation

By: Lorenz Kao
Lorenz Kao, Vice President

Anita Blumenthal
WITNESSED BY: Anita Blumenthal

9/11/89
w/p/glencove/dec

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RE: Harbor Homes Unit 1

CONSENT AND SUBORDINATION

The undersigned, Crossland Mortgage Corp., a Utah Corporation
 as Beneficiary under that certain Deed of Trust dated April 5, 1989
 recorded April 10, 1989, as Instrument No. 21203,
 Official Records of the County Recorder of the County of Solano
 executed by Zeka International, Inc., a California Corporation
 as Trustor, with SMS Trust Deed Service, a California Corporation
 as Trustee, does hereby consent to the execution and recordation of the
 attached Declaration of Covenants, Conditions and Restrictions and any
 Amendments recorded thereafter and does hereby subordinate said Deed
 of Trust to Declaration of Covenants, Conditions and Restrictions, to
 the same extent and with the same force and effect as if said Declara-
 tion of Covenants, Conditions and Restrictions had been executed and
 recorded prior to the execution and recordation of the Deed of Trust.
 IN WITNESS WHEREOF, the undersigned has executed this consent
 and Subordination this 21st day of July, 1989.

CROSSLAND MORTGAGE CORP., a Utah Corporation

By Charles R. DeKold
 Charles R. DeKold, Vice President
 By Patricia A. Thompson
 Patricia A. Thompson
 Assistant Vice President

STATE OF CALIFORNIA,)
 County of Sacramento) ss.

On this 21st day of July, 1989, before me,
 the undersigned, a Notary Public in and for said State,
 personally appeared Charles R. DeKold and
Patricia A. Thompson personally known to me,
 proved to me on the basis of satisfactory evidence, who did say that he
 the said Charles R. DeKold is the Vice President, and
 she, the said Patricia A. Thompson is the Ass't. Vice President of
Crossland Mortgage Corp. the
 within named Corporation and that the said instrument was signed in behalf of
 said corporation by authority of its Board of Directors, and
Charles R. DeKold and Patricia A. Thompson acknowledged said
 instrument to be the free act and deed of said Corporation.

WITNESS my hand and official seal.



Patricia A. Swink
 Notary Public

s-29

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

GLEN COVE HARBOR
HOMEOWNERS ASSOCIATION
c/o BERDING & WEIL
3240 Stone Valley Road West, Suite 102
Alamo, California 94507
(510) 838-2090

1998-00003394

Recorded By:
ATTORNEY

Official Records
County of Solano
Robert Blechschmidt
Assessor/Recorder

13:17 16-JAN-98

40 RecFee 16.00

SurMon

NoPCOR

IncFee

DTTax

Check \$ 16.00

OvrSht

AR16 4 Pgs

**FIRST AMENDMENT TO GLEN COVE HARBOR HOMEOWNERS ASSOCIATION
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This First Amendment to Glen Cove Harbor Homeowners Association Declaration of Covenants, Conditions and Restrictions ("CC&Rs") is made on the date hereinafter set forth by Glen Cove Harbor Homeowners Association, a California nonprofit mutual benefit corporation (hereinafter referred to as the "Association").

RECITALS

WHEREAS, the Association is successor-in-interest to Zeka International, Inc., which, as Declarant, executed the CC&Rs dated October 20, 1989, and recorded on October 25, 1989, as Instrument No. 93-332610, Official Records of Solano, California; and

WHEREAS, the CC&Rs and Declaration of Annexation Glen Cove Harbor Homeowners Association establish certain limitations, easements, covenants, restrictions, conditions, liens and charges which run with the land and are binding upon all parties having or acquiring any right, title or interest in that certain parcel of real property located in the County of Solano, State of California, and more particularly described as follows:

That Map entitled "Harbor Homes Unit I," filed for record the 10th day of April, 1989, in Book 54 of Maps at page 90, in the records of Solano County.

and

WHEREAS, Article VIII, Sections 8.4 and 8.5, of the CC&Rs provide that provisions of the said Declaration may be amended by the affirmative vote, in person or by proxy, or written consent of at least sixty-seven percent (67%) of the Members and the approval of Eligible Mortgage Holders, if any, holding mortgages on Lots which have at least fifty one percent (51%) of the votes of the Lots subject to Eligible Holder Mortgages; and

WHEREAS, at least sixty-seven percent (67%) of the Members and Eligible Mortgage Holders, if any, holding mortgages on Lots which have at least fifty-one percent (51%) of the votes of the Lots subject to Eligible Holder Mortgages desire to amend, modify and otherwise change the CC&Rs, pursuant to Article VIII, Sections 8.4 and 8.5, thereof;

NOW, THEREFORE, pursuant to the said Article VIII, Sections 8.4 and 8.5, of the CC&Rs, at least sixty-seven percent (67%) of the Members and Eligible Mortgage Holders, if any, holding mortgages on Lots which have at least fifty-one percent (51%) of the votes of the Lots subject to Eligible Holder Mortgages do hereby declare that the CC&Rs, be, and it is hereby, AMENDED as follows:

1. Article V, Section 5.1 A, of the CC&Rs is hereby amended by the addition of the following Paragraph 5.1 A (1.5) between Section 5.1 A (1) and Section 5.1 A (2):

(1.5) The Association shall provide exterior maintenance upon each Lot, as follows: Paint, stain, repair, replace and care for the exterior building surfaces of all Residences including roofs, gutters, fences, downspouts and exterior walls; provided, however, that the Association shall not be responsible for the repair and replacement of exterior doors, screen doors, garage doors or exterior lighting fixtures.

IN WITNESS WHEREOF, we, the Members of Glen Cove Harbor Homeowners Association, constituting at least sixty-seven percent (67%) of the Members and Eligible Mortgage Holders, if any, holding mortgages on Lots which have at least fifty-one percent (51%) of the votes of the Lots subject to Eligible Holder Mortgages, hereby affirm, approve, and adopt the foregoing First Amendment to the CC&Rs, in accordance with Article VIII, Sections 8.4 and 8.5 of the CC&Rs, by means of the signatures of the President and Secretary of Glen Cove Harbor Homeowners Association, duly authorized by the affirmative vote or written consent of not less than a majority of the total voting power of the aforesaid Association, which First Amendment to the CC&Rs shall be recorded with the County Recorder of Solano County, California.

DATED: 12/3/17

GLEN COVE HOMEOWNERS ASSOCIATION

Mendell Douglas
President

[Signature]
Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

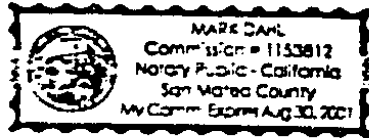
State of California

County of SAN MATEO

On DECEMBER 13, 1997 before me, MARK DAHL, NOTARY PUBLIC

personally appeared Laveille Voss

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:
Mark Dahl
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: First Amendment to Glen Cove Harbor Homeowners Association Declaration of Covenants, Conditions and Restrictions

Document Date: _____ Number of Pages: 2

Signer(s) Other Than Named Above: Wendell Quigley

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Individual
 Corporate Officer
Title(s): _____
 Partner — Limited General
 Attorney-in-Fact
 Trustee
 Guardian or Conservator
Other: _____

Signer's Name: _____
 Individual
 Corporate Officer
Title(s): _____
 Partner — Limited General
 Attorney-in-Fact
 Trustee
 Guardian or Conservator
Other: _____

Signer is Representing: _____

Signer is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO

On JANUARY 6, 1998 before me, JACQUELINE Q JAVIER
Date Name and Title of Officer (e.g., "Notary Public")

personally appeared Wendell Quigley
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 upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal
[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: First Amendment to Glen Cove Harbor Homeowners Association Declaration of Covenants, Conditions and Restrictions

Document Date: _____ Number of Pages: 2

Signer(s) Other Than Named Above: Lavelle Voss

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

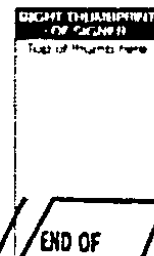
- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

END OF DOCUMENT