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AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS

FOR

MAMMOTH ESTATES
CONDOMINIUMS, INC.

ORDER GRANTING PETITION

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AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

**MAMMOTH ESTATES
CONDOMINIUMS, INC.**

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**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MAMMOTH ESTATES CONDOMINIUMS, INC.**

This Amended and Restated Declaration is made on the date this document is executed by Mammoth Estates Condominiums, Inc. with reference to the following facts:

Mammoth Estates is a condominium project in Mammoth Lakes, California. The Declaration of Covenants, Conditions and Restrictions for Mammoth Estates Unit No. 1 was recorded February 23, 1968 in Volume 92, Page 200 et seq. of the Official Records of Mono County, California. The Declaration of Covenants, Conditions and Restrictions for Mammoth Estates Unit No. 2 was recorded October 15, 1968 in Volume 97, Page 172 et seq. in said Recorder's office. The Declaration of Covenants, Conditions and Restrictions for Mammoth Estates Unit No. 3 was recorded September 5, 1969 in Volume 104, Page 531 et seq. in said Recorder's office. A legal description of the property included in the Mammoth Estates Project is set forth in the said Declaration of Covenants, Conditions and Restrictions for the three phases and is incorporated herein by this reference. The three phases are collectively referred to herein as "the Project" and has operated as one contiguous unified project with one management entity for the past approximately 24 years. Lot 1 and Lot 2 of Mammoth Slopes Unit No. 2 per map recorded in Map Book 4, Pages 85-85c in the office of the County Recorder of Mono County, California (and which lots are currently being merged into Parcel 1 of Lot Line Adjustment 94-9) is currently owned by the Association for snow storage, future recreational, and other uses, and shall be encumbered by this Amended and Restated Declaration, and further shall be treated herein as a part of the Common Area.

Because the Board governing the Project under the old Declarations consists of all record owners of all condominiums and because the old Declarations contain numerous provisions and restrictions which have become outdated during the past 24 years and make it difficult to conveniently and effectively manage the project, the three Associations wish to amend their old Declarations for each of the three phases. Said Associations have adopted this master Amended and Restated Declaration of Covenants, Conditions, and Restrictions which replaces and supersedes entirely the old Declarations for each of the three Projects recorded in 1968 and 1969.

The parties wish to establish one Board of Directors with nine (9) members to manage the Project, to provide for and describe effectively the entire common area which has been and will continue to be used for the benefit of all three phases of the Project, and to establish the percentage of maintenance assessments so that each of the owners will pay a portion of the maintenance costs of the entire common area,

which maintenance costs will be spread across all the units in approximately the same percentages that currently exist. Through this process, the Board of Directors will be a more manageable size, the maintenance will be more efficient, and the Project will be governed with one master set of condominium documents for all three phases.

All three phases have continuously used all of the Common Area for the past 24 years. The ownership interests of the underlying fee title are not intended to be altered or changed by this Amended and Restated Declaration. Instead, this Amended and Restated Declaration is intended to clarify and unify the existing granted, prescriptive, and necessity easements, covenants, conditions and restrictions with one master updated Declaration.

In addition to the foregoing, the three Associations wish to bring their governing condominium documents up-to-date in a single set of documents and in line with current laws and lender's requirements. This is intended to benefit all of the condominiums both in terms of increased effectiveness and efficiency in the Association as well as increased marketability of the units because of compliance with current lender requirements and other laws and regulations.

This master Amended and Restated Declaration alters the assessments only to the extent that all three phases are combined into one large project with one Common Area. Assessments for maintenance of this one unified Common Area are levied in accordance with the schedule attached hereto as Exhibit A and which is a fair allocation of costs and expenses to all owners. Thus there will be one Association for all three phases, one Board responsible for the entire Project, one Common Area, and one assessment divided amongst all owners and. This will result in increased efficiency and effectiveness as well as a savings in the costs to maintain the project and management of financial records, etc. Although ownership of the condominiums and the undivided interest in their respective common areas will remain unchanged, the maintenance of the common areas in the three phases will change because it will be treated as one large common area with one assessment for the maintenance of the entire common area to be divided amongst the owners in accordance with the attached Exhibit A.

The Declarant intends by this document to impose upon the Project mutually beneficial restrictions under a general plan of improvement for the benefit of all of the owners of condominiums.

NOW, THEREFORE, Declarant hereby declares that all condominiums at Mammoth Estates shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the following Amended and Restated Declaration of Covenants, Conditions & Restrictions and subject to all provisions and easements contained herein, all of which are imposed as equitable servitudes pursuant

to the general development plan of the Project and for the purpose of enhancing and protecting the value and attractiveness of the Project, and every part thereof. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants which shall run with the land and shall be binding upon each owner at Mammoth Estates and their successors and assigns, and all parties having or requiring any right, title, or interest in or to any part of the project or the property therein. All provisions set forth above shall be deemed to be both recitals as well as substantive provisions of this Declaration and are incorporated herein as such.

ARTICLE 1 DEFINITIONS

1.1 "Articles" shall mean the Articles of Incorporation of the Association originally filed with the California Secretary of State on March 13, 1973, and any subsequent amendments.

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

1.3 "Association" shall mean and refer to the Mammoth Estates Condominiums, Inc., the Members of which shall be the Owners of Condominiums in the Project.

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

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

1.6 "Common Area" shall mean and refer to the elements of the Common Area as defined in Article 2, and which is owned in common with other Owners.

1.7 "Common Expenses" means and includes the actual and estimated expenses of operating the Common Area and any reasonable reserve for such purposes as found and determined by the Board and all sums designated Common Expenses by or pursuant to the Condominium Documents.

1.8 "Common Interest" means the undivided interest in the entire Common area that is a part of each Condominium and as set forth in this Declaration.

1.9 "Condominium" shall mean an estate in real property as defined in California Civil Code §§ 783 and 1351(f), consisting of an undivided interest in common in a portion of the Project and a separate interest in space called a Unit.

1.10 "Condominium Documents" shall mean the same as "Project Documents."

1.11 "Condominium Plan" shall mean and collectively refer to the three (3) recorded three-dimensional plans of the Condominiums built on the property in the Project which identifies the Common Area and each separate interest pursuant to California Civil Code § 1351, copies of which were recorded in the records of Mono County.

1.12 "Declarant" shall mean and refer to Mammoth Estates Condominiums, Inc.

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

1.14 "Eligible Holder Mortgages" shall mean mortgages held by "Eligible Mortgage Holders."

1.15 "Eligible Mortgage Holder" shall mean a First Lender who has requested notice of certain matters from the Association in accordance with the provisions herein.

1.16 "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 the provisions herein.

1.17 "First Lender" shall mean any person, entity, bank, savings and loan association, insurance company, or financial institution holding a recorded first mortgage on any Condominium.

1.18 "First Mortgage" shall mean and refer to any recorded mortgage on a Condominium with first priority over other mortgages thereon.

1.19 "Foreclosure" shall mean and refer to the legal process by which the mortgaged property of a borrower in default under a mortgage is sold, and the borrower's interest in such property is sold, pursuant to California Civil Code § 2924a et seq. or sale by the Court pursuant to California Code of Civil Procedure § 725a et seq. and any other applicable law.

1.20 "Map" shall mean and refer collectively to the Final Tract Maps and

Condominium Plans recorded on the Project in Mono County.

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

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

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

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

1.25 "Owner" or "Owners" shall mean and refer to the record holder, or holders of title to a Condominium in the Project. This shall include any person having fee simple title to any Condominium, but shall exclude persons or entities having any interest merely as security of the performance of an obligation. If a Condominium is sold under a contract of sale and the contract of sale is recorded, the purchaser, rather than the fee owner, shall be considered the "Owners" from and after the date the Association receives written notice of the recorded contract.

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

1.27 "Project" shall mean and refer to all of the real property at Mammoth Estates Condominiums, and all improvements thereon, together with any other property annexed into the project acquired by the Association.

1.28 "Project Documents" shall mean this Declaration, as amended from time to time, the exhibits, if any, attached hereto, together with the other basic documents used to create and govern the Project, including the Map, the Bylaws, and the Condominium Plan (but excluding unrecorded rules and regulations adopted by the Board or the Association).

1.29 "Restricted Common Area" shall mean and refer to those portions of the Common Area set aside for exclusive use of a Unit Owner or Owners, pursuant to Article 2 and shall constitute "exclusive use common area" within the meaning of California Civil Code § 1351(i).

1.30 "Unit" shall mean and refer to the elements of the Condominium, as defined in Article 2, which are not owned in common with the Owners of other Condominiums in the Project. Each Unit is identified by separate number on the Condominium Plan.

ARTICLE 2
DESCRIPTION OF PROJECT, DIVISION OF PROPERTY
AND CREATION OF PROPERTY RIGHTS

2.1 Description of Project. The Project is a Condominium Project consisting of the land, the Condominiums and all other improvements located thereon. There are Seventy-Eight (78) Condominiums, together with Common Area parking, recreational, and other areas. Reference is made to the Condominium Plan for further details. The Common Area shall include individual lot(s) acquired or owned by the Association and/or by all the individual Owners in individual interests for snow storage, recreational uses, and other uses by the Owners.

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

2.2.1 Units. Each of the Units as separately shown, numbered and designated in the Condominium Plan, consists of the space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, window frames, doors, door frames, exposed beams abutting thereto, and trim, of each Unit, each of such spaces being defined and referred to herein as a "Unit." The following are not part of said Unit: Bearing walls, columns, floors, roofs, foundations, central heating, reservoirs, tanks, pumps, and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the Unit. In interpreting deeds and plans, the existing physical boundaries of the Unit, or of a Unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or plan, regardless of settling or lateral movements of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building. Each Unit has appurtenant to it nonexclusive rights for ingress, egress and support through the Common Area subject to the rights of each Owner in the Restricted Common Area appurtenant to that Owner's Condominium.

2.2.2 Common Areas. The Common Area consists of that portion of the Project defined in the original Declarations of Covenants, Conditions and Restrictions for all three phases, Lot Line Adjustment Parcel 1 of Lot Line Adjustment 94-9, as well as additions to the Project that may be added from time to time. It comprises the entire Project excluding the individual Units, and is subject to Restricted

Common Areas defined in paragraph 2.2.3. Each Owner has as appurtenant to the Owner's Unit, an undivided interest in portions of the Common Area as originally conveyed by the original developer(s) of Mammoth Estates Unit Nos. 1, 2, and 3. Although there may be differing ownerships in various portions of the Common Area, this Amended and Restated Declaration is intended to establish one Association with responsibility to maintain all the Common Area and assess the Owners for such maintenance on the basis of one large Project with one Common Area and 78 Units. Each Condominium includes a Unit and such undivided interest as tenants-in-common in the Common Area. The Common Area interest appurtenant to each Unit is permanent in character and cannot be altered without the consent of all of the Owners affected. Such undivided Common Area interest cannot be separated from the Unit to which it is appurtenant, and any conveyance or transfer of the Unit includes the undivided Common Area interest, the Owner's membership in the Association, and any other benefits or burdens appurtenant to that Owner's Condominium. Each Owner in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other Condominium Owners, subject to the rights of each Owner in any Restricted Common Area appurtenant to that Owner's Condominium.

2.2.3 Restricted Common Areas. The following described portions of the Common Area, referred to as "Restricted Common areas," are set aside and allocated for the exclusive use of the Owner of the Condominium to which they are attached and are appurtenant to that Condominium:

(1) porch area which is an extension of the Unit to which it is attached.

(2) balcony which is an extension of the Unit to which it is attached.

Except as described herein, no other portion of the Common Areas shall be Restricted Common Area.

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

B. The access rights of the Association to maintain, repair or replace

improvements or property located in the Common Area as described herein.

C. The rights of the Owners, the Association, and the Declarant to install, maintain, repair or replace utilities as described herein.

D. The encroachment easements described herein.

E. The rights of Owners to make improvements or alternations authorized by California Civil Code § 1360(a)(2), subject to the provisions of Article 7 to the extent applicable.

2.4 Partition Prohibited. The Common Areas shall remain undivided as set forth above. Except as provided by California Civil Code § 1359 or authorized under Article 8, no Owner shall bring any action for partition of the Common Areas, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Condominium owned by two (2) or more persons and division of the sale proceeds is not prohibited hereby but partition of title to a single Condominium is prohibited.

ARTICLE 3
ASSOCIATION, ADMINISTRATION, MEMBERSHIP
AND VOTING RIGHTS

3.1 Association to Manage Common Areas. The management of the Common Area shall be vested in the Association in accordance with its Bylaws. The Owners of all the Condominiums covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, and the Bylaws.

3.2 Membership. The Owner of a Condominium shall automatically, upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as the ownership ceases for any reason, at which time the membership in the Association shall automatically cease. Membership shall be held in accordance with the 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 Condominium to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such Condominium. On any transfer of title to an Owner's Condominium, including a transfer on the death of an Owner, membership passes automatically with title to the transferee.

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

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

ARTICLE 4 MAINTENANCE AND ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Condominium within the Project, hereby covenants, and each Owner of any Condominium 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 Condominium and shall be a continuing lien upon the Condominium against which each such Assessment is made, the lien to become effective upon recordation of a notice of delinquent Assessment. Each such Assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them. No Owner shall be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of the Owner's Condominium.

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.

4.3.1 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, replacements 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.

The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash-flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within three years of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a delay would be in the best interests of the Project, delay the restoration until the time which the Board reasonably determines to be necessary. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is not subject to the limitation imposed by Section 4.4.

4.3.2 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 considered appropriate. Special Assessments shall be allocated among the Units in the same manner as annual Assessments provided that the Board may levy a special Assessment against a Member to reimburse the Association for costs incurred in bringing the Member and his Unit into compliance with the provisions of the Project Documents.

4.4 Restrictions on Increases in Annual or Special Assessments. The Board may not impose an annual Assessment on any Condominium 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 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, 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 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. The Board may increase annual Assessments by up to twenty percent (20%) over the annual Assessment for the immediate preceding fiscal year only if the Board has complied with the provisions of California Civil Code § 1365(a), which provisions are set forth in the Bylaws or has obtained the approval of such increase by the Members in the manner set forth above in this section.

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 Project or any part of it for which the Association is responsible where a threat to personal safety on the Project is discovered, or
- (3) an extraordinary expense necessary to repair or maintain the Project 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.

The Association shall provide notice by first-class mail to the Owners, of any increase in the regular or special assessments of the Association, not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due.

This section incorporates the statutory requirements of California Civil Code § 1366. If the applicable provisions of the California Civil Code is amended in any manner, this section 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 in accordance with the schedule set forth in attached Exhibit A, incorporated herein by this reference. The only exceptions are special assessments levied against a particular Unit for violations of the Condominium Documents or to otherwise bring the Unit into compliance with the condominium Documents. Annual Assessments shall be collected on a quarterly basis unless the Board directs otherwise. Special Assessments may be collected in one (1) payment or periodically as the Board shall direct.

4.7 Due Dates. 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 Condominium 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 dates of each installment shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Condominium have been paid. Such a certificate shall be conclusive evidence of such payment.

4.8 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 commencing 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. If Civil Code § 1366 is amended to permit charging a higher rate of interest on delinquent accounts, then the Board may fix the interest rate from time to time as it sees fit not to exceed the maximum permitted by law.

4.9 Transfer of Condominium by Sale or Foreclosure. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale of any Condominium pursuant to 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 Condominium 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 Condominium obtains title to the same as a result of Foreclosure of any such first

mortgage, such acquirer of title, his successor and assigns, shall not be liable for the Assessment by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such acquirer (except for assessment liens recorded prior to the mortgage). No amendment of the preceding sentence may be made without the consent of Owners of Condominiums 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 Condominiums comprising fifty-one percent (51%) of the Condominiums subject to first mortgages. The unpaid share of such Assessments shall be deemed to be Common Expenses collectible from all of the Condominium Owners including such acquirer, his successors or assigns.

If a Condominium is transferred, the grantor shall remain liable to the Association for all unpaid Assessments against the Condominium through and including the date of the transfer. The grantee upon written request shall be entitled to a statement from the Association, dated as of the date of transfer, setting forth the amount of the unpaid Assessments against the Condominium to be transferred. The grantee shall be liable for any Assessments that become due after the date of the transfer. The Association may charge a fee for providing accounting information and/or a fee to change its records to reflect any transfer, provided such fee(s) shall not exceed its actual costs for performing such services.

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 Condominium 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 Condominium against which the Assessment and other sums are levied, the name of the record Owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association, any management agent retained by the Association, the attorney for the Association, or any other agent designated by the Board for that purpose.

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, 2924b, 2924c, 2924f, 2924g and 2924h of the California Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trust, including any successor statutes thereto, 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 Condominium Owners, shall have the power to bid for the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. If the purchase of a Condominium would result in a five percent (5%) or greater increase in Assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association. During the period a Condominium is owned by the Association, following Foreclosure:

(1) no right to vote shall be exercised on behalf of the Condominium;

(2) no Assessment shall be assessed or levied on the Condominium;

and

(3) each other Condominium shall be charged, in addition to its usual Assessment, its share of the Assessment that would have been charged to such Condominium had it not been acquired by the Association as a result of Foreclosure.

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.

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

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 personal property of the Association, rather than against the Units, said taxes shall be included in the assessments made under the provisions of section 4.1 and, if necessary, a special Assessment may be levied against the Units in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE 5

DUTIES AND POWERS OF THE ASSOCIATION

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

5.1.1 Maintenance. The Association shall maintain, repair, replace (when necessary), restore, operate and manage all of the Common Area and all facilities, (including utility facilities to the extent described in Article 6, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association, provided that each Owner shall maintain the Restricted Common Area appurtenant to that Owner's Condominium in a neat and clean condition. Maintenance shall, include without limitation, painting, maintaining, cleaning, repairing and replacing of all Common Areas, including exterior doors, (except exterior sliding glass doors which are to be maintained by Owner per Section 8.7), landscaping (except for private porch and balcony areas which are to be maintained by Owners as per section 8.7), parking areas and recreational facilities. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or omission of an Owner, or his guests, tenants or invitees, or the Owner's pets except if the repair is covered by the insurance carried by the Association, the Association shall be responsible for making the repairs, and the responsible Owner shall pay any deductible pursuant to the insurance policy. If the Owner fails to make such payment, then the Association may make such payment and shall charge the responsible Owner, which charge shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law) until paid in full. If an Owner disputes his or her responsibility for the repairs, the Owner shall be entitled to notice and a hearing as provided in the Bylaws before any charge may be imposed.

The Association may have the Common Area periodically inspected for wood destroying pests and organisms and shall take appropriate corrective measures therefor.

Maintenance will include periodic sweeping or cleaning of fireplace chimneys and flues.

Landscaping shall include fertilization, irrigation, and other garden management practice necessary to promote a healthy weed free environment for optimum plant growth.

5.1.2 Insurance. The Association shall maintain such policy or

policies of insurance as are required by section 8.8 of this Declaration.

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

5.1.4 Assessments. The Association shall fix, levy, collect and enforce Assessments as set forth in Article 4 hereof.

5.1.5 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.

5.1.6 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:

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

5.2.2 Manager. The Association may employ a manager, one or more assistant managers, 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. Such employment and contracting may be on such terms as the Board deems prudent.

5.2.3 Adoption of Rules. The Association or the Board may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Project and other Owners.

5.2.4 Access. For the purpose of performing construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common, the Associations, agents or employees shall have the right, after reasonable notice (not less than twenty-four (24) hours except in emergencies) to the

Owner thereof, to enter any Unit or to enter any portion of the Common Area at reasonable hours. Such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association.

5.2.5 Assessments, Liens and Fines. The Association shall have the power to levy and collect Assessments in accordance with the provisions of Article 4 hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay Assessments or for violation of any provision of the Condominium Documents and the unrecorded rules and regulations adopted by the Board or the Association. 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.

5.2.6 Enforcement. The Association shall have the authority to enforce this Declaration as per Article 8 hereof.

5.2.7 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.

5.2.8 Loans. The Association shall have the power to borrow money.

5.2.9 Contracts. The Association shall have the power to contract for goods and/or services for the Common area(s), facilities and interests or for the Association, subject to limitations set forth in the Bylaws, or elsewhere herein.

5.2.10 Delegation. The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers for routine day-to-day matters to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

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

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

(3) to make a decision to levy monetary fines, impose special

Assessments against individual Condominiums, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;

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

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

5.2.11 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, as provided in the Bylaws.

5.2.12 Manager's Unit. The Association currently owns a recreation building which contains a manager and/or assistant manager(s) quarters to be occupied by the Manager and/or assistant manager(s) of the project. Anything in the Declaration or the Bylaws to the contrary notwithstanding, the Association, upon appropriate resolution of the Board, shall have the power and authority, but not the obligation, with the vote or written consent of two thirds (2/3) of the Members, to purchase one or more Condominium(s) to be occupied by the manager and/or assistant manager(s) of the Project. Said additional purchased condominium(s) acquired may be referred to as manager and/or assistant manager's unit(s) during the period the additional unit(s) is owned by the Association. During the period said unit(s) is owned by the Association:

(1) no right to vote shall be exercised on behalf of the manager and/or assistant manager's unit(s);

(2) no Assessment shall be assessed or levied on the manager and/or assistant manager's unit(s); and

(3) each other Condominium shall be charged, in addition to its usual Assessment, its share of the Assessment that would have been charged to the manager and/or assistant manager's unit(s) but for the provisions of this section.

5.2.13 Security. The Association shall have the power, but not the obligation, to contract for security service for the Common Area.

5.2.14 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 Article 4 and California Civil Code §1367(b).

5.2.15 Litigation. Except in the case of an action to enforce the Project Documents or to collect Assessments (in which case the Board may act by majority vote), the Board of Directors has authority to file a suit, or file a demand for arbitration, or incur litigation costs, or enter into a contingent fee contract with an attorney, whether pursuant to Code of Civil Procedure § 374, or on behalf of Members, only after getting the vote at a duly noticed and properly held membership meeting, of a majority of a quorum of the Members. This section shall not be construed to limit the power of the Board to defend the Association and its officers, directors and members against any suit. In any case where the Board determines that the Association's claim will be barred by an applicable statute of limitations by reason of the delay in obtaining the vote required above, and in any case where a quorum of Members was not obtained despite two (2) attempts to call a special meeting following proper notice requirements contained in applicable provisions of the Bylaws, a vote of Members approving the action described above shall not be required, provided that in such case a majority of the entire Board approves of the action.

5.2.16 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.

ARTICLE 6 UTILITIES

6.1 Owners' Rights and Duties. The rights and duties of the Owners of Condominiums within the Project with respect to sanitary sewer, water, drainage, electric, propane, television receiving, telephone equipment, cables and lines, exhaust flues and heating facilities (hereinafter referred to, collectively, as "utility facilities") shall be as follows:

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

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

C. In the event of a dispute between Owners with respect to the repair or rebuilding of said utility facilities, 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.

6.2 Easements for Utilities and Maintenance. Easements over and under the Project for the installation, repair, and maintenance of electric, telephone, water, propane, and sanitary sewer lines and facilities, heating facilities, cable television lines, drainage facilities, walkways, and landscaping as shown on the Map and/or utility uses which have existed for the past five (5) years all are existing easements for the benefit of all three phases of the Project.

6.3 Association's Duties. The Association shall maintain all utility facilities located in the Common Area except for those facilities maintained by utility companies, public, private, or municipal and those maintained by the Owners as described in section 8.7. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Condominiums.

ARTICLE 7 USE RESTRICTIONS

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

7.1 Condominium Use. No Condominium shall be occupied and used except for residential purposes by the Owners, their tenants, and guests, and no trade or business shall be conducted therein, except that residential Condominiums may be used as a combined residence and executive or professional office by the Owner thereof, so long as such use does not interfere with the quiet enjoyment by other Owners and except that any Condominium may be rented out on a daily, weekly, monthly, or other basis as the Owner deems appropriate. No tent, shack, trailer, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

No Condominium or any portion thereof in the Project shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time sharing agreement, plan, program or arrangement, including, without limitation, any so called "vacation license," "travel club," "extended vacation," or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall

be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess the Condominiums or any portion thereof in the Project rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time of twenty-five (25) consecutive calendar days or less. However, this section shall not be construed to limit the personal use of any Condominium or any portion thereof in the Project by any Owner or his or her or its guests, and this section shall not limit the right of an Owner to rent out the Condominium on a daily, weekly, monthly, or other basis through any type of rental agency or on his own.

7.2 Interior of Unit. Each Owner shall have the right at his sole cost and expense to maintain, repair, paint, tile, finish, alter, substitute, add, or remove any fixtures attached to the ceilings, floors or walls of the Unit owed by such Owner, and shall have the obligation to maintain the interior of such Unit so that the same does not deteriorate so as to be dangerous or present a hazard to any other Unit or to the Project. This paragraph shall not be construed as permitting an interference with or damage to the structural integrity of the building in which the Unit is located, or interference with the use or enjoyment of the Common Areas or of the other Units or any of them.

7.3 Storage. There shall be no obstruction of Common Area nor shall anything be stored in the Common Area without the prior written consent of the Board except as hereinafter expressly provided.

7.4 Restricted Common Area. Each Owner shall have the right to place furniture on and to paint, repair, and maintain the Restricted Common Area porch area so long as it remains identical to the color and design of the Project and is first approved by the Board.

7.5 Alteration of Common Area. Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Board.

7.6 Drilling. No drilling or mining operations of any kind shall be permitted upon or in any Unit or the Common Areas.

7.7 Rules. There shall be no violation of reasonable rules for the use of Units or the Common Areas adopted by the Board for the purpose of protecting the interests of all Owners or protecting the Units or the Common Areas and furnished in writing to the Owners, and the Board is authorized to adopt such rules.

7.8 Nuisances. No noxious, illegal, or seriously offensive activities shall be carried on upon any Condominium, or in any part of the Project, nor shall anything be

done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of the Owners' Condominiums, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building, or which would constitute waste anywhere at the Project.

7.9 Vehicle Restrictions and Towing. No motor home, commercial vehicle, truck (other than standard size pickup truck or standard size van), inoperable automobile, or similar equipment shall be permitted to remain upon any area within the Project for more than 48 hours. Commercial vehicles shall not include sedans (or standard size vans or pickup trucks) which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Project. The Board may restrict the number of vehicles that may be parked on the Common Area by the occupants of any Condominium. For this purpose, "vehicle" shall include: car, motorcycle, van, sport utility vehicle, trailer, camper, recreational vehicle, boat, and those vehicles referred to above that are allowed on only a temporary basis. The Association shall 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 law enforcement agency and shall not be less than 17 x 22 inches in size with lettering not less than one (1) inch in height.

The Association may cause the removal of any vehicle wrongfully parked on the Project, 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 law enforcement agency immediately after the vehicle has been removed. The Association shall comply with Vehicle Code § 22658.2 and related sections, all as they are amended from time to time. The Board may establish rules and regulations from time to time for the parking of vehicles in the Common Area.

7.10 Signs. No signs shall be displayed to the public view on any Condominiums or any portion of the Project, except such signs as are approved by the Board or committee appointed by the Board and also each Owner may display one (1) "For Sale" or "For Rent" or "For Exchange" sign and may also display one (1) sign advertising directions to another Owners' Condominium which is for sale, rent, or exchange, provided the design, dimensions and locations are reasonable.

7.11 Animals. No animals of any kind shall be raised, bred, or kept in any

Condominium, or on any portion of the Project, except pets kept in cages or aquariums and a reasonable number of ordinary household pets such as dogs or cats provided they are not kept, bred, or maintained for any commercial purposes, and are kept under control at all times. No pets shall be allowed in the Common Area except as may be permitted by rules of the Board. No Owner shall allow his or her dog to enter the Common Area except on a leash and in control by a responsible person. After making a reasonable attempt to notify the Owner, the Association or any Owner may cause any pet found within the Common Area in violation of the rules of the Board or this Declaration to be removed by the Association (or any Owner) to a pound or animal shelter under the jurisdiction of the Town of Mammoth Lakes, or the County of Mono, by calling the appropriate authorities, whereupon the Owner may, upon payment of all expenses connected therewith, repossess the pet. Owners shall prevent their pets from soiling all portions of the Common Area and shall promptly clean up any mess left by their pets. Owners shall be fully responsible for any damage caused by their pets.

7.12 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the Project, 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. The Association shall be responsible for removal of garbage from the central pickup point(s). No toxic or hazardous materials shall be disposed of within the Project by dumping in the garbage containers or down the drains, or otherwise.

7.13 Radio and Television Antennas. No alteration to or modification of the central radio and cable television system, and as maintained by the Association or a cable television franchisee shall be permitted, and no Owner may be permitted to construct and/or use and operate his own external radio and/or television antenna, satellite dish or related equipment without the consent of the Board. In considering whether to approve applications, the Board shall consider and give great weight to considerations of aesthetics and uniformity of appearance and potential structural damage and potential for water leaks in the Project. All fees for the use of any cable television system shall be borne by the respective Owners, and not by the Association.

7.14 Right to Lease.

A. Any Owner has a right to lease his or her Condominium. The Owner and Tenant must meet each and every one of the following requirements, and the lease will be subject to these requirements whether they are included within the lease or not:

- (1) tenant must acknowledge in writing acceptance of the

conditions in this section;

(2) all leases shall be subject in all respects to provisions of the Declaration, the Bylaws, and all rules and regulations adopted by the Board;

(3) all Owners who lease their Condominiums for a period of time in excess of thirty (30) consecutive days to tenant shall promptly notify the secretary of the Association in writing of the names of all tenants and members of tenants' family occupying such Condominiums and shall provide the Secretary of the Association with a complete copy of the lease and a written, signed acknowledgment of Section 7.14; all Owners leasing their Condominium shall promptly notify the Secretary of the Association of the address and telephone number where such Owner can be reached.

B. Any failure of a tenant to comply with the Declaration, Bylaws, and Association rules and regulations, shall be a default under the lease, regardless of whether the lease so provides. In the event of any such default, the Owner immediately shall take all actions to cure the default including, if necessary, eviction or other removal of the tenant.

C. If any tenant is in violation of the provisions of the Declaration, Bylaws, or rules and regulations of the Association, the Association may bring an action in its own name and/or in the name of the Owner to have the tenant evicted and/or to recover damages. If the court finds that the tenant is violating, or has violated any of the provisions of the Declaration, the Bylaws of the Association, or the rules and regulations of the Association, the court may find the tenant guilty of unlawful detainer notwithstanding the fact that the Owner is not the plaintiff in the action and/or the tenant is not otherwise in violation of tenant's lease. For purposes of granting an unlawful detainer against the tenant, the court may assume that the Owner or person in whose name a contract (the lease or rental agreement) was made was acting for the benefit of the Association. The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies which the Association has. If permitted by present or future law, the Association may recover all its costs, including court costs and reasonable attorneys' fees incurred in prosecuting the unlawful detainer action.

D. The Association shall give the tenant and the Owner notice in writing of the nature of the violation of the Declaration and/or rules, and twenty (20) days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

E. Each Owner shall provide a copy of the Declaration, Bylaws and all rules and regulations of the Association to each tenant of his Unit who occupies said Unit for period of time in excess of thirty (30) consecutive days. By becoming a

tenant, each tenant agrees to be bound by the Declaration, the Bylaws and the rules and regulations of the Association, and recognizes and accepts the right and power of the Association to evict a tenant for any violation by the tenant of the Declaration, the Bylaws, and rules and regulations of the Association.

7.15 Architectural Control. No deck, building, fence, wall, 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, repainted or maintained upon the Project, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the Board. Notwithstanding the foregoing, Owners may improve or alter any improvements within the interior boundaries of the Owner's Unit but not including an Owner's Restricted Common Area porch, provided such improvement or alteration does not impair the structural or acoustical integrity of any Common Area, the utilities or other systems servicing the Common Area or other

Condominiums, and does not involve altering any Common Area (including bearing walls).

Plans and specifications showing the nature, kind, shape, color, size, materials and location of any proposed improvements or alterations, shall be submitted to the Board for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to paint the interior of his Unit any color desired.

In order to maintain noise transference level as between units, and to comply with Title 234 and with applicable building standards, floor covering materials that are replaced shall be replaced only with materials of equal or better quality and noise transmission specifications.

In the event the Board fails to approve or disapprove plans and specifications in writing 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. Approval of plans by the Board shall in no way make the Board or its members responsible for or liable for the improvements built after approval of the plans and the Owner whose plans are approved shall defend, indemnify and hold the Board, and the members thereof, harmless from any and all liability arising out of such approval.

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

by any governmental entity with appropriate jurisdiction.

7.16 Clothes Lines. There shall be no outside laundering or drying of clothes. No draping of towels, carpets, or laundry over railings shall be allowed.

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

7.18 Liability of Owners for Damage to Common Area. The Owner of each Condominium shall be liable to the Association for all damage to the Common Area or improvements to the extent described in Article 5.

7.19 Parking Spaces; Storage. The Project includes outside parking spaces. Allocation of parking spaces shall be controlled by the Board, which may (but is not obligated to) assign said spaces. The Board shall also control the allocation and use of any storage space and may set and assess fees to be charged for the use thereof.

7.20 Commonly Metered Utilities. The Board may establish restrictions regarding the individual use of any utility on a common meter, and may impose reasonable charges for the individual use thereof. Each Owner of a Unit shall be obligated to pay any and all assessments for water, sewage, electricity, other utilities, taxes, and other charges assessed individually against each Unit.

7.21 Existing Restrictions. This Amended and Restated Declaration of Covenants, Conditions and Restrictions is subject to the covenants, conditions, restrictions, and reservations created by the document entitled "Grant of Easement of Ski Lift" recorded October 5, 1965, in Book 77, Page 42, Official Records of Mono County, the covenants, conditions, restrictions and reservations created by the Declaration recorded November 9, 1965, in Book 77, at Page 455, Official Records of Mono County, and all amendments to either of said documents heretofore recorded in said official records and the conveyance of a condominium by the original developer by Deed in the form attached to the original declarations.

ARTICLE 8
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 and the Bylaws, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by the Court. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The parties to a dispute encompassed by Civil Code § 1354 shall comply with said section as it is amended from time to time.

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 Project, 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 the owners of two-thirds (2/3) of the Condominiums, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change the covenants and restrictions in whole or in part, or to terminate the same.

8.4 Amendments. This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing two thirds (2/3) of the total voting power of the Association. However, the percentage 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 Mono.

8.5 Encroachment Rights. If any portion of the Common Area encroaches on any Unit or any part thereof or any portion of a Unit encroaches on any Common Area due to engineering errors, errors or adjustments in original construction, reconstruction, repair, settlement, shifting, or movement of the building, or any other cause, the owner of the encroachment shall have the right to maintain, repair or replace the encroachment, as long as it exists, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that no right shall be created in favor of an Owner or Owners if said encroachment occurred due to the intentional conduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be appropriate rights for the maintenance

of said encroachments so long as they shall exist. In the event that an error in engineering, design or construction results in an encroachment of a building into the Common Area, a correcting modification may be made in the subdivision map and/or Condominium Plan. Said modification may be in the form of a certificate of correction and shall be executed by the President or Vice President of the Association and all Owners of all affected Units in the subject building.

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

8.6.1 Copies of Project Documents. The Association shall make available to Condominium Owners and First Lenders, and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Bylaws, or other rules concerning the Project and the books, records and financial statements of the Association. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

8.6.2 Audited Statement. Any holder, insurer or guarantor of a first mortgage shall be entitled, upon written request, to an audited financial statement of the Association for the immediately preceding fiscal year, upon payment of the costs by the Owner as set forth below. Such statement shall be furnished within a reasonable time following such request and payment of estimated costs. The owner of the Condominium whose Eligible Mortgage Holder or Eligible Insurer or Guarantor requests said audited statement shall be required to pay all costs, including any additional accounting costs necessary to produce the statement requested and which Association would not have otherwise incurred had no such request been made. The Association shall not be liable for failure to deliver an audited statement.

8.6.3 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 Condominium 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 Condominium 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 Condominium 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 8.6.4.

The Association shall discharge its obligation to notify Eligible Mortgage 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 this section.

8.6.4 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:

(a) the consent of Owners of Condominiums 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 Condominiums which have at least sixty-seven percent (67%) of the votes of Condominiums subject to Eligible Holder Mortgages, shall be required to terminate the legal status of the Project as a Condominium Project;

(b) the consent of Owners of Condominiums to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible Mortgage Holders holding mortgages on Units which have a least fifty-one percent (51%) of the votes of the Condominiums 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 Units if applicable); (iv) insurance or fidelity bond; (v) rights to use of Common Areas; (vi) responsibility for maintenance and repair of the several portions of the Project; (vii) expansion or construction of the Project or the addition, annexation or withdrawal of

property to or from the Project; (viii) redefinition of boundaries of any Condominium; (ix) reallocation of interests in the general or Restricted Common Areas or rights to their use; (x) convertability of Units into Common Areas or of Common Areas into Units; (xi) leasing of Condominiums; (xii) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Condominium; (xiii) any provisions which are for the express benefit of mortgage holders, Eligible Mortgage Holders, or Eligible Insurers or Guarantors of first mortgages on Condominiums; (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 Eligible Mortgage Holder by certified or registered mail, return receipt requested.

(2) except as provided by statute in case of condemnation or substantial loss to the Condominiums and/or common elements of the Project, unless the holder(s) of at least two-thirds ($\frac{2}{3}$) of the first mortgages (based upon one (1) vote for each first mortgage owned), or Owners of the individual Condominiums 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 as a condominium project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain);

(b) change the pro rata interest or obligations of any individual Condominium for the purpose of: (i) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium in the Common Area; provided that no Owner's undivided interest in the Common Area may be changed without the consent of that Owner;

(c) partition or subdivide any Condominium;

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

(e) use hazard insurance proceeds for losses to any of the Project (whether to Condominiums or to Common Area) for other than the repair, replacement or reconstruction of such Project.

8.6.5 Right of First Refusal. The right of an Owner to sell, transfer, or otherwise convey his or her Condominium shall not be subject to any right of first refusal or similar restriction. The Condominium Documents contain no provisions creating a "right of first refusal," but should any such rights be created in the future, any such rights shall not impair the rights of any First Lender to: (1) foreclosure or take title to a Condominium pursuant to the remedies provided in the mortgage, or (2) accept a deed (or assignment) in lieu of Foreclosure in the event of a default by a mortgagor, or (3) sell or lease a Condominium acquired by the mortgagee.

8.6.6 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 agreement, contract, or lease, including a management contract entered into prior to passage of control of the Board of Directors of the Association to 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.

8.6.7 Reserves. Condominium 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 shall be payable in regular installments rather than by special Assessments.

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

8.6.9 Distribution of Insurance or Condemnation Proceeds. No provision of the Condominium Documents gives an Owner, or any other party, priority over any rights of first mortgagees in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Condominiums and/or Common Area.

8.6.10 Termination of Professional Management. When professional management has been previously required by the Project 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 Condominiums 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 Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Holder Mortgages.

8.7 Owner's Right and Obligation to Maintain and Repair. Except for those portions of the Project which the Association is required to maintain and repair, each Condominium Owner shall, at his or her sole cost and expense, maintain and repair the Unit, keeping the same in good condition, including without limitation the obligation to maintain and repair the Unit so that it does not deteriorate so as to be dangerous or present a hazard to any other unit or to the Project or to detract from the value of other Units or to otherwise impact the Common Area. Each Owner shall bear the cost of maintenance, repair and replacement of the following items within such Owner's Unit: interior surfaces of all perimeter and interior walls, ceilings and floors (including carpeting, tile, wall paper, paint or other covering); garbage disposals, hot water heaters, ranges, refrigerators, dishwashers, washing machines, dryers, light fixtures, and any and all other appliances of any nature whatsoever; heating, ventilating and other equipment servicing such Unit (although such equipment may be located in part outside such Unit); interior doors, sliding glass doors to the Restricted Common Area, and windows, including all hardware thereon; light bulbs; plumbing and other fixtures of any nature whatsoever; "built-in" features; and decorative features, fireplaces, wood burners, etc. All electric utilities serving individual Units shall be separately metered and shall be the expense of each individual Owner. Electric utilities serving the general common elements shall be a common expense of the Association. Each Owner shall keep the Restricted Common Area appurtenant to the Owner's Condominium in a clean and neat condition at all times and shall maintain, repair and replace items in the Restricted Common Area which result from normal wear and tear. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, and doors bounding his Unit. In the event an Owner fails to maintain the interior of his Unit or the Restricted Common Area in a manner which the Board deems necessary to preserve the appearance and value of the Project, the Board may notify Owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event Owner fails to carry out such maintenance within said period, the Board may, following notice and hearing as provided in the Bylaws, cause such work to be done and the cost thereof shall immediately be paid by such Owner to the Association and until paid shall bear interest at the rate of twelve percent (12%) per annum but no greater than the maximum rate authorized by law.

8.8 Insurance; Damage or Destruction.

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

(1) a master hazard policy insuring all improvements, equipment and fixtures in the Project (including the Units as originally constructed) for full replacement value if obtainable;

(2) if obtainable, an occurrence version comprehensive general liability policy insuring the Association, its agents, the Owners and their respective family members, against 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 \$1,000,000 or as required by California Civil Code § 1365.7 or § 1365.9;

(3) workers' compensation insurance to the extent required by law (or such greater amount as the Board deems necessary); the Association shall obtain a Certificate of Insurance naming it as an additional insured in regard to workers' compensation claims from any independent contractor who performs any service for the Association, if the receipt of such a certificate is practicable;

(4) fidelity bonds or insurance covering officers, directors, and employees that have access to any Association funds if the Board elects to obtain such coverage or if required in writing by an Eligible Mortgage Holder, Eligible Insurer or Guarantor;

(5) flood insurance if the Project is located in an area designed by an appropriate governmental agency as a special flood hazard area;

(6) officers and directors liability insurance;

(7) such other insurance as the Board in its discretion considers necessary or advisable; and

(8) earthquake insurance to the extent required by law, and if not required by law, then to the extent available at commercially reasonable rates in the opinion of the Board.

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 Condominiums (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.

All individually owned insurance shall contain a waiver of subrogation as to the Association and its officers, directors and Members, the Owners and occupants of the Condominiums and mortgagees.

No Condominium Owner shall separately insure his or her Condominium against loss by fire or other casualty covered by any insurance carried by the Association. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance. The insurance maintained by the Association does not cover the Owner or occupant's personal property and does not cover personal liability for damages or injuries occurring within the Unit. Any Owner can insure his or her personal property against loss and obtain any personal liability insurance that he or she desires. In addition, any improvements made by an Owner within his or her Unit may be separately insured by the Owner, but this insurance is to be limited to the type and nature of coverage commonly known as "improvements insurance." The Owner shall not obtain such insurance if the policy referred to in section 8.8A(1) will provide coverage for such improvements.

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.

B. Damage or Destruction. If Project improvements are damaged or destroyed by fire or other casualty, the improvements shall be repaired or constructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Board, unless either of the following occurs: (1) the cost of repair or reconstruction 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 the Owners of at least sixty-seven percent (67%) of the Condominiums as well as their respective Eligible Mortgage Holders vote against such repair and reconstruction; or (2) available insurance proceeds are not sufficient to substantially repair or reconstruct the improvements within a reasonable time as determined by the Board, a special Assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in Article 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 improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of twenty-five percent (25%) of the current replacement cost of all the Project improvements, the Board shall designate a construction consultant, a general contractor, and an architect for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowing by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general

contractor and architect certify within ten (10) days prior to any disbursement substantially the following:

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

(2) that such disbursement request represents monies which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, subcontractors, materialmen, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or

categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

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

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

(5) that the amount held by the depository, 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 less than twenty-five percent (25%) of the current replacement cost of all the Project improvements, 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 shall commence, weather permitting, no later than ninety (90) days after completion of the receipt of insurance proceeds and completion of the process described in Section 8. The date of such damage or destruction and shall be completed no later than one hundred eighty (180) days after commencement of construction subject to delays that are beyond the control of the party responsible for making the repairs. The Association shall take such steps as may be reasonably necessary to secure any hazardous condition and if possible and practicable to screen any unsightly views resulting from the damage or destruction.

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

complying with all other applicable requirements of governmental agencies.

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

If the Project is sold, the sales proceeds shall be distributed to all Owners and their respective mortgagees in proportion to the current Association assessment schedule of their Condominiums as of the date immediately preceding the date of the damage or destruction. For the purpose of effecting a sale under this section, each Owner grants to the Association an irrevocable power of attorney to see the entire Project for the benefit of the Owners, to terminate the Declaration and to dissolve the Association. In the event the Association fails to commence the necessary steps to sell the entire Project as required hereunder within sixty (60) days following the date of a determination by the Board or arbitrator of a material alteration, or if within one hundred twenty (120) days following the date of damage or destruction the Board has failed to make a determination as to a material alteration, any Owner may file a partition action as to the entire Project under California Civil Code § 1359, or any successor statute, and the court shall order partition by sale of the entire Project and distribution of the sale proceeds as provided herein.

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

8.9 Condemnation. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area(s), or part thereof. In the event of a taking or acquisition of part or all of the Common Area(s) by a condemning

authority, the award or proceeds of settlement shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their mortgagees as their interests may appear. In the event of an award for the taking of any Condominium in the Project by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking and after acceptance thereof he and his mortgagee shall be divested of all interest in the Project if such Owner shall vacate his Condominium as a result of such taking. The remaining Owners shall decide by 51% vote whether to rebuild or repair the Project, or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project. In the event of a taking by eminent domain of any part of the Common Area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Condominiums are not valued separately by the condemning authority or by the court. Proceeds of condemnation shall be distributed among Owners of Condominiums and their respective mortgagees according to the relative values of the Condominiums affected by the condemnation, said values to be determined by the method provided in section 8.8.

If there is a substantial taking of the Project (more than fifty percent (50%)), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California Civil Code § 1359 or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association and the approval of Eligible Mortgage Holders holding mortgages on Condominiums which have at least fifty-one percent (51%) of the votes of Condominiums subject to Eligible Holder Mortgages. The proceeds from the partition sale shall be distributed to the Owners and their respective mortgagees in proportion to the fair market values of the their Condominiums as determined under the method described in section 8.8.

8.10 Owners' Compliance. Each Owner, tenant or occupant of a Condominium shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Bylaws, Rules, 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 Bylaws, shall be deemed to be binding on all Owners, their successors and assigns.

8.11 Notice. Any notice permitted or required by the Declaration 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, certified mail return receipt requested or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the Condominium of such person if no address has been given to the Secretary.

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

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

IN WITNESS WHEREOF, the undersigned, being the President and Secretary of Declarant herein, has executed this Declaration this _____ day of _____, 1996.

By: _____

By: _____

EXHIBIT A

ASSESSMENT SCHEDULE

Type of Unit	No. of Units	Proportional Share per Unit	Total Interest Share
Studio	8	5/836	40/836
2 Bdrm Single Level	8	8/836	64/836
2 Bdrm, Two Story	26	9/836	234 ← amendment 324/836 correction in mail
3 Bdrm	6	13/836	78/836
4 Bdrm	<u>30</u>	14/836	<u>420/836</u>
Totals	78		836/836