

DECLARATION OF ESTABLISHMENT OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
OCEAN PALMS HOMEOWNERS ASSOCIATION
A CONDOMINIUM PROJECT
TRACT 44053

THIS DECLARATION is made this 25th day of July, 1986, by GAGNON CONSTRUCTION-OHIO INVESTMENT. A Limited Partnership, hereinafter referred to as "Declarant".

W I T N E S S E T H :

The real property subject to this Declaration is located in the City of Long Beach, County of Los Angeles, State of California, commonly known and designated as

645 Ohio Avenue

more particularly described as follows:

Lot 1 of Tract 44053 as per Map
recorded in Book 1070, Pages
87-89 of Maps in the Office
of the County Recorder of said
county.

and,

WHEREAS, it is the desire and intention of Declarant to sell and convey interest in said real property to various individuals and subject to certain basic protective restrictions, limitation, easements, covenants, reservations, liens, and charges between it and the acquirers or users of said property, as hereinafter set forth,

NOW, THEREFORE, Declarant hereby declares that all of the property described above, is held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied and improved subject to the following protective restrictions, limitations, conditions, covenants, reservations, liens, and charges, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of condominiums as defined in Section 783 of the California Civil Code, in a condominium project, as that term is defined in Section 1351(f) of the Civil Code, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the project and every part thereof. Each and all of the restrictions herein contained shall constitute equitable servitudes and shall be binding upon all parties having or acquiring any right, title or interest in the described property, or any part thereof. The condominium project comprising the real property above described, is intended to be made subject to each and all of the provisions of Sections 1350 to 1372 inclusive of the California Civil Code. There has been or will be recorded, concurrently herewith, a plan as required by Section 1351 of the Civil code and this Declaration is intended to satisfy the provision of Section 1353 of the Civil Code. The provisions of this Declaration shall be enforceable by any of the owners of an interest in the real property above described, against any other owner or owners thereof, and

shall also be enforceable by the Board of Directors, which shall be created pursuant to the provisions hereof. The development of the project will be consistent with the overall development plan submitted to and approved by the Veterans Administration.

ARTICLE I

DEFINITION OF TERMS

Whenever used in this Declaration, the following terms shall have the following meanings:

1. Declarant – GAGNON CONSTRUCTION-OHIO INVESTMENT, A Limited Liability Partnership.
2. Declaration – This Declaration, as the same may be amended, changed, or modified, from time to time.
3. Unit – Unit shall mean and refer to a separate interest in space as defined in Civil Code Section 1351 (f) and (1) (2). Each of the Units shall be a separate freehold estate as separately shown numbered and designated on this Condominium Plan. The Units in the Project are numbered 201 through 207, inclusive, 301 through 307, inclusive, 401 through 407, inclusive. Each Unit consists of the following in accordance with the plans and specifications for each Condominium Unit as more particularly shown and described thereon: Dwelling Areas (A), Balconies (B), and Patios (C). The boundaries of each Dwelling Area are the interior surfaces of perimeter wall, floors, ceiling, windows and doors. The boundaries of each Balcony or Patio are the exterior surfaces of walls, windows and doors of adjoining buildings where they exist. Otherwise, the lateral boundaries are vertical planes of the horizontal dimension shown herein.
4. Common Area – As defined in Civil Code Section 1351 (d) shall mean and refer to the entire Common Interest Development, except the separate interests therein.
5. Condominium – Condominium shall mean and refer to an estate in the real property shown hereon, as defined in Civil Code Section 1351 (f) and shall consist of an undivided one twenty-first (1/21st) interest as tenant-in-common in a portion of the real property, coupled with the separate interest in space called a Unit, the boundaries of which are described on the Plan.
6. Owner – The record owner or owners, if more than one, of a condominium in the project, including Declarant, so long as any condominium remain unsold.
7. Association – Shall mean or refer to the OCEAN PALMS Homeowners Association, a California non-profit mutual benefit corporation, its successors and assigns.
8. Organization Meeting – The first meeting of owners referred to in Article III, hereof.
9. By-Laws – The duly adopted By-Laws of the Association, as the same may be amended, from time to time.
10. Board – The Board of Directors of the Association.
11. Manager – The managing agent, if any, whether corporate or individual, retained by Declarant or by the Board, by contract.

12. Project– The entire parcel of real property, divided or to be divided into condominiums, including all structures thereon.

13. Exclusive Use Area – Exclusive Use Common Area shall mean and refer to those portions of the Common Area which are designated by the Declaration of Restrictions for the exclusive use of one or more, but fewer than all of the Owners of the separate interest in accordance with Civil Code Section 1351(i). Exclusive Use Common Area and the Units, the Owners of which shall be entitled to the exclusive use thereof are identified in the Condominium Plan for Lot 1 of Tract 44053 as follows:

(a) Parking Spaces shall be identified on this Condominium Plan as No. P-1 through P-32, inclusive. The boundaries of said Parking spaces are the finished concrete slab and horizontal planes 8.0 feet above said finished concrete slab and vertical planes at the limits of the horizontal dimension shown on said Parking Plan.

ARTICLE II

DESCRIPTION OF LAND AND IMPROVEMENTS

The real property subject to said covenants, conditions, and restrictions is located in the City of Long Beach, County of Los Angeles, State of California, as is more particularly described as follows:

Lot 1 of Tract 44053 as per Map recorded in Book 1070,
Pages 87-89 of Maps in the Office of the County Recorder
of said county.

The hereinabove described project, consists of Units 201 through 207, 301 through 307, and 401 through 407, inclusive, and the balance thereof constituting the “Common Area” as hereinafter defined.

Each of the units granted 201 through 207, 301 through 307, 401 through 407, inclusive, shall consist of a fee simple interest bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors thereof. All other parts and portions of said Project shall be the “Common Area” of the Project. The “Common Area” of said Project shall be Lot 1 shown on said Map hereinbefore referred to, exclusive of units, and shall be owned by the Owners of the Units to be conveyed as tenants in common.

ARTICLE III

MANAGEMENT AND OPERATION

A. Said real property and improvements is to be known and designated as OCEAN PALMS and shall be organized and operated as a condominium projects. The grant deeds conveying interest therein to all original individual purchasers thereto, shall expressly refer to and incorporate by reference, the Declaration. The owners of condominiums shall constitute a nonprofit mutual benefit corporation and the first annual meeting of such owners shall be held within 45 days at the project after the closing of the sale of the subdivision interest which represents the 51st percentile interest authorized for sale under the First Public Report for the project, but in no event shall the meeting be held later than six (6) months after the

close of the sale of the first subdivision interest. Thereafter, annual and special meeting of such owner shall be held at the project or in such other suitable place as close thereto as practical in the County of Los Angeles to be determined by them at the organization meeting, and the By-Laws to be adopted at said meeting shall also provide for special meetings of the owners. At all meetings of the owners, only one vote shall be cast for each condominium in the project. The right to vote of any owner shall be temporarily suspended if said owner is in arrears more than sixty (60) days in the payment of his maintenance charges.

B. At the organization meeting, and at each annual meeting, the owners shall elect the entire Board of Directors by secret written ballot consisting of three (3) members whose terms shall run concurrently, all of whom shall be owners and which may include Declarant or its representative. Provided Notice of Intention to cumulate votes has been given pursuant to Section 7615 (b) of the Corporations Code, said section stating that no member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' name have been placed in nomination prior to the voting of the member's intention to cumulate votes and if any one member has given such notice, then all members may cumulate their votes for candidates in nomination. Every owner entitled to vote at any election of the Board, may cumulate his vote and give one candidate a number of votes equal to the number of Directors to be elected, multiplied by the number of votes to which his condominium or condominiums are entitled, or may distribute his vote on the same principle among as many candidates as he desires. The owners other than the Declarant shall have the right to elect 20% of the members of the Board at any election as long as a majority of the voting power of the Association resides in the Declarant. A member of the Board who has been elected to office solely by the vote of members of the Association other than the Declarant may only be removed from office prior to the expiration of his term of office by a majority vote of the voting power residing in members other than the Declarant. The general powers and duties of the Board shall be as hereinafter set forth, but may be more particularly defined by such By-Laws as shall be adopted by the owners at the organization meeting or at any subsequent meeting of the owners; provided, however, that this Declaration may not be amended directly or indirectly, in any manner, by the enactment of any By-Laws but only in the manner hereinafter provided. Certificates of identity of the owners elected to membership on the Board, shall be prepared following each election, and after any change in the membership of the Board.

C. The powers of the Board shall include, but shall not be limited to the following: (1) Enforcement of the applicable provisions of the Declaration, By-Laws and other instruments for the ownership, management and control of the subdivision (2) Payment of taxes and assessments which are, or could become, a lien on the common area, or a portion thereof (3) Contracting for casualty, liability, and other insurance on behalf of the Association (4) Contracting for goods and/or services for the common areas, facilities and interest or for Association subject to the limitations set forth in paragraph D., infra (5) Delegation of its powers to committees, officers or employees of the Association as expressly authorized by the governing instrument (6) preparation of budgets and financial statement for the

Association as prescribed in the governing instruments (7) Formulation of rules of operation of the common areas and facilities owned or controlled by the Association (8) Initiation and execution of disciplinary proceeding against members of the Association for violations of provisions of the governing instruments in accordance with procedures set forth in the governing instruments (9) Entering upon any privately-owned subdivision interest as necessary in connection with construction, maintenance or emergency repair for the benefit of the common area or the areas in common (10) Election of officers of the governing body and (11) Filling of vacancies on the Board except for a vacancy created by the removal of a member of the board (12) collection of delinquent maintenance charges and related late charges, reasonable costs of collection and interest including recording a notice of delinquent maintenance charges (assessment) with the County Recorder pursuant to Civil Code Section 1367 (b).

D. The Association, acting by and through its Board of Directors, is expressly authorized to engage the services of qualified person (s) or corporation (s) for the professional handling of all of the services required for the maintenance of the project including the handling of the financial affairs thereof. Any professional management body designated by Declarant prior to the organization meeting, shall be employed to manage only until the first annual owner's meeting at which time the continuance of the same or the designation of another professional management body shall be determined by a majority vote of the Board. The professional management body selected may be authorized by the Board to file any notice and take any legal action on behalf of the owners which is within the power and authority of the Board. The term of any professional management agreement entered into by the board shall not exceed on (1) years.

E. The Board shall not have authority to act in the following matters, but only owners shall have such authority:

1. Amend or repeal this Declaration in accordance with the provisions of Article XIV, supra.
2. Remove a member of the Board of Directors.
3. Determine not to rebuild if insurance proceeds are less than eighty-five (85%) percent of the cost of reconstruction after partial or total destruction.
4. Any other matters set forth herein as expressly requiring action by the owners.

F. At all meetings of the owners, fifty-one (51%) percent of the owners, in person or by proxy, shall constitute a quorum of a majority of owners present and entitled to vote, either in person or by proxy, shall be sufficient for the passage of any motion or the adoption of any resolution.

If any meeting cannot be held because a quorum is not present, the owners present, in person or by proxy, may as otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which meeting, the quorum requirement shall be thirty three and one-third (33 1/3%) percent of the owners.

G. Reasonable Arrangement – Budgets and Financial Statements.

(a) The following financial and related information shall be regularly prepared and distributed by the governing body to all members of the Association:

1. A pro forma operating budget for each fiscal year consisting of at least the following information shall be distributed not less than forty-five (45) days or more than sixty (60) days prior to the beginning of the fiscal year.
 - (b) Estimated revenue and expenses on an accrual basis.
 - (c) The amount of the total cash reserves of the Association currently available for replacement of major repair of common facilities and for contingencies.
 - (d) An itemized estimate of the remaining life of, and the methods of funding to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.
 - (e) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.
2. A balance sheet – as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of an interest in the subdivision – and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.
3. A report consisting of the following shall be distributed within 120 days after the close of the fiscal year.
 - (a) A balance sheet as of the end of the fiscal year.
 - (b) An operating (income) statement for the fiscal year.
 - (c) A statement of changes in financial position for the fiscal year.
- (f) For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.
- (g) If the report referred to in (3) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.
- (h) In addition to financial statements, the governing body shall annually distribute, within 60 days prior to the beginning of the fiscal years, a statement of the Association's policies and practices in enforcing its remedies against members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against members' subdivision interests.
4. Ordinarily the annual report referred to in (a) (e) supra, shall be prepared by an independent accountant.

H. The Board shall conduct its first organization meeting within seven (7) days after the organization meeting of the owners, and shall, at such time, elect from its members, such officers as shall be designated in the By-Laws. The annual meeting of the Board shall be held within seven (7) days of adjournment of the annual meeting of owners.

I. Written notice of regular and special meetings shall be given to members by the Board by any means which is appropriate given the physical set-up of the subdivision. This notice shall be given not less than 10 nor more than 90 days before the date of any meeting at which members are required or permitted to take any action. The notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

J. Prior to the organization meeting, hereinabove described in this Article III, the management and operation of the condominium project shall be undertaken by Declarant or its agent; provided, however, that the authority and power of Declarant or its agent, to so act, shall be limited to those powers, duties, and responsibilities given to the Board, as provided in this Article III. Further, any management body or agent selected by Declarant prior to the first annual election after initial organization, shall be employed to manage only until the first annual elections, at which time the continuance of the same or another body or agent shall be determined by majority vote of the Board, and further, that neither Declarant nor its agent shall enter into any contract which binds the Board for a period in excess of one (1) year. Said contract must provide for termination by the Association for cause upon 30 days written notice.

K. No Director or officer of the Association shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own act or omission which was unlawful or the result of gross negligence or willful misconduct.

L. Every Director, officer and member of the Association shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including counsel fees), actually or necessarily incurred by or imposed upon him, in connection with any claim, action, suit, proceeding, investigation or inquiry of whatever nature, in which he may be involved as a part, or otherwise by reason of his having been an officer or member of the Association, whether or not he continues to be such Director, officer or member of the Association, at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which he shall be finally adjudged in such action, suit, proceeding, investigation, or inquiry to be liable for willful misconduct or negligence toward the Association in the performance of his duties, or in the absence of such final adjudication, any determination of such liability by the opinion of legal counsel, selected by the Association. The foregoing right of indemnification shall be in addition to and not in limitation of all rights to which such persons may be entitled as a matter of law and shall inure to the benefit of the legal representatives at all times, at the expense of the Association, an officers' and directors' errors and omissions policy covering the broadest form of liability policy as may be commercially available from time to time for said officers and directors.

M. The Association shall have the power to grant and convey to any third party easements and rights-of-way in, on, over, or under the common area for the purpose of constructing, erecting, operating, or maintaining thereon, therein, or thereunder overhead or under ground lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to his condominium, expressly consents hereto; provided, however, that no such easements may be granted if same would interfere with the use, occupancy or enjoyment by any owner of his unit, any exclusive easement over the common area appurtenant thereto, if any, or the recreational facilities of the development.

N. The Board of Directors is specifically prohibited from taking any of the following actions, except with the vote or written assent of (1) a majority of the total voting power of the Association and (2) a majority of the votes of members other than the Declarant:

- (1) Entering into a contract with a third person wherein the third person will furnish goods or services for the common area or the owners association for a term longer than one year with the following exceptions:
 - (A) A Management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.
 - (B) A contract with a public utility company if the rates charges for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
 - (C) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits for short rate cancellation by the insured.
- (2) Incurring aggregate expenditures for capital improvements to the common area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year.
- (3) Selling during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year.
- (4) Paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.
- (5) Filling of a vacancy on the Board created by the removal of a Board member.

ARTICLE IV

MATINTENANCE FUND – LIEN

A. Each owner shall be obligated to pay to the Board or a designated member thereof, or to the Manager, if any, an initial monthly maintenance charge, or any other assessment levied by the Board or Association, in accordance with the formula set forth in Exhibit “A” attached hereto and incorporated herein by reference. Any increase or decrease in said monthly maintenance charge for the entire project as may be made from time to time, shall be fixed by affirmative vote of a majority of the Board: such increase or decrease shall be made to each owner, in accordance for the formula set forth in Exhibit “A”. Said maintenance charge shall be paid in equal monthly installments, in advance, on the first day of each month, commencing upon the close of the sales escrow fro each particular unit, and prorated through escrow to the date of the close of escrow for the month in which escrow closes. Maintenance charges so collected shall be promptly deposited in a commercial bank account, in a bank to be selected by the board, or by the Manager, if any, which account shall be clearly designated OCEAN PALMS HOMEOWNERS ASSOCIATION. The Board or the Manger, as the case may be, shall have exclusive control of said account and shall be responsible to the owner for the maintenance of accurate records thereof, at all times. No withdrawal shall be made from said account, except to pay for charges and expenses for the common benefit of all owners set forth in Article III, of this Declaration. All such assessments together with interests, costs and reasonable attorney’s fees shall be separate and personal obligation of the person who is the Owner of the Condominium at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to any new Owner unless expressly assumed by the new Owner.

B. The maintenance charges are delinquent fifteen (15) days after they become due. In the event of default by any owner in the payment of any such installment, the Association may recover such amounts as may be in default, all costs which may be incurred by the Board or Manager, in the collection of such charges, including reasonable attorney’s fees, a late charge not exceeding ten percent (10%) of the delinquent maintenance charge or ten dollars (\$10.00), whichever is greater, together with interest on all sums imposed, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed twelve percent (12%) interest, commencing thirty (30) days after the assessment becomes due. The maintenance charges and any late charges, reasonable costs of collection, and interest shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied. The amount of the maintenance charges, plus costs of collection, late charges and interest shall be and become a lien upon the condominium of the defaulting owner, upon the recording in the Los Angeles County Recorder’s Office of a Notice of Assessment, as provided in Section 1367(b) of the Civil Code of California. The Notice of Assessment shall not be filed for record unless and until the Board or a person designated by it shall have delivered to said defaulting owner, not less than fifteen (15) days prior to the recordation of such Notice of Assessment, a written Notice of Default and demand upon the Defaulting owner to cure the same, within said fifteen (15) day period, and failure of the defaulting owner

to comply. Said lien shall expire and be null and void, unless within thirty (30) days after recordation of said Notice of Assessment, the Board records a Notice of Default, as hereinbelow provided.

C. Not less than ten (10) days nor more than thirty (30) days from the filing of said Notice of Assessment., the Board shall file for record a Notice of Default, and thereafter, may cause the condominium of said defaulting owner to be sold in the same manner as a sale as provided in Sections 2927 et. seq. of the California Civil Code, or through judicial foreclosure. The sale of said condominium must be held or legal action to enforce the lien must be instituted within 150 days of the recording of the Notice of Default, or said lien shall be deemed void and of no effect. If any action is filed by the Board to enforce the provisions of this Article, any judgment rendered against the defaulting owner, shall include all costs and expenses and reasonable attorney's fees, necessarily incurred in prosecuting such action. If any such default is cured prior to sale or prior to filing a judicial foreclosure, the board shall cause to be recorded a certificate setting forth the satisfaction of such claim and release of such lien, upon payment of actual expenses incurred, including a reasonable attorney's fee not to exceed \$150.00, by such defaulting owner.

D. In addition to the right to such lien, the remaining owners or any one of them, or any member of the Board acting on behalf of the owners, or the city of Long Beach shall be entitled to bring legal action for damages against any owner who shall violate or so shall default in the performance of any of the provisions contained herein, including, but not limited to, the covenant to pay said maintenance charges, to enjoin any breach or threatened breach or violation of this Declaration, the By-Laws, the rules of the Association or any resolution of the Association, or to prosecute any other appropriate legal action or equitable action including mandatory injunction or otherwise, that may be necessary or expedient in the premises. Any judgment rendered against any such any such owner shall include reasonable attorney's fees, in an amount to be fixed by the Court.

E. Each owner does hereby waive to the extent of any liens created pursuant to the Article, the benefit of any homestead or exemption law of the State of California, in effect at the time any installment of maintenance charges become delinquent or any lien is imposed, pursuant to the terms hereof.

F. Upon the close of escrow of the first condominium in the project, Declarant shall be obligated to pay the monthly maintenance charge, hereinabove provided, for all units owned commencing on the date of the close of the first sale escrow and said amount to be prorated to the first of the following month.

G. In addition to any limitation placed on the Board by the governing documents, the Board of Directors of the Association may not impose, except as provided in this subdivision, a regular maintenance charge (regular assessment) that is more than ten percent (10%) greater than the regular assessment for the association's preceding fiscal year or impose special assessment which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the association for that fiscal year without the approval of owners casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and section 7613 of the Corporations Code. The provisions of this subdivision do not limit assessment

increases for the following purposes; (1) The maintenance or repair of the common areas or other areas which the association is obligated to maintain or repair, including, but not limited to, the payment of insurance premiums, the payment of utility bills, the costs incurred in maintaining or repairing structures or improvements, and funding reserves and (2) Addressing emergency situation, provided however, any increase above fifteen percent (15%) for the categories noted in (1) and (2) herein, must be approved by (a) a majority of the voting power of the association, and (b) so long as there is a class B membership, a majority of the members other than the Declarant.

(1) Except as provided in (2) and (3) hereof, every special assessment shall be levied upon the same basis as that prescribed for the levying of regular assessments.

(2) A special assessment against owners in a condominium development to raise funds for the rebuilding or major repair of the structural common area housing units of the project shall be levied upon the basis of the ration of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

(3) The provisions here of with respect to special assessments do not apply to an assessment levied by the governing body against a member to reimburse the Association for costs incurred in bringing the member and his subdivision interest into compliance with provisions of the governing instruments for the subdivision, but any such assessment shall be subject to the provisions of Section 2792.26 (c) of these regulations.

H. The Board shall have the right to suspend the voting rights, suspend use privileges of the common area, or assess monetary penalties against any owner or other person entitled to exercise such right or privileges by reason of any violation of this Declaration or the By-Laws, Association rules, or Board resolution, provided however, that: (a) Any such suspension of use privileges may not exceed a period of thirty (30) days for any one violation; and (b) Any such monetary penalty shall not exceed twenty-five dollars (\$25.00) for any one violation. No decision to impose discipline by the Board involving suspension of a member's voting rights, suspension of his use privileges of the common area, suspension of his rights as a member of the Association, or the assessment or imposition of any monetary penalties for failure to comply with the governing instruments of the project shall be determined by the Board unless the notice and hearing shall have satisfied the minimum requirements of Section 7341 of the Corporations Code as follows;

(a) No member may be expelled or suspended, and no member ship or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

- (1) The provisions of the procedure have been set forth in the articles or By-Laws, or copies of such provisions are sent annually to all the members as required by the articles or By-Laws;
- (2) It provides the giving of 15 days prior notice of the expulsion, suspension or termination and the reasons therefore; and
- (3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, if it finds equitable under the circumstances but no vote of the members or of the Board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further than the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, or wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefore. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.

A monetary penalty imposed by the Association as a disciplinary measure for failure of a member to comply with the governing instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to common areas and facilities for which the member was allegedly responsible or in bringing the member and his subdivision interest into compliance with the governing instruments may not be characterized nor treated in the governing instruments as an assessment which may become a lien against the member's subdivision interest enforceable by a sale of the interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code.

I. Neither the board or the Association is empowered to cause a forfeiture or abridgment of an owner's right to the full use and enjoyment of his individually-owned subdivision interest on account of the failure of the owner to comply with provision of the within Declaration, the other governing instruments of the project or of duly enacted rules of operation for common areas and facilities except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the owner to pay assessments duly levied by the Association.

J. The provision of paragraph H. Above do not apply to charges imposed against an owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments.

K. A working capital reserve fund shall be established at the inception of the Project by a payment by buyer of a sum equal to two (2) MOTNH'S ASSESSMENTS TO THE Association, to be paid through escrow on the close of escrow for each unit sold initially by Declarant to any person or entity. This shall be a one time, non-refundable payment which shall not be considered prepayment or advance payment of regular assessments. This special capital reserve fund shall be maintained in a separate account, and is to be used only to meet emergency unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board.

ARTICLE V
INSURANCE

A. A comprehensive policy of public liability and property damage insurance covering all of the Common Areas shall be purchased by the Board as promptly as possible following its election and shall be maintained in force at all times, the premium thereon to be paid out of the maintenance fund. The insurance shall be carried in reputable companies, authorized to do business in California. The minimum amounts of coverage shall be \$300,000.00 for combined bodily injury and property damage liability arising out of a single occurrence. The named insured shall be the Association as trustee for the owners, including Declarant, during such time as it shall remain the owner of one or more condominium. The policy shall insure against injury or damage occurring in the Common Area of the condominium project.

B. The master or blanket fire insurance policy shall also be purchased by the Board as promptly as possible following its election and shall, thereafter, be maintained in force at all times, the premium thereon to be paid out of the maintenance fund. Said insurance shall be carried in reputable companies authorized to do business in California, and shall insure against loss from fire and any other hazard therein covered, for 80% of current "Replacement cost" exclusive of land, foundation, excavation and other items normally excluded from coverage of the condominium project including all building service equipment and the like and any fixtures or equipment within the condominium units which are financed under a mortgage or deed of trust. Such policy shall contain extended coverage and replacement cost endorsements. It must also include a special form or all-risk endorsement, and inflation guard endorsement. The named insured shall be the association as trustee for the owners, including the Declarant, so long as Declarant is the owner of any condominium in the project. The hazard portion of any policy shall contain proper mortgage clauses acceptable to first lienholders. Policies may contain a deductible clause in the maximum amount of \$500.00.

C. All insurance proceeds payable under Paragraphs B. and C. of this Article, and subject to the rights of mortgagees under Paragraph G. hereof, shall be expended for the benefit of owners, mortgagees

and others, as their respective interests shall appear, and be paid out in accordance with Article VI. In the event repair or reconstruction is authorized, the board shall have the right to approve any such work, as provided in Article VI, hereof.

D. In the event of a loss for which there is applicable to any policy a \$500.00 deductible clause said \$500.00 deductible shall be paid by the owner of the unit in which the loss originated. For losses originating outside of any unit and in the Common Area, said \$500.00 deductible shall be borne by the Association. Should a controversy arise concerning the liability of a unit owner or owners for payment of the \$500.00 deductible between the Association and such unit owner or owners, the matter shall be submitted to the Board of Directors of the Association who shall arbitrate and determine the matter of such liability. The decision of the board of Directors shall be final, conclusive and binding on all parties.

E. The Board shall also purchase and maintain workmen's compensation insurance to the extent that the same shall be required by law for employees of the owners.

F. An owner may carry such personal liability and property damage insurance respective for his individual unit as he may desire. An owner may also carry such hazard insurance on his personal property as he may desire.

G. With respect to insurance coverage under Paragraph B. and C. hereof, any mortgagee beneficiary of record shall have the option to apply insurance proceeds payable to him in reduction of the obligation secured by his mortgage or deed of trust.

H. The Board of Directors shall obtain a Fidelity bond covering members of the board, officers and employees of the association and employees of any management agent, whether or not such persons are compensated for their services, naming the Association as obligee and written in an amount equal to at least the estimated maximum of funds, including reserve funds in the custody of the Association, or the management agent at any given time during the term of the bond. The bond should not be less than a sum equal to three (3) months aggregate assessments on all Units plus reserve funds.

ARTICLE VI

DESTRUCTION OF IMPROVEMENTS

A. In the event of the total or partial destruction of the improvements in the condominium project, if the available proceeds of the insurance carried pursuant to Article V are sufficient to cover not less than eighty-five (85%) percent of the cost of repair or reconstruction thereof, the same shall be promptly repaired and rebuilt unless sixty-six and two-thirds (66-2/3%) percent or more of the owners, present and entitled to vote in person or by proxy at a duly constituted meeting to be held within ninety (90) days from the date of destruction, affirmatively vote not to so rebuild. If reconstruction is to take place, the board shall be required to execute, acknowledge, file and record, not later than 120 days from the date of said destruction, a certificate declaring the intention of the owners to rebuild.

B. If the proceeds of such insurance are less than eighty-five (85%) percent of the cost of reconstruction, such reconstruction may, nevertheless, take place, if within ninety (90) days from the date

of said destruction, seventy-five (75%) percent or more of the owners, present and entitled to vote in person or by proxy, at a duly constituted meeting, so determine, then in such event the same shall be promptly repaired and rebuilt.

C. If the owners determine to rebuild, either pursuant to A. or B., each owner shall be obligated to contribute such funds by way of special assessments as shall be necessary to pay his proportionate share of the cost of reconstruction over and above the insurance proceeds, and the proportionate share of each owner shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed. In the event of failure or refusal by any owner to pay his proportionate share, after notice to him, should failure or refusal continue for a period of sixty (60) days, the Board may levy a special amount assessment against such owner which may be enforced under the lien provisions contained in Article IV.

D. If the owners determine to rebuild, the board shall obtain bids from at least two reputable contractors and shall award construction work to the lowest bidder. The board shall have authority to enter into a written contract with said contractor for such reconstruction and the insurance proceeds held by the Board shall be disbursed to said contractor according to the terms of the agreement. It shall be the obligation of the board to take all steps necessary to insure the commencement and completion of such reconstruction at the earliest possible date.

E. If the vote of the owners shall be insufficient to authorize rebuilding, either pursuant to A. or B. above:

1. Subject to the rights of mortgagees and beneficiaries, set forth in Article V.G., any insurance proceeds available for such rebuilding shall be distributed among the owners and their individual lenders by the Board, as their respective interests may appear. The proportionate interests of each owner in said proceeds in relation to other owners shall be according to the respective market values of the units at the time of the destruction as determined by an independent appraisal.
2. The Board shall have the duty, within 120 days of the date of such loss, to execute, acknowledge and record a certificate setting forth the determination of the owners not to rebuild, and shall promptly cause to be prepared and filed, such revised maps and other documents as may be necessary to show the conversion of the project to the status of unimproved land or to show the elimination of one or more of the units, as a result of such destruction.

F. Upon recordation of such certificate, the right of any owner to partition his condominium through legal action, shall forthwith revise.

G. In the event of a dispute among the owners, respecting any of the provision of this Article, any owner may cause the same to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, notice thereof shall be given to the members of the Board and all owners as promptly as possible after reference to arbitration is made, giving all owner

an opportunity to appear in such arbitration proceedings. The decision of such arbitrator in this matter shall be final and conclusive upon all owners. The arbitrator may include in his decision an award for costs and/or attorney's fees against any one or more of the parties to the arbitration.

ARTICLE VII
CONDEMNATION

In the event that an action for condemnation is proposed or commenced by any governmental body having the right of eminent domain, the following provisions shall apply:

1. A condemnation award affecting all or a part of the structural common area of the project which is not apportioned among the owners by court judgment or by agreement between the condemning authority and each of the affected Owners and their respective mortgagees or beneficiaries shall be distributed by the Association according to the relative values of the units affected by the condemnation as determined by an independent appraisal.

ARTICLE VIII
FURTHER CONDITIONS OF OWNERSHIP

A. All units in the project above described, shall be used solely for single family residences.

B. The owners shall maintain in good repair, the interiors of their units, and shall have the exclusive right to paint, re-paint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding their respective units.

C. No owner shall, at his own expense or otherwise, make any alterations, addition or modification to the building which his unit is located or to any part or portion of the common area, without the prior written approval of the Board. With respect to the installations, to any individual unit, the prior written consent of the board shall be exercised with a view toward promoting uniformity and thereby enhancing attractiveness of the property as a whole. Notwithstanding the foregoing, an owner may, pursuant to Civil Code Section 1360 or any successor statutes, do the following:

(1) Make any improvements or alterations within the boundaries of his or her separate interest that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify a unit in a condominium project, at the owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications of the route from the public way to the door of the unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

- a. The modifications shall be consistent with applicable building code requirements.
- b. The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

- c. Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the owner when the unit is no longer occupied by persons requiring those modifications that are blind, visually handicapped, deaf, or physically disabled.
- d. Any owner who intends to modify a unit pursuant to this paragraph shall submit his or her plans and specifications to the association of the condominium project for review to determine whether the modifications will comply with the provisions of this paragraph. The Association shall not deny approval of the proposed modifications under this paragraph without good cause.

Any change in the exterior appearance of separate interest shall be in accordance with the governing documents and applicable provisions of the law.

D. No radio or television receiving or transmitting antenna or external apparatus shall be installed on or upon any unit, or in, on or upon any part of the common area, without prior written approval of the Board. Normal radio and television installations within an individual unit are expected.

E. Any sign, other than a sign indicating the name of the project, the professional management agent managing the project if any, shall be prohibited. The project shall contain and the Board shall maintain one master FOR SALE/FOR LEASE display board, placed in an appropriate location on the common area open to public view whereon an owner may display a shingle type sign advertising his unit for sale or lease. Master display board design shall be in accordance as set forth with Exhibit C and any other type of individual display sign shall be prohibited without Board approval. Nothing herein contained shall prohibit or restrict in any way, Declarant's right to construct such promotional signs or other sales aids on or about any portion of the premises which it shall deem reasonably necessary in conjunction with its original sales program until the sale of all units in the project by Declarant.

F. No owner shall permit or suffer anything to be done or kept upon the project which shall increase the rate of insurance thereon, or which shall obstruct or interfere with the rights of other owners or annoy them by unreasonable noises or otherwise; nor shall he commit or permit any nuisance on the project, or commit or suffer any immoral or illegal act to be committed thereon. Each owner shall comply with all of the applicable ordinances and statutes and with the requirements of the local and/or State Board of Health with respect to the occupancy and use of his unit.

G. Each owner shall be liable to the board for any damage to the common area or to any of the equipment or improvements thereon, which may be sustained by reason of the negligence of willful misconduct of said owner or of his family members, relatives, guests or invitees, both minor and adult, to the extent that any such damage shall not be covered by insurance. In the case of joint ownership, of a condominium, the liability of such owners shall be joint and several. In the event of personal injury or property damage sustained by any one person while physically within the unit or private balcony or patio of any owner, and in the further event that any other shall be sued, or a claim made against him or her for said injury or damage, the owner or owners of the units in which said injury or damage occurs shall fully

indemnify and hold harmless any such other owners against whom such claim shall be made and shall further defend any such other owners at their own expense, in the event of litigation of such claim; provided, however, that such protections shall not extend to any other owner whose own negligence may have caused or contributed to the cause of any such injury or damage.

H. No fence, hedges or walls, shall be erected and maintained upon the common area, except such as are installed in accordance with the initial construction of the building located thereon, or approved in writing, by the board and, further, no building, structure, fence or wall shall be constructed upon any of the open spaces, common area, walkways, driveways or parking spaces, unless approval for such construction has been specifically obtained from the appropriate department of the City of Long Beach.

I. The Board shall cause to be maintained, the exterior paint, roofing, walkways, and other parts of the common area.

J. The Board shall have the authority to designate one or more qualified repairmen or other persons to enter upon and within any individual unit, in the presence of the owner thereof, or otherwise, for the purpose of making emergency repairs therein, or for necessary maintenance or repair to portions of the common area, or further, to abate any nuisance being conducted or maintained in said unit, in order to protect the property rights and best interest of the remaining owners. To facilitate this paragraph, all owners shall deposit a key to their units with the property manager, if any, or his nominee or a duly authorized member of the Board.

K. No owner may exempt himself from liability for his specified contribution to said maintenance fund by any waiver of the use or enjoyment of the common area or by the abandonment of his condominium.

L. No owner shall execute or file for record any instrument which imposes a restriction upon the sale, leasing or occupancy of his condominium on the basis of race, color, creed, national origin, or sex of the vendee or lessee.

M. The membership register, book of account and minutes of meetings of the members of the Board of Directors and of committees of the Board of Directors of the Association shall be made available for inspection and copying by any member of the Association, or by his duly-appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the subdivision as the board shall prescribe. The Board shall establish reasonable rules with respect to: (1) Notice to be given to the custodian of the records by the member desiring to make the inspection, (2) Hours and days of the week when such an inspection may be made, and (3) Payment of the cost of reproducing copies of documents requested by a member. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

N. No member of the Board or office of the Association shall be liable for or on account for any damages resulting from any acts performed while in the furtherances of such duty as a member of the

board or officer, or omission to perform the same, unless such act or omission was unlawful or the result of gross negligence or willful misconduct.,

O. Each owner shall be accountable to the remaining owners for the conduct and behavior of children residing or visiting the unit.

P. No automobile, trailer, camper, boat or other similar type vehicle shall be permitted to remain on any portion of the common area, except in those areas designated parking spaces.

Q. Trash, rubbish, trash bins and trash receptacles shall not be permitted to remain on any portion of the common area, except in the area provided therefore or as designated by the Board.

R. No animal, poultry, bird or reptile may be kept upon any portion of said property, either: (a) for commercial purposes, or (b) for any purpose if there would be involved an odor or noise such as unreasonably disturbs the comfort of any occupant of the property in such vicinity. No nuisance of any nature shall be permitted to exist upon said property. One dog, cat or other domestic pet may be kept by an owner in his unit, provided same shall not disturb or annoy other owners or tenants thereof. Any inconvenience, damage or unpleasantness caused by said domestic pets, shall be the responsibility of the respective owners thereof.

S. The Board shall have the right to suspend the voting rights and rights to use of any common facilities of a member of the Association, for any period during which assessments against his unit remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the rules and regulations of the Association; provided, however, that any suspension of such voting rights or right to use the common area facilities shall be made only by the Board, after written notice and an opportunity to be heard before the Board has been given and held in accordance with the By-Laws of the Association.

T. Every owner of a condominium shall have a non-exclusive easement of use and enjoyment in and to and throughout the common area of the development as well as a non-exclusive easement for ingress, egress and support over and through the common area; provided, however, such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to units over the common area, if any. Each such easement shall be appurtenant to and pass with the title to every unit, subject to the right of the Association to limit the number of guests, and to adopt Association rules and regulations regulating the use and enjoyment of the common area.

U. If any portion of the common area encroaches upon any of the units, a valid easement for such encroachment and for the maintenance of same so long as it remains, shall and does exist, and, pursuant to his Declaration, all units are made subject to such easements. In the event that any structure containing a unit is partially or totally destroyed and then rebuilt and minor encroachments result, a valid easement for such minor encroachments, and for the maintenance of same so long as same shall remain, shall and does exist, and, pursuant to this Declaration, all units and the common area are made subject to such easements for minor encroachments.

V. Declarant reserves the right to use any condominium unit owned by Declarant as model home or sales office and to post signs, banners, and other sales inducements on the common area until the sale of

all units by Declarant as per Paragraph E, but however any item that was altered for purpose of sale will be restored to its original form promptly upon the sale of the last unit in the project.

W. Each owner hereby grants easements to other owners to enter into each condominium and to have utility companies enter into condominiums to repair the plumbing, heating, and electrical systems located thereon, subject to the following limitations. Entry into a Living Unit for emergency purposes may be immediate; provided, however, such entry shall be made with as little inconveniences as possible to the owner and any damage caused thereby shall be repaired by the entering party. Entry into a Living Unit for other than emergency repair shall be made only after three (3) days notice has been given to the owner, shall be made with as little inconvenience as possible to the owner, and any damage caused thereby shall be repaired by the entering party.

For the purpose of performing the maintenance of the Common Area or for any other purpose reasonably related to the performance by the board of its responsibilities under this Declaration, the Association's agents or employees shall have the right to enter in a Living Unit or upon any portion of the Common Area to affect emergency repairs. For other than emergency repairs, the Associations' agents or employees shall have the right to enter any Living Unit or any portion of the common Area to affect repairs, improvements, replacements or maintenance which the Association, after approval by two-thirds (2/3) vote of the board, reasonably deems necessary. Such entry shall be made with as little inconvenience to the owner as possible and any damage caused thereby shall be repaired by the Association. Further, such entry for other than emergency repairs, shall be made only after not less than three (3) days' notice has been given to the owner.

ARTICLE IX

SUSPENSION OF THE RIGHT OF PARTITION

A. The right of partition of the common area is hereby suspended pursuant to Section 1359 of the Civil Code of California. The project may be partitioned and sold as a whole, pursuant to the provisions of Section 1359 of the Civil Code of the Sate of California, upon showing of the occurrences of any one of the events therein provided. Additionally, partition may be had of the project upon the showing that the conditions for such partition by sale set forth in paragraph F., Article VI, or subparagraph (a) (2) of Article VII have been met.

B. No unit in the project may be partitioned (except by judicial partition by sale) or subdivided without the prior written approval of the institutional holder or beneficiary of any first mortgage or deed of trust on such unit.

C. The project shall not be partitioned and sold as a whole pursuant to Section 1359 or in any other manner not specifically permitted by the within Article without the prior written approval of 75% of the institutional holders or beneficiaries of any first Mortgages or deeds of trust in the project.

D. The Association is hereby granted an irrevocable power of attorney to sell the project for the benefit of all the owners thereof when the partition of the owners' interest in such project may be had

pursuant to this Article IX. The power of attorney herein granted may be exercised upon the vote or written consent of owners holding in the aggregate at least two-thirds (2/3) of the interest in the Common Area by any two (2) members of the Board who are hereby authorized to record a Certificate of Exercise in the office of the County Recorder, Los Angeles County, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith; provided, however, that said power of attorney shall not apply to the Administrator of Veterans Affairs, an Officer of the United States of America.

ARTICLE X

PROHIBITION AGAINST SEVERABILITY OF COMPONENT INTERESTS IN CONDOMINIUMS

A. No owner may sever any component part of his condominium unit for any purpose. Neither of said component interest may be severally sold, conveyed, encumbered, hypothecated, or otherwise dealt with and any violation or attempted violation of this provision shall be void and of no effect, provided however, that no such restrictions shall extend beyond the period as set forth in Article XVII. It is intended hereby, to restrict such severability in accordance with the provisions of Civil Code, Section 1359.

B. Subsequent to the initial sales of the condominiums, any conveyance of a unit or of the component interest in the common area, by the owner of any condominium, shall be presumed to convey the entire condominium, provided, however, that nothing contained herein shall be construed to preclude the owner of any condominium from creating a co-tenancy in the ownership of said condominium with any other person or persons.

ARTICLE XI

TRANSFER OF CONTROL OF COMMON AREA

Declarant shall transfer control of the common area to the Association coincident with the first transfer or conveyance of subdivision interest by Declarant.

ARTICLE XII

PROTECTION OF LENDERS

A. Written Notice to First Mortgagees – A first mortgagee is entitled to written notice from the Board of Directors of any default in the performance of an individual condominium mortgagor of any obligation under this Declaration, the By-Laws and Articles of Association which is not cured within thirty (30) days. It shall be the responsibility of each owner of a condominium to notify the Association within thirty (30) days of the close of his escrow to purchase a condominium, of the name and address of the holder of his first mortgage on his particular condominium.

B. Exemption from Right of First Refusal – Any right of first refusal shall not impair the rights of a first mortgagee to: (a) foreclose or take title to a condominium pursuant to the remedies provided in the mortgage; or (b) interfere with a subsequent sale or lease of a condominium so acquired by the first mortgagee.

C. Subordination of Assessment Lien to Mortgages – Each holder of a first mortgage lien on a unit who comes into possession of the unit by virtue of foreclosure of the mortgage, or any purchaser at a foreclosure sale, shall take the unit free of any claims for unpaid assessments and charges against the unit which accrue prior to the time such holder comes into possession of the mortgaged condominium. The lien assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed on the properties subject to assessments which have become due and payable prior to the sale or transfer of such property pursuant to a decree of foreclosure or trustee's sale, such transfer or sale shall not relieve the property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessments.

D. Leasing – Any lease agreement between a condominium owner and a lessee shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the By-Laws and that any failure by a lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing. No unit owner shall be permitted to lease his unit for transient or hotel purposes and no unit owner may lease less than the entire unit.

- (1) It is the desire of the membership that except for "Hardship cases" no more than twenty percent (20% or 4 Units) shall be used for rental purposes. At all times, eighty percent (80% or 17 Units) shall be owner occupied.
- (2) the following units shall be referred to as the "Grandfathered Units." Units 301; 306; 307; 402 & 406. They shall remain in this category until they are sold. Once sold, they will no longer fall under the Grandfather clause and must be owner occupied.
- (3) the percent of units that can be rented shall be referred to as the "rental unit allocation". A "rental unit priority list" shall be established and maintained by the Directors. Said list shall be used to establish the priority of rental units to be leased. A leased unit, once vacated, shall have a ninety (90) days re-leasing period before being placed on the "Waiting List" of the "Rental Unit Priority List". Owners are obligated to request approval from the Association prior to renting their units to insure the rentals do not exceed this number. An owner, after notification by the Association that his unit is next in priority on the "Rental Unit Priority List" shall remain in that priority position for a period of ninety (90) days from the date of notification by the Association. If an owner fails to lease his/her unit within the said ninety (90) day period, he/she shall lose their priority position on the rental unit priority list to the next owner in priority, whose name appears on said list. This procedure shall be followed until the maximum rental unit allocation has been achieved.

- (4) prior to executing a lease agreement, the owner will conduct a “financial and criminal” background check on the prospective lessee. The results of which will be provided to the Association. All rental units shall have a 12-month lease. Lease agreements shall be in writing and shall be in an accepted form and the content reviewed and approved from time to time by the Board of Directors as they deem necessary. All lease agreements will be for one (1) year a copy of which will be provided to the Directors prior to being occupied. No unit will be rented on a month-to-month basis. Each lease agreement shall specify that it is intended to benefit the Association as a “third party beneficiary” and the Association’s Board of Directors is empowered to enforce its terms and provisions. Each such lease agreement shall specify that it is subject to the provisions. Each such lease agreement shall specify that it is subject to the “Declaration of Covenants, Conditions, and Restrictions and any amendments thereto, the Association’s Articles and Bylaws and to all House Rules and Regulations” that may from time to time be adopted by the Board. Any failure of the lessee to comply with the terms of such documents shall be deemed a default under the lease agreement. All leases are to be renewed on a yearly basis. Each owner shall provide the Association with a copy of the signed lease agreement and pet agreement (if applicable) provided to the lease holder.
- (5) In the event of an emergency/hardship, an owner may petition the board to rent his/her unit for a period of not more than 12-months, without being added to the rental priority list. The Board of Directors has the right to approve or decline this petition at its sole option and only in the event of a hardship to the owner. The board of Directors shall have authority to permit owners to lease their units even if it would result in excess of twenty percent (20%) of the units being used as rentals in hardship circumstances. Hardship circumstances would be relocation of owners or other financial hardship cause by death, illness or job changes that prevent owners from living in their units and could result in loss of the unit.
- (6) An Owner holding title or equitable title as of the effective date of this Amendment to the Declaration of Covenants, Conditions, and Restrictions and who is presently leasing their unit shall become subject to all the provisions of this Amendment.
- (7) Except as expressly provided in Paragraph 1 above, all other terms, conditions, obligation, covenants, and easements contained in the CC&Rs shall remain in full force and effect, and are hereby reaffirmed in their entirety.
- (8) This Amendment shall be governed by the laws of the State of California, exclusive of Conflict of law provisions. The provisions of this Amendment shall be binding upon all of the Homeowners of Ocean Palms Homeowners Association and their respective successors-in-Interest.

E. Prior Approval of First Mortgage Holders – Provided that the mortgagee informs the Association in writing of its appropriate address and requests in writing to be notified, neither the

Association nor any owner shall do any of the following unless at least seventy-five percent (75%) of the first mortgagees of mortgages encumbering condominiums (based on one (1) vote for each mortgage) has given their prior written approval:

- (1) effectuate any decision to terminate professional management and assume self-management of the project;
- (2) by act or omission seek to abandon or terminate the condominium project;
- (3) change the prorata interest or obligations of any individual condominium unit for the purpose of (i) levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation awards; or (ii) determining the prorata share of ownership of each condominium unit;
- (4) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project, shall not be deemed a transfer within the meaning of this clause);
- (5) Use hazard insurance proceed for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement, or reconstruction of such condominium property;
- (6) Make any material amendment to this Declaration or to the By-Laws of the Association. The term “material amendment” shall mean amendments to provisions of this declaration or the By-Laws governing the following: (i) the percentage interest of the unit owners in the Common Area of the project; (ii) the fundamental purpose for which the project was created, such as a change from residential use to a different use; (iii) voting; (iv) reserves for repair and replacement of common elements; (v) property maintenance obligations; (vi) casualty and liability insurance; (vii) reconstruction in the event of damage or destruction; (viii) rights to use the common elements; (iv) any provision which by its terms is specifically for the benefit of first mortgagees or specifically confers right on first mortgagees;
- (7) An individual condominium unit may not be partitioned or subdivided without the prior written approval of the holder of the first mortgage lien on that particular condominium.

F. Examination of Books and Records – The holders of first mortgages shall have the right to examine the books and records of the Association.

G. Taxes, Assessments and Charges – All taxes, charges, and assessments which may become liens prior to first mortgages under local law, shall relate only to the individual condominiums and not to the project as a whole. First mortgagees of condominiums may jointly and single pay taxes or other charges which are in default and which may or have become a charge against the common property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such property and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

H. Reserves for Replacement – Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis and shall be payable in regular installments, rather than by special assessments.

I. No Priority Over Rights of First Mortgagees – No provision herein shall give a condominium unit owner, or any other party, priority over any rights of first mortgagees of the condominium unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common elements. Such first mortgagees shall be entitled to timely written notice of any such damage or destruction of the common area or damage to a condominium unit covered by a mortgage. Additionally, if any condominium or portion thereof is made the subject matter of any condemnation or eminent domain proceeding, no provision herein shall entitle the owner of a condominium or any other party to priority over a first mortgagee of a condominium with respect to any distribution to such condominium of the proceeds of any award or settlement. Such first mortgagees shall be entitled to timely written notice of any such proceeding or proposed acquisition.

J. Further Notice to Lenders – The Association shall give written notice to any first mortgagee who requests same, of all meeting of the Association. Each such first lien holder shall have the right to be represented at such meetings but shall not have voting rights unless it has succeeded to title to one or more of the condominiums by foreclosure. Further, the Association shall deliver to each such first mortgagee, a copy of the Association’s annual audited statement within ninety (90) day after the end of the Association’s fiscal year, upon such mortgagee’s request.

K. Contract in Excess of One Year – Any agreement for professional management of the condominium project or any other contract providing for services of Declarant, may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee, or ninety (90) days or less written notice.

L. Obligation to Cure Breach – any first mortgagee, who acquires title to any condominium pursuant to the remedies provided in the mortgage or through foreclosure of the mortgage, shall no be obligated to cure any breach of the Declaration which is non-curable or of a type which is not practical or feasible to cure.

M. Breach of Declaration – No breach of the covenants, conditions or restrictions contained in this Declaration, nor the enforcement of any lien provisions created herein, shall affect, impair, defeat or render invalid the lien of any first mortgage 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 with respect to a condominium.

N. FHLMC / FNMA Requirements – If any loan secured by a mortgage encumbering a condominium is owned by the Federal Home Loan Mortgage Corporation (“FHLMC”) its successors and assigns, or Federal National Mortgage Association (“FNMA”), its successors, and assigns, or is tendered to FHLMC or FNMA, their respective successors and assigns, for purchase, the Association and owners

shall obtain and maintain in full force and effect, all insurance coverages which may at any time and from time to time be required by FHLMC or FNMA or their respective successors and assigns, and shall otherwise comply in all respects with all insurance requirements of FHLMC or FNMA which may be in effect at any time and from time to time.

ARTICLE XIII
GENERAL PROVISIONS

A. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the project for the mutual benefit of all owners.

B. The provisions herein shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any of the provisions hereof, shall not affect the validity of the remaining provisions.

C. Each and all legal or equitable remedies provided for in this Declaration shall be deemed to be cumulative, whether so expressly provided for or not.

D. This Declaration shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors, and assigns of Declarant, and the heirs, personal representatives, grantees, lessees, sub lessees, and assignees of the owners.

E. No waiver or any breach of any of the covenants or conditions of this Declaration shall constitute a waiver of any succeeding or preceding breach of the same, or any other covenant or condition contained herein.

F. The Association and any owner shall have the right to enforce by any proceedings at law or in equity, each covenant, condition, restriction, and reservation now or hereafter imposed by provisions of this Declaration. Each owner shall have a right of action against the Association for any failure by the Association to comply with the provisions of this Declaration or of the By-Laws or Articles. Failure by the Association or any owner to enforce any covenant, condition, restriction or reservation contained herein shall not be deemed a waiver of the right to do so hereafter.

ARTICLE XIV
AMENDMENT

A. Subsequent to the organization meeting, each and all of the covenants, conditions, and restrictions contained herein may be modified, amended or augmented or deleted in the following manner and not otherwise; by the execution of either an amended Declaration or an amendment to this Declaration, duly executed and acknowledged by at least seventy-five (75%) percent of the voting power of the Association and at least seventy-five (75%) percent of the votes of members other than the sub divider; and further, only in accordance with the provisions of Section 11018.7 of the Business and Professions Code insofar as the same may be applicable. Said amended Declaration or amendment to Declaration, shall not be effective for any purpose, unless and until recorded in the office of the County

Recorder of Los Angeles County, California, but shall thereafter be conclusive and presumed to be valid as to anyone relying thereon in good faith. Notwithstanding the above, the percentage of the voting power of the Association other than the sub divider necessary to amend a specific clause or provision in the Articles or By-Laws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

B. Subsequent to the conveyance by Declarant of the first unit to a purchaser, Declarant shall have the right to amend this Declaration by executing and recording along with the institutional beneficiaries of all first mortgages and first trust deeds respectively then of record, and all of the owners in the project, the desired amendment thereto, and after prior written approval of the State of California Department on Real Estate and any other state administrative agency then having regulatory jurisdiction over said project, and the recording of said amendment shall be presumed to be valid as to anyone relying thereon in good faith. So long as there is a Class B membership in the Association, any amendment to this Declaration shall require the prior approval of the Veterans Administration. A draft of any amendment must be submitted to the Veterans Administration for its approval prior to recordation.

C. Any amendment which would defeat the obligation of the Association to maintain the common area in the first class condition and in a good state of repair, or which would defeat the assessment procedure to insure said maintenance, must be approved by the City of Long Beach.

D. The Association or any owner of a separate interest may pursuant to Civil Code Section 1356, or any successor statutes, petition the Superior Court for an order reducing the percentage of the affirmative votes necessary to amend this Declaration.

ARTICLE XV

ARCHITECTURAL AND DESIGN CONTROL

A. No building, fence, wall, or other structure shall be commenced, erected, maintained or altered upon the property, nor shall any exterior addition or alteration therein be made including the landscaping thereof without the approval of the Architectural Control Committee being first had and obtained.

B. The architectural control committee shall consist of three (3) members appointed by the Board of Directors from the membership of the Association except that members appointed to the committee by the Declarant need not be member of the Association. The Board may appoint one or more of its members to serve on this committee.

C. The Declarant reserves the right to appoint all of the original members of the committee and all replacements until the first anniversary of the issuance of a public report for the project.

ARTICLE XVI

UNSEGREGATED REAL ESTATE TAXES

In the event the real estate taxes have not been segregated by the County Assessor of said County, the same shall be paid by the respective owners of condominiums. In connection with such payment, the

proportionate share of such taxes for a particular condominium shall be determined in accordance with the percentage of ownership in the common area as set forth in Exhibit "A" attached hereto. If, and to the extent, same are not paid by any owner or owners of a condominium and are allowed to become delinquent, the same shall be collected from the delinquent owner or owners by the Association.

ARTICLE XVII

TERM OF DECLARATION: COMPLIANCE WITH RULE AGAINST PERPETUITIES

This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from and after the date on which this Declaration is executed, after which time same shall be automatically extended for successive periods of ten (10) years, unless an instrument executed by no less than a majority of the owners of the condominiums and 75% of first mortgagees and first beneficiaries of condominiums shall be recorded, cancelling and terminating this Declaration.

ARTICLE XVIII

SPECIAL PROVISION FOR ENFORCEMENT OF BONDED OBLIGATIONS

A. In the event the common area improvements which are included in the subdivision offering have not been completed prior to the issuance of a final public subdivision report by the California Department of Real Estate and the subdivision owners association (hereinafter association) is obliged under a bond or other arrangement (hereafter bond) to secure performance of the commitment of the subdivider to complete the improvements, the following substantive and procedured provisions relative to the initiation of action to enforce the obligations of the subdivider and the surety under the bond shall be followed;

1. The Board is directed to consider and vote on the question of action by the association to enforce the obligation under the bond with respect to any improvement for which a Notice of Completion has not been filed within 60 days after the completion date specified for that improvement in the Planned Construction Statement appended to the bond. If the association has given an extension in writing for the completion of any common area improvement, the Board is directed to consider and vote on the aforesaid question if a Notice of Completion has not been filed within 30 days after the expiration of the extension.
2. A special meeting of all owners in the project for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the bond or, in the event of a failure of the Board to consider and vote on the question, shall be held not less than 35 days nor more than 45 days after receipt by the board of a petition for such meeting signed by owners representing not less than 5% of the total voting power of the association.
3. Voting at the special meeting called for the purpose set forth in (2) above shall be by a vote of the members of the association other than the subdivider.

4. A vote of a majority of the voting power of the association residing in members other than the subdivider to take action to enforce the obligations under the bond shall be deemed to be the decision of the association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the association.

ARTICLE XIX
AMENDMENTS TO CONFORM WITH
MORTGAGE REQUIREMENTS

It is the intention of Declarant that this Declaration, and the Articles and By-Laws of the Association, and the project in general, meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a Unit by the Federal Home Loan Mortgage Corporation (GHLMC), the Federal National Mortgage Association (FNMA), the Federal Housing Administration (FHA) and the Veterans Administration (VA). In furtherance of that intent, Declarant expressly reserves the right and shall be entitled by unilateral amendment of the Declaration as long as Declarant owns more than Twenty-five percent (25%) of the condominium units to incorporate any provisions that are, in the opinion of any of the cited entities or governmental agencies required to conform the Declaration, the Articles, or the By-Laws to the requirements of any of the entities or governmental agencies including, without limitation, the execution on behalf of the Association of a regulatory agreement between the Association and Federal Housing Commission. Any such provision shall first have been approved by the California Department of Real Estate in connection with its issuance of a Final Subdivision Public Estate Report, or amendment to it with respect to the project and the Veterans Administration. Each owner of a unit and each mortgagee of a unit, by acceptance of a deed or encumbrance of a unit, consents to the incorporation in this Declaration of any such provisions, and to the execution of any such regulatory agreement, and agrees to be bound by any such provision as if it were incorporated in this Declaration. The Board and each owner shall take any action or shall adopt any resolutions required by Declarant or any mortgagee to conform this Declaration to the requirements of any of said entities or agencies.

ARTICLE XX
SPECIAL REQUIREMENTS OF THE
CITY AND/OR COUNTY IN WHICH THE
PROJECT IS LOCATED

Special provisions required by any jurisdiction having authority over the within project, if any, are contained in Exhibit "B" attached hereto and are incorporated herein by reference as though fully set forth hereat. Said provisions shall be numbered in sequential order commencing with ARTICLE XXI.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first hereinabove written.

GAGNON CONSTRUCTION-OHIO INVESTMENT,
A Limited Partnership
By: Guy Gagnon Construction Co., Inc.,
A California Corporation, General Partner

By: _____
Guy J. Gagnon, President

By: Guy Gagnon Construction Co., a General Partnership,
General Partner

By: _____
Guy J. Gagnon, Partner

EXHIBIT "A"

1. The owners of Units 201 - 207, 301 - 307, & 401 - 407 inclusive, shall each pay to the Board a percentage of the total monthly maintenance charge in the manner provided by Article IV of the Declaration and in accordance with the percentage formula for each individual unit as follows:

Each unit shall be obligated for 1/21st percentage interest

2. The owners of Units 201 - 207, 301 - 307, & 401 - 407, inclusive, shall each pay to the board a monthly maintenance charge in accordance with the above percentage formula for each individual unit as

Units 201 – 207, 301 – 307, 401 - 407 \$105.43