

fixtures, in a clean, sanitary and attractive condition, in accordance with the Condominium Plan and the original construction design of the Improvements in the Project, subject to control and approval of the Architectural Committee. Unit Owners who have airconditioning compressors servicing their Units shall repair and maintain such compressors, even where they are located in the Common Areas with the approval of the Architectural Committee. Notwithstanding the foregoing, no interior walls, ceilings, floors or other structural or utility bearing portions of the Improvements housing the Units shall be pierced or otherwise altered or repaired, without the prior written approval of the plans for such alteration or repair by the Architectural Committee. It shall further be the duty of each Unit Owner to keep those portions of the Unit which are visible from the Common Areas free from debris. No Unit Owner shall be responsible for the resurfacing, replacing or structural repairing of his Unit, so long as the damage is not caused by the willful or negligent acts of the Unit Owner or his Family. It shall further be the duty of each Unit Owner to pay when due any and all charges for all utility services which services are not centrally metered but are separately metered to his Unit. Each Unit Owner shall be responsible for maintaining those portions of any heating and cooling equipment and other utilities which are located within his respective Unit. Notwithstanding the foregoing, there shall be no addition to, piercing of or alteration of the patio or balcony elements of the Units by any Person other than the Association through its duly authorized agents; and there shall be no addition to, piercing of or alteration of the common structural or utility bearing walls of the garage or living elements of the Units without the prior written approval of the Architectural Committee as provided in Article V of this Declaration.

Section 9. Use of Agent. On or before the date of the first annual meeting of the membership of the Association, the Board of Directors, on behalf of the Association, shall contract with a professional Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Association. The term of such contract, or any contract with Grantor for the furnishing of services to the Association, shall not exceed one (1) year, renewable by agreement of the parties for successive one-year periods, and such contract shall be terminable by the Association at any time (1) for cause upon thirty (30) days' written notice thereof, and (2) without cause nor the payment of a termination fee upon ninety (90) days' written notice.

ARTICLE IV

RIGHTS IN COMMON AREAS AND ASSOCIATION PROPERTIES

Section 1. Conveyance of Easements. Grantor covenants for itself, its successors and assigns that it shall, prior to Close of Escrow for the sale of the first Condominium in the Project to a purchaser, pursuant to a Final Subdivision Public Report issued by the California Department of Real Estate, convey by grant deed to the Association, at no cost thereto, the Association Properties which are described in Article I, Section 9 of this Declaration. Upon conveyance of the Association Properties to the Association, the Association shall immediately become responsible for all

maintenance, operation, control and expenses associated with the Association Properties. The Association Properties shall be conveyed subject to (i) the lien of property taxes and assessments not delinquent, (ii) all restrictive covenants of record at the time of conveyance, including this Declaration, and (iii) all other matters of record at the time of conveyance except encumbrances securing loans made to Grantor.

Section 2. Partition. There shall be no judicial partition of the Association Properties, the Common Areas or any part thereof for the term of the easements described in Section 1 of this Article, nor shall Grantor, any Unit Owner or any other Person acquiring any interest in any Condominium in the Project seek any such judicial partition.

Section 3. Members' Easements of Use and Enjoyment of Association Properties. Subject to the provisions of Section 4 of this Article, every Member of the Association shall have, for himself and his Family, a non-exclusive easement of use and enjoyment of, in and to the Association Properties, and such easements shall be appurtenant to and shall pass with title to every Condominium in the Project.

Section 4. Extent of Members' Easements. The rights and easements of use and enjoyment of the Common Areas and Association Properties created by this Declaration shall be subject to the following:

(a) The right of the Association, in accordance with the Articles and By-Laws, with the vote or written assent of at least two-thirds (2/3rds) of the voting power of each class of Members, to borrow money from any lender for the purpose of improving or maintaining the Association Properties and providing services relating thereto, and in aid thereof, to mortgage, pledge, deed in trust or hypothecate any or all of the Association Properties as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the use rights of the Members; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Association Properties against foreclosure; and

(c) The right of the Board to suspend the rights and easements of use and enjoyment of the Association Properties of any Member, and the Persons deriving such rights and easements from any Member, for any period during which the payment of any Annual, Special, Capital Improvement or Reconstruction Assessment against such Member and his Condominium remains delinquent, and, after Notice and Hearing as provided in the By-Laws, to suspend such rights and easements for the period set forth in the By-Laws for any violation of the Windwood Restrictions, it being understood that any suspension for either non-payment of any Assessment or breach of the Windwood Restrictions shall not

constitute a waiver or discharge of the Member's obligation to pay Assessments as provided herein; and

(d) The right of the Association to construct additional Improvements on the Common Areas or Association Properties and to alter or remove any existing Improvements on the Common Areas or Association Properties for the benefit of the Members of the Association; and

(e) The right of the Association, acting through the Board, to grant or convey easements, licenses or rights-of-way in, on or over the Common Areas and Association Properties for purposes and in the manner authorized under this Declaration; and

(f) The right of the Association, subject to the provisions of Article XIII of this Declaration, to give or sell all or any part of the Association Properties to any public agency, authority, public service district, utility or private concern; provided that no such gift or sale shall be effective unless an instrument signed by at least two-thirds (2/3rds) of each class of Members of the Association agreeing to such alienation or transfer has been recorded; and

(g) The rights and reservations of Grantor as set forth in Article VIII of this Declaration.

Section 5. Delegation of Use. Any Member entitled to the right and easement of use and enjoyment of the Common Areas or Association Properties may delegate, in accordance with the By-Laws, his right of use and enjoyment of the Common Areas and Association Properties to his tenants, Family, contract purchasers or subtenants who reside in his Condominium, subject to reasonable regulation by the Board.

Section 6. Waiver of Use. No Member may exempt himself from personal liability for Assessments duly levied by the Association, nor effect the release of his Condominium from the liens and charges thereof, by waiver of the use and enjoyment of the Association Properties or by abandonment of his Condominium.

Section 7. Damage by Member. Each Member shall be liable to the Association for any damage to the Common Areas or Association Properties not fully reimbursed to the Association by insurance which may be sustained by reason of the negligence or willful misconduct of said Member, or the Persons deriving their right and easement of use and enjoyment of the Common Areas or Association Properties from said Member, or his or their respective Family and guests, both minor and adult. Notwithstanding the foregoing, the Association reserves the right, acting through the Board, to determine whether any claim shall be made upon the insurance maintained by the Association; and the Association further reserves the right, after Notice and Hearing as provided in the By-Laws, to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by such Member or the Persons for whom such Member may be liable as described above. In the case of joint ownership of a Condominium, the liability of such Unit Owners shall be joint and several, except to

the extent that the Association shall have previously contracted in writing with such joint Unit Owners to the contrary. After Notice and Hearing as provided in the By-Laws, the cost of correcting such damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against the Condominium, and may be enforced as provided herein for the enforcement of other Assessments.

ARTICLE V

ARCHITECTURAL REVIEW COMMITTEE

Section 1. Members of Committee. The Architectural Review Committee, sometimes referred to in this Declaration as the "Architectural Committee" or the "Committee", shall consist of three (3) members. The initial members of the Committee shall consist of representatives of Grantor, whose business address is 366 San Miguel Drive, Suite 201, Newport Beach, California 92660. Subject to the following provisions, Grantor shall have the right and power at all times to appoint or remove a majority of the members of the Architectural Committee or to fill any vacancy of such majority until the "turnover date" which shall be the date on which either (1) ninety percent (90%) of the Condominiums subject to this Declaration have been sold and the deeds recorded ("Close of Escrow"), including Condominiums which may be annexed to the Project pursuant to Article II of this Declaration, or (2) five years following the date of issuance of the Final Subdivision Public Report for the Project, whichever occurs earlier. Commencing one (1) year from the date of Close of Escrow for the sale of the first Condominium in the Project to a purchaser (other than a developer) from Grantor, the Board shall have the power to appoint one (1) member to the Architectural Committee, until the turnover date. Thereafter, the Board shall have the power to appoint and remove all of the members of the Architectural Committee. Members appointed to the Committee by the Board shall be from the membership of the Association, but Persons appointed to the Architectural Committee by Grantor need not be Members of the Association. The Committee may designate and appoint a representative who is a licensed architect and a majority of the members of said Committee may, from time to time, remove or replace such representative. The designated representative of the Committee may be, but need not be, a member of the Committee. Such representative must be consulted prior to disapproval of any plans by the Committee, but the decision of the Committee with respect to the approval or disapproval thereof shall be final.

Section 2. Review of Plans and Specifications. The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. No construction, alteration, addition, modification, decoration, redecoration or reconstruction of an Improvement in the Project or on the Association Properties shall be commenced or maintained until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Committee and approved in writing by the Committee. The Committee shall approve proposals