

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

The Akins Company Venture I  
310 West First Street  
Tustin, California 92680  
Attn: Michael Courtney

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Above space for Recorder's use only

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
STREAM HOUSE

THIS DECLARATION is made this 28<sup>th</sup> day of January, 1982, by The Akins Company Venture I, a general partnership ("Akins"). Akins shall be referred to hereinbelow as the "Declarant".

RECITALS

A. Declarant is the owner of certain real property ("Property") located in the City of Orange ("City"), County of Orange ("County"), State of California, and more particularly described in Exhibit "A" attached hereto.

B. Declarant desires to create on the Property and such additions ("Additions") thereto as may be made pursuant to Article II an interrelated and interdependent residential community composed of residential dwellings and facilities for the benefit of the community.

C. Declarant has deemed it desirable to impose a general plan for the protection, maintenance, improvement, development, use, occupancy and enjoyment of the Property and Additions and to adopt and establish covenants, conditions and restriction upon the Property and Additions for the purpose of protecting the value, desirability and attractiveness thereof.

D. Declarant has deemed it desirable for the efficient preservation of the value, desirability and attractiveness of the Property and Additions to create a corporation to which should be delegated and assigned the powers of administering and enforcing these covenants, conditions and restrictions.

E. Stream House Community Association, a nonprofit mutual benefit corporation, has been or will be incorporated under the laws of the State of California for the purpose of exercising the powers and functions as aforesaid.

F. Declarant intends to convey all of the Property and Additions subject to the protective covenants, conditions and restrictions set forth below.

NOW, THEREFORE, Declarant hereby certifies, agrees, and declares that it has established, and does hereby establish, a General Plan for the protection, maintenance, improvement and development of the Property and Additions and has fixed, and does hereby fix, the covenants, conditions, restrictions, easements, reservations, provisions, liens and charges upon and subject to which all of the Property and Additions and each portion thereof shall be held, used, leased, sold and conveyed, and each and all of which is and are declared hereby to be for the benefit of all the Property and Additions and each portion thereof and each present and each future Owner (as defined below) thereof and Declarant. These covenants, conditions, restrictions, easements, reservations, provisions, liens and charges shall run with the Property and Additions and shall be binding upon all parties having or acquiring any right, title or interest in the Property and Additions or any portion thereof and shall inure to the benefit of and bind each owner thereof and their respective successors in interest, and are imposed upon the Property and Additions and each and every portion thereof as a servitude in favor of the Property and Additions and each and every portion thereof as the dominant tenement of tenements.

## ARTICLE I

### Definitions

The terms set forth below in this Article I are defined, for purposes of this Declaration, as follows:

Section 1.01. “Architectural Committee” shall mean and refer to the committee established pursuant to the Article of the Master Declaration entitled “Architectural and Landscaping Control”.

Section 1.02. “Articles” and “Bylaws” shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may be amended from time to time.

Section 1.03. “Assessment” shall mean and refer to any or all, as the context in which the term is used shall require, of the assessments defined below:

(a) “Capital Improvement Assessment” shall mean and refer to a charge against each Owner and his Condominium representing a portion of the cost to the Association for the installation or construction of any capital improvements on the Common Area or on any Maintenance Area as provided for in this Declaration.

(b) “Reconstruction Assessment” shall mean and refer to a charge against each Owner and his Condominium representing a portion of the cost to the Association for

the reconstruction of any portion or portions of any Condominium Building or the Common Area as provided for in this Declaration.

(c) "Regular Assessment" shall mean and refer to a charge against each Owner and his Condominium representing that portion of the Common Expenses attributable to such Owner and his Condominium as provided for in this Declaration.

(d) "Reimbursement Assessment" shall mean and refer to a charge against a particular Owner and his Condominium directly attributable to such Owner, for certain costs incurred by the Association in bringing the Owner and his Unit into compliance with the provisions of this Declaration, the Articles, the Bylaws or the Association Rules, or any other charge designated as a Reimbursement Assessment in this Declaration.

Section 1.04. "Association" shall mean and refer to Stream House Community Association, a nonprofit mutual benefit corporation, incorporated or to be incorporated under the laws of the State of California, and its successors and assigns.

Section 1.05. "Association Rules" shall mean and refer to rules adopted by the Association pursuant to the Article of this Declaration entitled "Duties and Powers of the Association".

Section 1.06. "Board" shall mean and refer to the Board of Directors of the Association.

Section 1.07. "Common Area" shall mean all portions of each project except the Units in each such project and, without limiting the generality of the foregoing, specifically including all structural projections within a Unit which are required for the support of a Condominium Building, gas, water, and waste pipes, all sewers, all ducts, chutes, conduits, wires and other utility installations of the structures wherever located (except the outlets thereof when located within Units), the land upon which the structures are located, the air space above these structures, all bearing walls, columns, floors, the roof, the foundation, common stairways, window glass and the like.

Section 1.08. "Common Expenses" shall mean and refer to the actual and estimated costs of: maintenance, management, operation, repair and replacement of the Common Area (unless the cost of such repair and replacement is otherwise provided for in the Article hereof entitled "Destruction of Improvements") and any Maintenance Area; unpaid Assessments; management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other independent contractors and employees; utilities, trash pick-up and disposal, gardening and other services benefiting the Common Area and any Maintenance Area; fire, casualty, liability, workers' compensation and any other insurance obtained pursuant to this Declaration; adequate reserves as appropriate; bonding of the members of the management body; taxes paid by the

Association; amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Area or any portion thereof; amounts paid or incurred by the Association in collecting Assessments pursuant to Section 6.01, including amounts expended to purchase a Condominium in connection with the foreclosure of an Assessment lien against such Condominium; and expenses incurred by the Association for any reason whatsoever in connection with the Common Area, any Maintenance Area, this Declaration, any Supplementary Declaration of Covenants, Conditions and Restrictions recorded in accordance with Article II hereof, the Articles or Bylaws or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association or the Board by this Declaration or any such Supplementary Declaration.

Section 1.09. “Condominium” shall mean and refer to an estate in real property in a project (as to that project only) consisting of a fractional undivided fee interest in common with the other Owners in the project in the Common Area of such project, together with a separate fee interest in a Unit and all right, title and interest appurtenant thereto. Such fractional undivided fee, interest in common of each Owner in Project No. 1 shall be a  $\frac{1}{8}$ <sup>th</sup> undivided interest. Such fractional undivided interest in common of each Owner shall also be described in the instrument conveying a Condominium to such Owner and shall not be changed except as provided in this Declaration.

Section 1.10. “Condominium Building” shall mean and refer to a separate building containing one or more Units.

Section 1.11. “Condominium Plan” shall mean and refer to the condominium plan for each project recorded by Declarant in the Office of the County Recorder and any amendments or modification thereto.

Section 1.12. “Declarant” shall mean and refer to Akins and such of its successors as shall acquire Akins’ entire fee interest in Stream House as of the date of acquisition thereof and as shall be designated the “Declarant” by Akins in a duly recorded instrument executed by Akins. Persons or entities who acquire less than all of such fee interest (including, without limitation, those acquiring less than all of the Condominiums owned by Akins for purposes of development or residential use) and who are not so designated shall not be successors of Akins for purposes of this Declaration, but rather shall be Owners. However, nothing herein contained shall be deemed to preclude the Declarant from assigning or delegating any of its rights or duties to anyone as provided in Section 17.15.

Section 1.13. “Declaration” shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Stream House as the same may be amended, supplemented, modified or changed from time to time.

Section 1.14. “Deed of trust” shall be deemed to include a mortgage, “beneficiary” shall be deemed to include

the mortgagee of a mortgage and “trustor” shall be deemed to include the mortgagor of a mortgage. Unless otherwise indicated, all references in this Declaration to a “deed of trust” or “deeds of trust” shall mean and refer to a deed of trust or deeds of trust which encumber a Condominium or Condominiums, and all references to “beneficiary” or “beneficiaries” shall mean and refer to a beneficiary or beneficiaries (including, without limitation, a First Beneficiary or First Beneficiaries) under any such deed of trust or deeds of trust.

Section 1.15. “Family” shall mean and refer to one or more persons related to each other by blood, marriage or legal adoption, or a reasonable number of persons not so related who constitute a bona fide single housekeeping unit, together with his or their domestic servants.

Section 1.16. “First Beneficiary” shall mean and refer to the beneficiary under a deed of trust of record or the mortgagee under a mortgage of record covering a Condominium or Condominiums in Stream House which deed of trust or mortgage is a first deed of trust or mortgage.

Section 1.17. “Landscaped Control Areas” means the landscaped area described in the Landscaped Control Areas Easement Plan attached to this Declaration as Exhibit “B” and any other landscaped areas delineated and designated as Landscaped Control Areas in any Supplementary Declaration of Covenants, Conditions and Restrictions recorded in accordance with Article II.

Section 1.18. “Maintenance Area” shall mean and refer to any area within or outside of Stream House which is not Common Area but which the Association is required to maintain by this Declaration or any Supplementary Declaration of Covenants, Conditions and Restrictions recorded in accordance with Article II.

Section 1.19. “Master Association” shall mean and refer to Villeurbanne Master Association, a nonprofit mutual benefit corporation, incorporated under the laws of the State of California, and its successors and assigns.

Section 1.20. “Master Declaration” shall mean and refer to that certain Master Declaration of Covenants, Conditions and Restrictions for Villeurbanne recorded April 16, 1981, as Instrument No. 19587, in Book 14022, Pages 1306 through 1360, inclusive, in the Official Records of the County, as the same may be supplemented and/or amended, changed or modified from time to time. “Villeurbanne Owners” shall mean and refer to one or more persons or entities who are the recorded owners of condominiums subject to the Master Declaration, including the Declarant and other Owners herein, and who are described in Section 1.19 of the Master Declaration.

Section 1.21. “Member” shall mean and refer to every person or entity who holds membership in the Association as provided in Section 3.01.

Section 1.22. “Owner” shall mean and refer to one or more persons or entities who are the recorded owner, including the Declarant, or the record vendee of a Condominium under an installment sales contract, of the fee simple title to

any Condominium, but shall not mean or refer to those having such interest merely as security for the performance of an obligation.

Section 1.23. “Parking Areas” shall mean and refer to those portions of the Common Area which have been paved and marked with parking spaces for automobiles or otherwise constructed or improved for the parking of automobiles.

Section 1.24. The term “project” shall mean and refer to Project No. 1 and each other parcel of real property, including all structures thereon, annexed thereto in accordance with Article II, which is divided, or which is to be divided, into Condominiums.

Section 1.25. “Project No. 1” shall mean and refer to the Property.

Section 1.26. “Steam House” shall mean and refer to the Property together with such additions thereto as may become subject to this Declaration or any Supplementary Declaration of Covenants, Conditions and Restrictions pursuant to the provisions of Article II.

Section 1.27. Unit and Condominium Elements.

(a) “Unit” shall mean and refer to the elements of a Condominium which are not owned in common with the Owners of other Condominiums in a project and shall consist of a Residential Element together with one or more other Condominium elements as set forth in the Condominium Plan for each project. In interpreting deeds, leases, declarations and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the description expressed in the deed, lease, declaration or plan regardless of settling or lateral movement of the Condominium Building and regardless of minor variances between boundaries as shown on the plan or in the deed, lease or declaration and those of the Condominium Building as constructed.

(b) “Patio” shall mean and refer to that portion of a Unit designed for use as a patio, and shall be identified on the Condominium Plan by a Unit number and the letter “P” and shall consist of the contiguous surfaces of any Common Area walls or fences, the surfaces of the walls of contiguous Condominium Buildings, with the upper and lower horizontal boundaries of the Patio element being as shown on the Condominium Plan, and the space encompassed by all of the foregoing. In the event that the contiguous Common Area land or improvements do not completely enclose the Patio element, the remaining boundaries of the airspace contained within said Patio element shall be as delineated on the Condominium Plan.

(c) “Balcony” shall mean and refer to that portion of a Unit designed for use as a balcony, and shall be identified on the Condominium Plan by a Unit number and

the letter “B”. The upper and lower elevations of Balconies are horizontal planes, the elevations of which are as stated in the Condominium Plan. The lateral boundaries of the Balconies are the vertical planes at the limits of the horizontal dimensions shown in the Condominium Plan for each Balcony. Each Balcony includes the interior undecorated surfaces of said boundaries, where such surfaces exist, and the airspace encompassed by said boundaries.

(d) “Residential Element” shall mean and refer to that portion of a Unit designed for use as a residence, and shall be identified on the Condominium Plan by a Unit number only and shall consist of the interior undecorated surfaces of the perimeter walls, floors, ceilings, windows and doors of each Residential Element and the airspace encompassed thereby, including the outlets of all utility installations therein and also including the interior surfaces of the firebox of each fireplace extending from the floor to the top of each fireplace, if any, and the space encompassed thereby, which adjoins any Residential Element.

(e) “Storage Area” shall mean and refer to that portion of a Unit designed for use as storage and shall be identified on the Condominium Plan by a Unit number and the letters “SA” and shall consist of the interior undecorated surfaces of the perimeter walls, ceilings, windows (if any), floor and door of each Storage Area element and the space encompassed thereby, including the outlets of all utility installations therein.

(f) “Garage” shall mean and refer to that portion of a Unit designed for use as a garage and shall be identified on the Condominium Plan by a Unit number and the letter “G” and shall consist of the interior undecorated surfaces of the perimeter walls, ceilings, windows (if any), floor and door of each Garage element and the space encompassed thereby, including the outlets of all utility installations therein.

## ARTICLE II

### Property Subject to this Declaration and Additions Thereto

Section 2.01. Project No. 1. The real property which shall be held, used, leased, sold, and conveyed subject to this Declaration is the real property referred to herein as Project No. 1.

Section 2.02. Additions to Project No. 1. Additional real property may be annexed to Project No. 1 and become subject to this Declaration in the manner set forth hereinbelow:

(a) Additions by Declarant. If the Declarant shall develop, or cause to be developed, additional real property within the area described in Exhibit “C” attached hereto,

the Declarant shall have the right from time to time to annex such additional real property or any portion or portions thereof to Project No. 1 and to bring such real property within the general plan and scheme of this Declaration without the approval of the Association, its Board or the Members; provided that said right of the Declarant shall terminate on the third anniversary of the date of issuance by the California Department of Real Estate of the most-recently-issued final subdivision public report with respect to any phase of Stream House.

(b) Other Additions. In addition to the provision for annexation specified in Section 2.02(a), additional real property may be annexed to Project No. 1 and brought within the general plan and scheme of this Declaration upon the approval by vote or written consent of Members of the Association entitled to exercise not less than two-thirds (2/3) of the voting power of each class of membership of the Association. Upon obtaining the requisite approval pursuant to this Section 2.02(b), the owner of any real property who desires to annex it to Project No. 1 and add it to the general plan and scheme of this Declaration and subject it to the jurisdiction of the Association, shall file of record a Supplementary Declaration of Covenants, Conditions and Restrictions, as more particularly described in Section 2.02(c).

(c) Supplementary Declaration. The additions authorized under Sections 2.02(a) and 2.02(b) shall be made by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions, or other similar instrument, with respect to the additional real property which shall be executed by the Declarant or the owner thereof and shall extend the general plan and scheme of this Declaration to such real property. The filing of record of said Supplementary Declaration shall constitute and effectuate the annexation of the additional real property described therein, and thereupon said real property shall become and constitute a part of Stream House, become subject to this Declaration and encompassed within the general plan and scheme of this Declaration, and become subject to assessment by the Association and to the functions, powers and jurisdiction of the Association. In such event, the Owners in said annexed real property shall automatically become Members of the Association. No such annexation shall in any way modify or change the Owner of a Condominium's undivided interest in the Common Area of the project within which his Unit is located. Such Supplementary Declaration shall, with respect to each project, set forth the fractional undivided fee interest of each Owner in common with the other Owners in such project in the Common Area of such project and may contain such additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added real property, or as the Declarant may deem appropriate in the development of such real property, and as are not inconsistent with the general plan and scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants, conditions or restrictions established by this Declaration as the same pertain to Project No. 1.



ARTICLE III

Membership and Voting  
Rights in the Association

Section 3.01. Membership. Every person or entity who is a record owner of a fee interest in any Condominium which is subject by this Declaration to assessment by the Association shall be a Member of the Association. Any person or entity having any such interest merely as security for the performance of an obligation shall not be a Member. Membership in the Association and the right to vote shall be appurtenant to, and may not be separated from, the fee ownership of any Condominium which is subject to assessment by the Association. Ownership of such Condominium shall be the sole qualification for membership in the Association.

Section 3.02. Transfer. The membership held by any Owner of a Condominium shall not be transferred, pledged or alienated in any way except upon the sale or assignment of such Condominium and then only to the purchaser or assignee of the Condominium. Any attempt to make a prohibited transfer will be void and will not be reflected upon the books and records of the Association. In the event any Owner shall fail or refuse to transfer the membership registered in his name to the purchaser of his Condominium, the Association shall have the right to record the transfer upon the books of the Association.

Section 3.03. Voting Rights. The Association shall have two classes of voting membership as follows:

(a) Class A. Class A Members shall be all those Owners entitled to membership as defined in Section 3.01, with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Condominium in which they hold the interest required for membership by Section 3.01. When more than one person holds such interest in any Condominium, all such persons shall be Members, and the vote for such Condominium shall be exercised as they determine among themselves, but in no event shall more than one vote be cast with respect to any such Condominium. Any votes cast with regard to any such Condominium in violation of this provision shall be null and void.

(b) Class B. The Class B Member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Condominium in which it holds the interest required for membership by Section 3.01; provided that the Class B membership shall forever cease and become converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

(i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;

(ii) On the second anniversary of the date of the original issuance by the California Department

of Real Estate of the most recently issued final subdivision public report with respect to a phase of Stream House;

(iii) On the fourth anniversary of the date of the original issuance by the California Department of Real Estate of a final subdivision public report for Project No. 1.

(c) Vesting of and Restrictions on Voting Rights. An Owner's right to vote shall vest immediately upon, and not before, the date Regular Assessments are levied by the Association against such Owner's Condominium as provided in this Declaration. The voting rights of both classes of membership shall be subject to the restrictions and limitations provided in this Declaration and in the Articles and the Bylaws.

(d) Declarant's Vote. Except for the provisions of the Sections entitled "Enforcement of Bonded Obligations" and "Amendment", any provision in this Declaration, the Articles or Bylaws which requires the vote or written assent of a prescribed percentage of the voting power of the Association, other than the Declarant, for action taken by the Association shall require (i) the approval of the prescribed percentage of the Class A membership and the approval of a majority of the Class B membership during the time that there are two outstanding classes of membership and (ii) the approval of a majority of the voting power of the Association and the approval of the prescribed percentage of the voting power of the Association, other than the Declarant, after there has been a conversion of the Class B membership to the Class A membership.

#### ARTICLE IV

##### Members Use of Common Area

Section 4.01. Use of Common Area. Every Member shall have a nonexclusive easement for use and enjoyment in and to the Common Area, regardless of the project in which such Member is an Owner, and such easement shall be appurtenant to and shall pass with the title to every Condominium subject to assessment, subject to all of the easements, covenants, conditions, restrictions and other provisions contained in this Declaration, including, without limitation, the following provisions:

(a) The right of the Association, as provided in Article III of its Bylaws, to suspend the voting rights and/or use or enjoyment rights to recreational or social facilities within the Common Area of any Member for any period during which any Assessment against his Condominium remains unpaid and delinquent, and for a period not to exceed thirty (30) days for any infraction of the Association Rules; and

(b) The right of the Association to establish and enforce reasonable rules and regulations pertaining to the use and enjoyment of the Common Area and the facilities thereon; and

(c) The right of the Association to limit the number of guests of Members and to limit the use of the Common Area by persons not in possession of a Condominium, but owning a portion of the interest in a Condominium required for membership; and

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

(e) The right of the Association to grant easements on, over and under the Common Area to public utilities or governmental entities or agencies or other persons or entities; provided that any such easement shall not unreasonably interfere with the right of any Owner to the use and enjoyment of his Unit and the Common Area. No such easement shall be effective unless an instrument signed by Members entitled to cast not less than two-thirds (2/3) of the voting power of the Members residing in the project in which the easement will be granted has been recorded agreeing to the granting of such easement. The certificate of the President and Secretary of the Association attached to such instrument certifying that the Members signing such instrument represent not less than two-thirds (2/3) of the voting power of the Members residing in the project in which the easement will be granted shall be deemed conclusive proof thereof; and

(f) The right of the Association acting through the Board to assign the Parking Areas to the Owners of particular Units for automobile parking as provided in Section 8.07.

(g) The rights of the Master Association, Villeurbanne Owners and the Declarant pursuant to the easements and licenses reserved in the Article of the Master Declaration entitled "Easements and Reservation of Easements by Declarant".

(h) The right of the Association, to perform its duties and exercise its powers under this Declaration and the right of the Master Association to perform its duties and exercise its rights under the Master Declaration; and

(i) The right of the Association to perform its duties and exercise its powers under Article IX, including, without limitation, the power of the Association to grant easements on the Common Area as provided in said Article; and

(j) Any limitations, restrictions or conditions affecting the use, enjoyment or maintenance of the Common Area imposed by the Declarant or the City or County or other governmental agency having jurisdiction to impose any such limitations, restrictions or conditions, and whether by agreement with the Association, the Declarant or otherwise; and

(k) Such other rights of the Association, the Master Association, the Villeurbanne Owners, the Architectural Committee, the Board, the Owners and the Declarant with respect to the Common Area as may be provided for in this Declaration or the Master Declaration.

Section 4.02. Delegation of Use of Common Area. Subject to the limitations of Section 4.01, any Member may delegate, in accordance with the Bylaws, his right of use and enjoyment to the Common Area and facilities thereon to the members of his Family, his tenants and contract purchasers who reside in his Unit.

## ARTICLE V

### Covenant for Assessments

Section 5.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Condominium owned by it within Stream House hereby covenants, and each Owner of any Condominium within Stream House by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, is and shall be deemed to covenant and agree to pay to the Association: (a) Regular Assessments, (b) Reimbursement Assessments, (c) Capital Improvement Assessments, and (d) Reconstruction Assessments, such Assessments to be levied, fixed, established and collected from time to time as hereinbelow provided. The Assessments, together with such interest thereon and costs of collection thereof as are provided below in Section 6.01, shall be a charge on the real property and shall be a continuing lien upon the Condominium against which each such Assessment is made. Each such Assessment, together with such interest and costs, shall also be the personal obligation of the person or entity who was the Owner of such Condominium at the time when the Assessment, or any portion thereof, fell due and shall bind his heirs, devisees, personal representatives, successors and assigns; provided, however, the personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 5.02. Purpose of Assessments. The Regular Assessments levied by the Association shall be collected, accumulated and used exclusively for the purpose of providing for and promoting the pleasure, recreation, health, safety and social welfare of the Members, including the enhancement of the value, desirability and attractiveness of Stream House, the improvement and maintenance of the Common Area and facilities thereon, the improvement and maintenance of Maintenance Areas, if any, and the discharge of any obligations or duties imposed on the Association or the Board by this Declaration, the Articles or the Bylaws. Reimbursement, Capital Improvement and Reconstruction Assessments shall be used exclusively for the purposes for which such Assessments were levied as provided for in this Declaration.

### Section 5.03. Regular Assessments.

(a) Amount and Time of Payment. Regular Assessments shall be levied on a calendar or fiscal year basis ("Assessment Period") as determined by the Board. The amount and time of payment of said Assessments shall be determined by the Board after giving due consideration to the Common Expenses (including, without limitation, adequate reserves)

of the Association. In the event the amount budgeted to meet Common Expenses for an Assessment Period proves to be excessive in light of the actual Common Expenses, the Board, in its discretion, may, by resolution, reduce the amount of the Regular Assessments.

(b) Date of Commencement of Regular Assessments. The Regular Assessments provided for herein shall commence as to all Condominiums in Project No. 1 on the first day of the month following the conveyance of the first Condominium within Project No. 1 to an Owner who acquires such Condominium for residential uses. The Regular Assessments for Condominiums added hereafter to Project No. 1 shall commence with respect to all Condominiums within such added property on the first day of the month following the conveyance of the first Condominium within said added property to an Owner who acquires such Condominium for residential uses.

(c) Assessment Procedures. At least sixty (60) days in advance of each Assessment Period, the Board shall estimate the total Common Expenses to be incurred by the Association for such Assessment Period and shall at that time determine and fix the amount of the Regular Assessments to be levied against each Condominium for such Assessment Period, which amount shall include an adequate reserve fund for the maintenance, repairs and replacement of any Common Area that must be replaced on a periodic basis. Written notice of such Regular Assessment shall be sent to every Owner subject thereto at least sixty (60) days in advance of each Assessment Period. Each Owner shall thereafter pay to the Association his Regular Assessment in regular installments established by the Board; provided, however, that such installments shall be paid on a monthly basis until such time as the Board determines otherwise. In the event the Board shall determine at any time that the Regular Assessments levied for a current Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, it shall immediately determine the approximate amount of such inadequacy, issue a supplemental estimate of the total Common Expenses and revise and fix the amount of Regular Assessments against each Owner.

(d) Regular Assessment Limitations. No Regular Assessment for an Assessment Period shall be in an amount which is more than the greater of (i) twenty percent (20%) greater than such Assessment for the immediately preceding Assessment Period, or (ii) the percentage increase, as compared with the previous Assessment Period, in the United States Bureau of Labor Statistics, Los Angeles-Long Beach-Anaheim, Consumer Price Index for all Urban Consumers, or any similar index substituted therefor, without the approval by vote or written consent of a majority of the voting power of the Association residing in Members other than the Declarant.

Section 5.04. Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy for any Assessment Period, Capital Improvement Assessments applicable to that Assessment Period only, for the purpose of defraying, in whole or in part, the cost of any

construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, to the extent the same is not covered by the provisions for Reconstruction Assessments herein, or any unexpected improvement to or maintenance of any Maintenance Area, including the necessary fixtures and personal property related thereto; provided that any such Capital Improvement Assessments which in the aggregate exceed five percent (5%) of the budgeted Common Expenses for such Assessment Period shall have the approval by vote or written consent of a majority of the voting power of the Association residing in Members other than the Declarant. Capital Improvement Assessments shall be due and payable at the times and in the amounts fixed by the Board.

Section 5.05. Reimbursement Assessments. Reimbursement Assessments may be levied (a) by the Board from time to time against Condominiums with respect to which particular costs or expenses have been incurred by the Association for materials or services furnished at the request, or with the consent, of the Owner of any such Condominium or (b) by the Association for certain costs or expenses incurred by the Association in bringing the Owner and Unit into compliance with this Declaration, the Articles and the Bylaws in accordance with the provisions of this Declaration (including, without limitation, Section 17.04). Reimbursement Assessments levied by the Association shall be due and payable at the times and in the amounts fixed by the Board.

Section 5.06. Certificate of Payment. Upon demand, the Association shall furnish to any Owner liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether said Assessments or any portions thereof have been paid. Such certificate shall be conclusive evidence of payment of any Assessments or portions thereof therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of any such certificate.

Section 5.07. Assessment of Condominiums Owned by Declarant. Without exception, each Condominium owned by the Declarant shall be subject to assessment to the same extent and in the same manner as any other Condominium owned by any Owner.

Section 5.08. Nonuse and Abandonment. No Owner may waive or escape personal liability for the Assessments provided for herein, nor release the Condominium owned by him from the liens and charges hereof, by nonuse of the Common Area or abandonment of his Condominium.

Section 5.09. Uniform Rate of Assessment. All Regular and Capital Improvement Assessments shall be fixed at a uniform rate for all Condominiums.

Section 5.10. Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments, charges and liens created herein: (a) all properties dedicated to, and accepted by, a public authority and (b) all properties exempted from taxation by the laws of the State of California, upon the terms and to the extent of such legal

exemption. Notwithstanding any provision in this Section, no real property or improvements devoted to residential dwelling use shall be exempt from said Assessments, charges or liens.

Section 5.11. Offsets. All Assessments shall be payable in the amount specified in the Assessment levied by the Association and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance or enforcement.

## ARTICLE VI

### Non-Payment of Assessments

Section 6.01. Delinquency and Remedies of Association. If any Assessment, or any portion thereof, is not paid on the date when due, then such Assessment or portion thereof shall become delinquent and shall, together with interest and costs of collection as provided below, thereupon become a continuing lien on the Condominium against which such Assessment was made as more particularly described in Section 5.01. If the Assessment, or any portion thereof, is not paid within thirty (30) days after the delinquency date, a reasonable late charge may be levied by the Board and the Assessment shall bear interest from the date of delinquency at a rate set by the Board, which rate shall not exceed the maximum permitted by law. In addition to all other legal and equitable rights or remedies which it may have, the Association may, at its option, bring an action at law against the Owner personally obligated to pay such Assessment, and/or upon compliance with the notice provisions set forth in Section 6.02, bring an action to foreclose the lien against the Condominium, and there shall be added to the amount of such Assessment or any portion thereof, and interest thereon, the late charge and all costs and expenses, including reasonable attorneys' fees, incurred by the Association in collecting the delinquent Assessment. Each Owner vests in the Association, and its successors or assigns, the right and power to bring all actions at law or lien foreclosure against such Owner or other Owners for purposes of collecting delinquent Assessments.

In lieu of judicially foreclosing the lien, the Association, at its option, may foreclose such lien by proceeding under a power of sale as provided in Section 6.03, such a power of sale being given to the Association as to each and every Condominium, for the purpose of collecting delinquent Assessments.

Section 6.02. Notice of Assessment. No action shall be brought to foreclose the lien, or to proceed under the power of sale, sooner than thirty (30) days after the date that a notice of assessment (or such other document or instrument as may then be permitted or required by law), executed by a duly authorized representative of the Association, is recorded with the County Recorder. Said notice shall set forth the amount claimed to be delinquent (which

may include the late charge, interest and costs of collection, including reasonable attorneys' fees), a good and sufficient legal description of the Condominium being assessed, the name of the record Owner or reputed Owner thereof, and the name and address of the Association as claimant. A copy of said notice shall be deposited in the United States mail, certified or registered, and postage prepaid, to the Owner of the Condominium.

Section 6.03. Foreclosure Sale. Any such sale under the power of sale provided for above shall be conducted in accordance with the provisions of Sections 2924, 2924b, and 2924c of the Civil Code of the State of California, applicable to the exercise of powers of sale of deeds of trust, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Condominium at foreclosure sale, using Association funds or funds borrowed for such purpose, and to acquire and hold, lease, mortgage and convey the same.

Section 6.04. Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was recorded by the Association, any officer of the Association is hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee to be determined by the Association, but not to exceed a reasonable fee, to cover the costs of preparing and filing or recording such release together with the payment of such other charges, costs, interest or fees as shall have been incurred.

Section 6.05. Cumulative Remedies. The Assessment lien and the rights to foreclosure and sale thereunder shall be in addition to, and not in substitution for, all other rights and remedies which the Association and its successors and assigns may have hereunder and by law.

## ARTICLE VII

### Architectural and Landscaping Control

Section 7.01. Architectural Approval. No fence, wall, building, sign or other structure (including basketball standards), or exterior addition to or change or alteration thereof (including painting) or landscaping, shall be commenced, constructed, erected, placed, altered, maintained or permitted to remain on Stream House or any portion thereof, until there has been compliance with the provisions of the Article of the Master Declaration entitled "Architectural Approval and Landscaping Control". The Architectural Committee shall have the right, but not the obligation, to require any Member to remove, trim, top, or prune any shrub, tree, bush, plant or hedge which such committee reasonably, believes materially obstructs the view of any Unit. The Declarant shall not be required to comply with any of the provisions of this Section 7.01.

Section 7.02. Additional Standards. The Board may establish such additional procedures, standards, rules



and regulations concerning architectural and landscaping control as it deems appropriate and as are not in conflict with the Master Declaration (including, without limitation, the Article thereof entitled "Architectural and Landscaping Control"), the rules and regulations adopted by the Architectural Committee or this Declaration; provided, however, the procedures provided in the Master Declaration for submission of plans and specifications, approval of any conformity to such plans and specifications, time limitations for completion of improvements in compliance with approved plans and specifications, variances and determining when such plans and specifications are deemed approved shall be adopted by the Board.

Section 7.03. No Liability. Neither the Declarant, the Association, the Master Association, the Architectural Committee, the Board nor the members or designated representatives thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of property affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of failure to approve or disapprove any such plans or specifications, or for any defect in any structure constructed from such plans and specifications. Such plans and specifications are not approved for engineering design. Every person who submits plans or specifications to the Architectural Committee and if applicable, to the Board, for approval agrees, by submission of such plans and specifications, and every Owner of any of said property agrees that he will not bring any action or suit against the Declarant, the Association, the Master Association, the Architectural Committee, the Board or any of the members or designated representatives thereof to recover any such damages.

## ARTICLE VIII

### General Restrictions

Section 8.01. Residential Use. Except as provided in Section 17.10, and subject to the other terms and provisions of this Declaration, no building, structure or improvement shall be constructed, erected, altered, placed or permitted to remain on any Common Area within Project No. 1 other than one or more Condominium Buildings containing Units and customary appurtenances designed for occupancy by not more than one Family and such improvements as may be incidental to the social and recreational use of the Common Area.

Section 8.02. No Nuisance. No noxious or offensive activity shall be carried on within any Unit or upon any part of Stream House nor shall Stream House, nor any portion thereof (including, without limitation, the Units), be used for any purpose tending to injure the reputation thereof, or to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance, or in violation of any public law, ordinance or regulation in any way applicable thereto or which would in any way increase the premiums for insurance

carried pursuant to Article XII. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon any part of Stream House.

Section 8.03. No Commercial Use. None of the Condominiums shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such nonresidential purposes.

Section 8.04. Common Area Use. The Common Area of each project, other than the Condominium Buildings, shall be used for recreational, social and other purposes permitted or authorized by this Declaration and the Master Declaration. Any private streets, roads, or driveways included within the Common Area shall be used only for vehicular and pedestrian traffic and for parking in designated parking areas, if any. No rubbish, debris, objects, items or materials or any kind shall be placed or permitted to accumulate in any stream, creek, pond, watercourse, channel, body of water or waterway (collectively, "Waterways") within any Common Area which would interfere with the water circulation of such Waterways, detract from the quality of water within the Waterways, diminish or destroy the structural soundness or integrity of the Waterways, or damage or interfere with the efficient operation of any equipment maintained in connection with the Waterways. Except in the event of an emergency, no person shall enter into any Waterway without prior authorization from the Board. No activity shall be carried on in or around the Waterways which would adversely affect the quality and attractiveness of the Waterways, and without limiting the foregoing, the Waterways shall not be used for swimming, boating, water sports or recreational activity of any kind without the prior written approval of the Board. Any landscaping and other plant life on the periphery of the Waterways shall be trimmed, cultivated and maintained in a manner which will prevent surface or floating debris such as trash, leaves or branches from entering or accumulating in the Waterways. Nothing contained within this Section shall limit or be deemed to limit the Master Association, the Association and their authorized agents and representatives from exercising their rights and duties under the Master Declaration of this Declaration, including, without limitation, the right of the Association to maintain, repair or reconstruct the Waterways or other Common Area.

Section 8.05. Projections and Antennas. With the exception of one or more chimneys and one or more vent stacks, no projections of any type shall be placed or permitted to remain above the roof of any Condominium Building or any other building unless and until the same shall have been approved by the Architectural Committee. No outside television or radio pole or antenna or other electronic device shall be constructed, erected or maintained on any Condominium Building, any other building or on any property within Steam House or connected in such manner as to be visible from the outside of any such building unless and until the same shall have been approved by the Architectural Committee.

Section 8.06. Temporary Buildings. No shed, tent or temporary building shall be erected, maintained or used on any property within Steam House; provided, however, that

temporary buildings for use and used only for purposes incidental to the initial construction and sale of improvements and dwellings on any portion of Stream House may be erected, maintained and used, provided that such erection, maintenance and use has been approved by the Architectural Committee and provided further that said temporary buildings shall be promptly removed upon the completion of such construction work.

Section 8.07. Parking Areas.

(a) Assignment of Parking Areas. Subject to the use restrictions of this Section 8.07 and elsewhere in this Declaration and the Master Declaration, the Board may assign to a Unit on such terms and conditions as the Board shall deem appropriate or necessary, a parking space or spaces within the Parking Areas for the parking of the automobile of the Owner of such Unit.

(b) Restrictions on Use of Parking Areas. Parking Areas shall be used only for the purpose of parking automobiles and not for any other purpose including, without limitation, storing an Owner's or any other person's belongings or possessions. In the event that any Owner parks his automobile in such a fashion as to violate the terms and provisions of this Declaration which pertain to parking, including, without limitation, the terms and provisions of this Section 8.07, the Association shall have the right to tow away, or to cause to be towed away, such automobile and such Owner shall bear all costs and expenses incurred in connection therewith, including any towing charge, and if such costs and expenses are not promptly paid by such Owner, the Association may levy a Reimbursement Assessment therefor against such Owner and his Condominium.

Section 8.08. Parking of Mobile Homes, Recreational Vehicles, Etc. No mobile home, boat, truck, trailer, recreational vehicle of any kind or similar equipment shall be kept, stored, parked (other than temporarily), maintained, constructed or repaired, on any property within Stream House in such a manner as to be visible from any neighboring property; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs. Temporary parking shall mean parking of vehicles belonging to guests of Owners, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of services to the Association, the Master Association, the Villeurbanne Owners or the Owners and parking of vehicles belonging to or being used by Owners for loading or unloading purposes.

Section 8.09. Privies. No privy shall be erected, maintained or used upon any portion of Stream House, but a temporary privy may be permitted during the course of construction of a building, provided that such erection, maintenance or use has been approved by the Architectural Committee. Any lavatory, toilet or water closet which shall be erected, maintained or used upon any portion of Stream House shall be enclosed and located within a building permitted under this Declaration to be erected within Stream House, shall be properly connected with the sewer system and shall be so constructed and operated that no offensive odor shall arise or otherwise escape therefrom.

Section 8.10. Animals. No animals, fowl, reptiles, insects or poultry shall be kept within Steam House, except that domestic reptiles, dogs, cats, birds and fish may be kept as household pets upon said property, provided (i) that no Owner may keep more than three (3) such pets (with the exception of fish, which shall not be kept in unreasonable quantities), (ii) that such pets are not kept, bred or raised thereon for commercial purposes and (iii) that if any such pet weighs more than fifty (50) pounds, such pet may not be kept within Steam House. All dogs permitted to be kept by this Section shall be kept on a leash within Steam House when not within an enclosed area of a Unit.

Section 8.11. Signs. Except for a sign of customary and reasonable dimensions, the area of which shall not exceed four (4) square feet and advertising a Condominium for sale, such sign to be located within the Unit of such Condominium, no sign or other advertising device of any character shall be erected, maintained, or displayed upon any portion of Steam House unless and until the same shall have been approved by the board of directors of the Master Association and the Architectural Committee; provided, however, that the Declarant, its agents and designees, may erect and maintain such signs and other advertising devices or structures as they may deem necessary or proper in connection with the conduct of the Declarant's operations for the development, improvement, subdivision and sale of the Condominiums within Steam House.

Section 8.12. Unsightly Items. No weeds, rubbish, debris, objects or materials of any kind shall be placed or permitted to accumulate upon any property within Steam House which render such property unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or to the occupants of any such property in such vicinity. Trash, garbage, rubbish and other waste shall be kept only in sanitary containers. All service yards or service areas, clothesline areas, sanitary containers and storage piles on any property within Steam House shall be enclosed or fenced in such a manner that such yards, areas, containers and piles will not be visible from any neighboring property or street. Sanitary containers may be set out for a reasonable period of time before and after scheduled trash pick-up times. Outdoor patio or lounge furniture, plants and barbeque equipment may be maintained on Balconies and Patios only in accordance with the Association Rules. Except for such patio or lounge furniture, plants or barbeque equipment permitted pursuant to the Association Rules, no Patio or Balcony shall be used for the storage of any items.

Section 8.13. Window Coverings and Curtains. No windows shall be covered, either inside or outside, with aluminum foil or any other similar material. The side of all draperies, curtains or any other window covering permitted hereunder, which is visible from the outside of any Unit, shall be white, off white or such other color as may be approved by the Architectural Committee.

Section 8.14. Garages. When Garages are not in use, Garage doors shall be closed. Garages shall be used

only for the purpose of parking automobiles and other vehicles and equipment and storing an Owner's household goods; provided, however, that all such uses shall be accomplished so that Garage doors can be closed. No open carport, if any, shall be used for the storage of any item other than an automobile.

Section 8.15. Slope Areas and Drainage. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on any slope area or any other area within Stream House which might damage or interfere with established slope ratios, create erosion or sliding problems, or interfere with established drainage systems or patterns. Any area drains, gutters, downspouts, berms, swales and other drainage facilities and systems not maintained by the Association or the Master Association shall be maintained by the Owner thereof in a neat, orderly, safe and sanitary condition and in such a manner as to facilitate the orderly discharge of water by means of same.

Section 8.16. Landscaping. All landscaping of every kind and character, including shrubs, trees, grass and other plantings shall be neatly trimmed, properly cultivated and maintained continuously by the Owner thereof, other than such landscaping, if any, within the Common Area maintained by the Association or the Master Association, in a neat and orderly condition and in a manner to enhance its appearance.

Section 8.17. Inspection. During reasonable hours and after reasonable notice, the Association, or the Declarant or any agent thereof, so long as the Declarant is an Owner of at least twenty-five percent (25%) of the Condominiums, shall have the right to enter upon and inspect Stream House or any portion thereof and the improvements thereon for the purpose of ascertaining whether or not the provisions of this Declaration are being complied with and shall not be liable for or deemed guilty of trespass by reason thereof.

Section 8.18. Members' Liability. Each Member shall be liable to the Association for any damage or destruction to the Common Area or any Maintenance Area under the Association's jurisdiction or to any of the equipment, furniture, furnishings or improvements thereon or therein which may be sustained by reason of the negligence or willful misconduct of said Member or of his Family, relatives, guests or invitees, both minor and adult. The foregoing liability shall include, but not necessarily be limited to, paying any deductible under any insurance policy covering such damage.

Section 8.19. Oil and Minerals. No property within Stream House shall be used in any manner to explore for or to remove any water, oil or other hydrocarbon minerals of any kind, gravel, earth or any earth substance or any other mineral of any kind. No machinery or equipment of any kind shall be placed, operated or maintained upon a project, except such machinery or equipment as is usual and customary in connection with the use or maintenance of a residential condominium project.

Section 8.20. Rights of Declarant. None of the restrictions contained within this Article shall limit or be deemed to limit the rights of Declarant provided for in Section 17.10.

Section 8.21. Alterations. No structural alterations to the interior of any Unit shall be made, nor shall any plumbing or electrical alteration within any bearing wall be made by any individual Owner without the prior written consent of the Architectural Committee.

Section 8.22. Owner Maintenance. Each Owner shall, subject to the terms and provisions of this Declaration, including, but not limited to, those provisions pertaining to maintenance and repair by the Association and the Article hereof entitled "Architectural and Landscaping Control", and subject also to the terms and provisions of any Supplementary Declaration recorded in accordance with the terms and provisions of Article II:

(a) Maintain, repair, replace and restore the glass doors, if any, and windows (including window screens and cleaning the interior and exterior of the windows) enclosing his Unit;

(b) Maintain, repair, replace and restore the plumbing, electrical, air conditioning (if any), cable television, utilities and heating systems servicing his Unit and located within or underneath the outside perimeter of the exterior bearing walls of said Unit or within or under the floor or ceiling of said Unit, and all appliances and equipment located in said Unit; and

(c) Maintain, repair, replace and restore all portions of his Unit, including, without limitation, the interior walls, ceilings, floors and doors (including, without limitation, the floors and ground surfaces of his Patio or Balcony and the interior surface of any fence or wall forming a boundary of his Patio or Balcony) in a clean, sanitary, neat, safe, orderly and attractive condition.

(d) Maintain, repair, replace and restore his Garage doors, including without limitation, Garage door opening systems, hinges, springs and other parts of the door mechanism; provided, however, that the Association shall maintain and replace the painting on the exterior surface of Garage doors.

In the event such repair, maintenance, replacement or restoration is not so accomplished by any such Owner, the Association or its delegates shall have the right to enter, at reasonable times and after not less than one (1) day's notice, any portion of such Owner's Unit, to effect such repair, maintenance, replacement or restoration and the cost thereof shall be charged to the Owner of the Unit and, if not paid in a timely manner, shall be a Reimbursement Assessment against such Owner and his Condominium.

ARTICLE IX

Duties and Powers of the Association

Section 9.01. General Duties and Powers. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generalities thereof, the Association acting through the Board shall:

(a) Enforce the provisions of this Declaration, the Articles, Bylaws and other instruments for the ownership, management and control of Stream House by appropriate means.

(b) Pay any real and personal property taxes and other assessments which are or could become a lien upon any Common Area or any portion of any Common Area, unless separately assessed to the Owners.

(c) Subject to the provisions of the Article entitled "Insurance", contract for casualty, liability and other insurance on behalf of the Association.

(d) Subject to the limitations set forth in this Article, contract for goods and/or services for any Common Area, Maintenance Area or the Association.

(e) Delegate to committees, officers, employees or agents any of the Association's duties or powers under this Declaration, the Articles or Bylaws; provided, however, no such delegation shall relieve the Association of its obligations to perform such delegated duty.

(f) Prepare budgets and financial statements for the Association as prescribed in the Bylaws.

(g) Formulate rules of operation of any Common Area and Maintenance Area.

(h) Initiate and execute disciplinary proceedings against Members for violations of the provisions of this Declaration, the Articles and Bylaws in accordance with any procedures set forth in such documents.

(i) Enter into any Condominium as necessary in connection with construction, maintenance or emergency repair for the benefit of any Common Area or the owners in common.

(j) Maintain, control and otherwise manage, or cause to be managed, in a neat, safe, attractive, sanitary and orderly condition, the Common Area (including, without limitation, the exterior of all Condominium Buildings as further provided in subsection (p) below, all Waterways within any Common Area as further provide in subsection (r) below and any private streets, roads and driveways) of each project within Stream House and all facilities, improvements, walls,

fencing, buildings, fire hydrants, utility facilities, parking areas, storm drains, drainage courses and landscaping thereon and thereunder unless the maintenance and management thereof is otherwise specifically provided for in this Declaration or the Master Declaration or unless the City or the County is responsible for the maintenance and management thereof, including (subject to the provisions of the Article hereof entitled "Destruction of Improvements") the reconstruction, repair or replacement thereof when necessary or appropriate.

(k) Own, lease, maintain, control and otherwise manage, or cause to be managed, in a neat, safe, attractive, sanitary and orderly condition, all real and personal property acquired by the Association.

(l) Establish and maintain a working capital and contingency fund in an amount to be determined by the Board.

(m) Maintain, or cause to be maintained, such Maintenance Areas as are established in this subsection and as may be established from time to time by any Supplementary Declaration of Covenants, Conditions and Restrictions recorded in accordance with Article II or by contract between the Association and the Declarant or any public entity. Without limitation, the Association acting through the Board shall:

(i) Maintain, repair, replace and reconstruct, substantially as originally improved by the Declarant or as may be further improved or modified with the consent of the Architectural Committee and the board of directors of the Master Association, all Landscaped Control Areas (including without limitation, all landscaping, improvements, fences, walls and drainage and irrigation facilities and systems located within the Landscaped Control Areas), in a neat, safe, sanitary and orderly condition and in such a manner as to enhance their appearance and to preserve established slope ratios, prevent erosion and sliding problems and facilitate the orderly discharge of water through established drainage facilities and systems.

(n) Obtain, for the benefit of all of the Common Area, all telephone, water, gas and electric services and refuse collections, unless such services are separately charged to the Owners.

(o) Subject to the limitations of Section 4.01(e), grant easements where necessary for utilities and sewer facilities over the Common Area to serve Stream House.

(p) Maintain, or cause to be maintained, the exteriors of all Condominium Buildings as originally improved by the Declarant, or as may be further improved or modified with the consent of the Architectural Committee, the Association and the Board, in good condition and repair and in such a manner as to enhance their appearance and place such exteriors in an attractive, neat and orderly condition, which maintenance shall include, but shall not be limited to, painting and repair and replacement of roofs, gutters, downspouts,



exterior building surfaces and all structural projections, bearing walls or foundation encompassing a Balcony or Patio.

(q) Negotiate and enter into contracts with First Beneficiaries and first deed of trust insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by first deeds of trust within Stream House.

(r) Maintain, or cause to be maintained, in accordance with all City or County health standards, all Waterways within the Common Area in a neat, safe, attractive, sanitary and orderly condition in order to protect the health and safety of Owners, their family members and guests, and other persons within Stream House, to preserve the wholesomeness and attractiveness of the Waterways and Stream House and to protect and enhance the shoreline and structural integrity of the Waterways; which maintenance shall include, without limitation, removal of all floating or surface debris, objectionable algae and aquatic plant growth, maintaining the quality of the water, controlling pest and insects in and around the Waterways, repair or replacement of all mechanical equipment in connection therewith (including, without limitation, all circulation pumps, skimmers and water level controls) and implementation of erosion abatement measures.

Section 9.02. General Limitations on Powers. In addition to the limitations enumerated in the Articles and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality of such limitations, the Association acting through the Board shall be prohibited from taking any of the following actions except with the vote or written assent of a majority of the voting power of the Association residing in Members other than the Declarant:

(a) Enter into a contract with a third person under which the third person will furnish goods or services for any Common Area or the Association for a term longer than one (1) year with the following exceptions:

(i) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.

(ii) A contract with a public utility company if the rates charged 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.

(iii) Prepaid casualty and/or liability insurance policies of not to exceed three years' duration provided that the policy permits short rate cancellation by the insured.

(b) Incur aggregate expenditures for capital improvements to any Common Area in any fiscal year in excess of five (5%) percent of the budgeted Common Expenses for that fiscal year.

(c) Sell during any fiscal year any property of the Association having an aggregate fair market value greater than five percent of the budgeted Common Expenses for that fiscal year.

(d) Pay compensation to directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(e) Fill a vacancy on the Board created by the removal of a Board member.

Section 9.03. Management and Certain Declarant Contracts. In addition to the limitations of Section 9.02, any agreement for professional management of Stream House, or any other contract providing for the services of the Declarant, shall have a term of not more than one year with successive one year renewal periods upon agreement of the parties and shall be terminable (a) for cause on thirty (30) days notice by the Association and (b) without cause and without payment of a termination fee on sixty (60) days written notice by either party.

Section 9.04. Landscaped Control Areas Maintenance and Restrictions.

(a) The cost of any Landscaped Control Areas maintenance or other services required to be performed by the Association which are caused by the negligence or willful misconduct of any Owner, or his Family, relatives, guests, invitees, tenants or contract purchasers, both minor and adult, shall be borne entirely by such Owner.

(b) Without the prior written approval of the Architectural Committee and the board of directors of the Master Association, no Owner shall (i) provide or cause to be provided any such maintenance or other services required to be performed by the Association or (ii) alter, remove or otherwise modify any of the landscaping or improvements on the Landscaped Control Areas.

(c) If any of the costs required to be paid by an Owner under subsection (a) are not paid within thirty days after the Association has furnished a statement for such costs to such Owner, the Board shall have the right to levy a Reimbursement Assessment against such Owner to cover such costs.

(d) No improvements, material, plants or other landscaping shall be installed or placed by any Owner upon any Landscaped Control Areas without the prior written consent of the Architectural Committee and the board of directors of the Master Association. Any such approved improvements, material, plants or other landscaping shall be maintained by the Owner of such matters at his own cost and expense entirely in a neat, safe, sanitary and orderly condition and in such a manner as to enhance their appearance and to preserve established slope ratios, prevent erosion and

sliding problems, and facilitate the orderly discharge of water through established drainage systems and patterns; provided, however, upon approval of the Architectural Committee and the board of directors of the Master Association, such maintenance and/or the cost of such maintenance may be assumed by the Association upon such reasonable terms and conditions as the Board may determine.

Section 9.05. Association Rules. The Association shall have the power, as provided in its Bylaws, to adopt, amend and repeal Association Rules. The Association Rules shall govern such matters in furtherance of the purposes of the Association as the Board shall deem appropriate, including, without limitation, the use and enjoyment of any parking on the Common Area and facilities thereon and therein, if any; provided, however, that the Association Rules may not discriminate among Members and shall not be inconsistent with the Master Declaration, this Declaration, the Articles or the Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Common Area. Upon such mailing or delivery and posting, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of any conflict between any such Association Rules and any provisions of the Master Declaration, this Declaration, the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by such other provisions to the extent of any such inconsistency.

Section 9.06. Entry and Emergency Powers. The Association or any person authorized by the Association may enter any Condominium in the event of any emergency involving illness or potential danger to life or property, or in nonemergency situations, after reasonable notice and at reasonable hours, for the purpose of performing its duties and exercising its powers as set forth in this Declaration (including entry when necessary in connection with construction, maintenance, or repair for the benefit of the Common Area or the Owners in common). Any damage caused by said entry shall be repaired at the cost of the Association.

Section 9.07. Enforcement of Bonded Obligations. In the event any Common Area improvements included within any portion of Stream House have not been completed prior to the issuance under the California Real Estate Law of the final subdivision public report covering such portion and the Association is the obligee under a bond or other arrangement ("Bond") to secure the performance of the commitment of the Declarant to complete such improvements, the following actions shall be taken:

(a) The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvement within the Common Area for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given

an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

(b) A special meeting of the Members may be held for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question. Declarant shall not vote at any such meeting. Such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) of more of the total voting power of the Association.

(c) A vote of a majority of the voting power of the Association residing in Members other than Declarant 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 the decision by initiating and pursuing appropriate action in the name of the Association.

Section 9.08. Commencement of Maintenance Obligations. Upon the conveyance of record of any Maintenance Area to the Association in accordance with the provisions of this Declaration, and upon the conveyance of the first Condominium within each project, the Association shall be deemed to have accepted such Maintenance Area and the Common Area within such project, respectively, and the Association's duties with respect to such property and areas (including without limitation, the maintenance and management of such property and areas) as set forth in this Declaration shall automatically commence upon each such respective conveyance of record; provided, however, in the event that Declarant's subcontractors are contractually obligated to maintain such Common Area or any Maintenance Area after such conveyance, any such maintenance shall not be assumed by the Association until the termination of such contractual obligation. If any excess of Assessments collected over actual Common Expenses incurred by the Association is caused by reason of maintenance pursuant to this Section or otherwise, such excess shall be placed in reserve to offset the future expenses of the Association in any manner designated by the Board.

## ARTICLE X

### Easements

Section 10.01. Encroachments. Declarant shall grant to each Owner an easement appurtenant to each Condominium over all adjoining property (including Units and Common Area) for the purpose of:

(a) Accommodating trellises, eaves, overhangs, balconies and other similar projections created during the original construction of Stream House or the reconstruction or repair of a Condominium Building in accordance with plans and specifications approved by the Architectural Committee;

(b) Accommodating minor encroachments due to original engineering or surveying errors, errors in original construction, errors in reconstruction or repair in accordance with the plans and specifications approved by the Architectural Committee, or settlement or shifting or movement of a building or other structure; and

(c) Maintaining, repairing and reconstructing such trellises, eaves, overhangs, balconies, projections and encroachments.

Each Owner agrees, for himself and his heirs, successors, executors, administrators and assigns, and the Association agrees, for itself and its successors and assigns, that each will permit free access, at reasonable times and upon reasonable notice, by each Owner for whose benefit an easement shall be granted hereunder for the purpose of exercising his rights with respect to such maintenance, repair and/or construction.

Section 10.02. Landscaped Control Areas, Maintenance Area and Common Area. Declarant shall grant to the Association over the Landscaped Control Areas and any other Maintenance Area an easement or easements for purposes of maintenance of said Areas in accordance with Section 9.01, together with a license in favor of the Association, its agents and representatives, to traverse upon such property contiguous to Common Area, Landscaped Control Areas or any other Maintenance Area as shall be necessary to gain access to such areas. Each Owner agrees, for himself and his heirs, successors, executors, administrators and assigns, that he will permit free access by the Association and its authorized agents and representatives for the purpose of exercising its rights and duties with respect to Common Area, Landscaped Control Areas and any other Maintenance Areas.

Section 10.03. Ingress, Egress and Recreational Rights. Declarant hereby reserves to itself, its successors and assigns, and agrees that it will grant to all Owners, a nonexclusive easement for access, ingress and egress, pedestrian walkway, street, driveway and general recreational purposes (as such purposes may be designated in any such grant), over and upon the Common Area, subject to the right of the Board to assign any Parking Area to an Owner in accordance with Section 8.07(a) of this Declaration. Such easements shall be subject to the rights of the Association as set forth in Article IV.

Section 10.04. Master Association Easements. Declarant hereby reserves to itself, its successors and assigns and agrees that it will grant to the Master Association, easements and a license over Stream House as described in the Article of the Master Declaration entitled "Easements and Reservation of Easements by Declarant" for the purpose of permitting the Master Association to discharge its rights and obligations as described in the Master Declaration.

ARTICLE XI

Reservation of Easements by Declarant

Section 11.01. Utilities. Easements over Stream House for the installation, maintenance, service, repair, reconstruction and replacement of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities as shown on the recorded Condominium Plan or Plans, tract map or maps and parcel map or maps of Stream House are hereby reserved by the Declarant, together with the right to grant and transfer the same.

Section 11.02. Construction and Sale. There is hereby reserved by the Declarant, including, without limitation, its sales agents and representatives and prospective purchasers of Condominiums, together with the right in the Declarant to grant and transfer the same, over the Common Area as the same may from time to time exist, easements for construction, display, sales offices and incidental parking and exhibit purposes in connection with the construction, development and sale of Condominiums within Stream House and for such other purposes and subject to such limitations as may be provided in Section 17.10; provided however, that such use by the Declarant and others shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members.

Section 11.03. Discharge of Rights and Obligations. There is hereby reserved by the Declarant, together with the right to grant and transfer the same, easements over Stream House for the purpose of permitting the Association, the Board, the Architectural Committee, the Declarant and others to discharge their rights and obligations as described in this Declaration.

Section 11.04. Modification and Transfer of Easements. This Declaration shall not be amended to modify or eliminate the easements reserved to Declarant without the prior written approval of the Declarant and any attempt to do so shall have no effect. As to easements reserved to the Declarant together with the right to grant and transfer the same to the Owners, Declarant shall convey said easements to the Owners in the instrument by which title to their Condominiums is conveyed or any other instrument. If any such conveyance is not accomplished through inadvertence, mistake or any other cause, the easements shall nevertheless be deemed to be conveyed to each Owner by his Condominium conveyancing instrument.

ARTICLE XII

Insurance

Section 12.01. Types. The Association shall obtain and continue in effect in its own name, for the benefit of the Owners, the following types of insurance:

(a) A comprehensive public liability insurance policy covering all of the Common Area and any Maintenance Area within Stream House with a limit of not less than One

Million Dollars (\$1,000,000.00) for claims for personal injury and/or property damage arising out of a single occurrence. The policy shall contain a “severability of interest” endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts or omission of the Association, Master Association or other Owners. Such insurance shall include, but not be limited to, protection against water damage liability, liability for nonowned and hired automobiles, liability for property of others and all other coverage in the kinds and amounts as shall customarily be covered with respect to similar real estate developments in the area of Stream House and as shall customarily be required by private institutional investors for projects similar in construction, location and use to Stream House.

(b) A policy of fire and casualty insurance with extended coverage endorsement for not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all of the Condominium Buildings, including those improvements within a Unit installed or constructed in connection with the original construction of the Condominium Building containing such Unit, and all other improvements to the Common Area (including all building service equipment and the like but not including “tenant improvements” constructed or installed within Units by Owners or other occupants as referred to in Section 12.08), and the landscaping, facilities and improvements upon any Maintenance Area required to be maintained by the Association, without deduction for depreciation, with an “agreed amount endorsement” or its equivalent and clauses waiving subrogation against Members and the Association and persons upon Stream House with the permission of a member. Such insurance shall afford protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, including, without limitation, loss of damage caused by sprinkler leakage, vandalism, malicious mischief, windstorm, water damage and covering the cost of demolition and debris removal and such other risks as shall customarily be covered with respect to similar real estate developments in the area of Stream House and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use to Stream House.

(c) Fidelity coverage against dishonest acts on the part of directors, officers, employees, volunteers, trustees, managers or any other persons who handle the funds of the Association. Such fidelity bonds shall name the Association as obligee, shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of “employee” or similar expression.

Section 12.02. Waiver By Members. As to each of said policies, which will not be voided or impaired thereby, the Members hereby waive and release all claims against the Master Association, the Association, the Board, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused

by negligence of, or breach of any agreement by, said persons, but only to the extent of insurance proceeds received in compensation for such loss.

Section 12.03. Other Insurance; Annual Review. The Association may purchase such other insurance as it may deem necessary, including, but not limited to, plate-glass, worker's compensation, officers' and directors' liability, and errors and omissions insurance. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Area and other areas referenced herein in light of increased construction costs, inflation, practice in the area in which Stream House is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Association and the Owners. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 12.04. Premiums, Proceeds and Settlement. Insurance premiums for any insurance coverage obtained by the Association pursuant to this Article shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in the Article entitled "Destruction of Improvements" in this Declaration. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the Members.

Section 12.05. Abandonment of Replacement Cost Insurance. Unless at least two-thirds (2/3) of the First Beneficiaries (based on one (1) vote for first each deed of trust owned) or Owners (other than Declarant) have given their prior written approval, the Association shall not be entitled to fail to maintain the extended coverage fire and casualty insurance required by this Article on less than a one hundred percent (100%) current replacement cost basis.

Section 12.06. Beneficiaries of Insurance. All insurance obtained by the Association shall be in the name of the Association for the use and benefit of the individual Owners and shall be maintained at least for the benefit of the Association, the individual Owners and the Beneficiaries as their interests may appear.

Section 12.07. Requirements of FNMA, GNMA and FHLMC. Notwithstanding the foregoing provisions of this Article, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by the Federal National Mortgage Association, the Government



National Mortgage Association and the Federal Home Loan Mortgage Corporation, so long as any of the foregoing is a First Beneficiary or Owner within Stream House except to the extent such coverage is not available or has been waived in writing by the foregoing entities.

Section 12.08. Individual Casualty Insurance Prohibited. Except as expressly provided in Section 12.09, no Owner shall separately insure his Condominium against loss by fire or other casualty covered by any insurance carried under Section 12.01. Should any Owner violate this provision, and should any loss intended to be covered by insurance carried by the Association occur, and should the proceeds payable thereunder be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him, to the extent of such reduction, to the Board for application by the Board to the same purposes as the reduced proceeds are to be applied. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Association, the Board may levy a Reimbursement Assessment against such Owner and his Condominium for such amount. In the event such Reimbursement Assessment is not paid within thirty (30) days of its due date, the Board may effect the remedies of Article VI.

Section 12.09. Rights of Owners to Insure. Notwithstanding the other provisions of this Article, an Owner shall be permitted to insure his personal property against loss by fire or other casualty and may carry public liability insurance covering his individual liability for damage to persons or property occurring inside his individual Unit. In addition, any improvements made by an Owner to his Unit, or by previous Owners or other occupants, may be separately insured by such Owner, provided such insurance shall be limited to the type and nature of coverage commonly known as "tenant's improvements" coverage. All such policies as may be carried by the Owners shall contain waivers of subrogation of claims against the Association, the Board, the Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only; provided, however, such other policies shall not adversely affect or diminish any coverage under any insurance obtained by the Association, and duplicate copies or certificates of such other policies shall be deposited with the Board. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by an Owner, such Owner shall pay to the Board, an amount equal to such reduction. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Association, the Board may levy a Reimbursement Assessment against such Owner and his Condominium for such amount. In the event such Reimbursement Assessment is not paid within thirty (30) days of its due date, the Board may effect the remedies of Article VI.

Section 12.10. Required Waiver. All policies of physical damage insurance shall provide for waiver of the

following rights to the extent such waivers are obtainable from the respective insurers:

- (a) Subrogation of claims against the tenants of the Owners;
- (b) Any defense based on co-insurance;
- (c) Any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (d) Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner or arising from any act, neglect or omission of any named insured or the respective agents, contractors or employees of any insured;
- (e) Any right of the insurer to repair, rebuild or replace and, in the event any improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance policy the lesser of the replacement value of the improvements insured or the fair market value thereof;
- (f) Notice of the assignment by any Owner of his interest in the insurance by virtue of a conveyance of any Condominium; and
- (g) Any right to require any assignment of any deed of trust to the insurer.

Section 12.11. Mortgagee Clause. All policies of hazard insurance must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which Stream House is located. The mortgagee clause must provide that the insurance carrier shall notify the First Beneficiary named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

### ARTICLE XIII

#### Destruction of Improvements

Section 13.01. Automatic Reconstruction. In the event of partial or total destruction of any Condominium Building, the Board shall promptly take the following action:

- (a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, each such bid to include the obligation to obtain a performance bond, if the Board deems the same to be necessary or appropriate.
- (b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said Condominium Building.

(c) The Board shall meet and determine whether the insurance proceeds, if any, will cover eighty-five percent (85%) or more of the estimated cost of reconstruction as determined pursuant to subsection (a) of this Section, or whether the portion of the estimated cost not covered by insurance is less than One Hundred Fifty Dollars (\$150) per Unit in the project within which the partially or totally destroyed Condominium Building is located. Such percentage covered by insurance or such cost shall hereinbelow be referred to as the "Acceptable Range of Reconstruction Cost." If the Board finds that a bid obtained under this Section is within the Acceptable Range of Reconstruction Cost, the Board shall cause a notice to be sent to all Owners in the project within which the partially or totally destroyed Condominium Building is located (hereinbelow referred to in this Article as the "affected Owners") and to the beneficiaries of deeds of trust encumbering Condominiums in said project setting forth such findings and informing said Owners and said beneficiaries that the Board intends to commence reconstruction pursuant to this Declaration. In the event that at least twenty percent (20%) of the affected Owners, based on one (1) vote for each Condominium, object in writing to such reconstruction by the date indicated therefor on such notice, which in no event shall be sooner than ten (10) days or later than thirty (30) days after the date on which the Board sends such notice to the affected Owners, the Board shall call a meeting of the affected Owners pursuant to Section 13.02. In the event that the foregoing requirements are satisfied and the requisite number of affected Owners do not object in writing by such date, the Board, using such insurance proceeds as are available, shall cause reconstruction to take place as promptly as practicable and shall levy a Reconstruction Assessment against each affected Owner at such time and in such aggregate amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds. The amount of the foregoing Reconstruction Assessment levied against each affected Owner shall bear the same relationship to the total amount of all such Reconstruction Assessments levied against all affected Owners as the total square footage of such Owner's Residential Element bears to the total square footage of the Residential Elements of all such Owners. If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall proceed according to Section 13.02.

(d) The foregoing determinations shall be made by the Board as soon as possible. However, if such determinations cannot be made within sixty (60) days of the date of destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected Owners pursuant to Section 13.02.

(e) If the Board determines that any Unit has become uninhabitable by reason of its total or partial destruction, Regular Assessments shall abate against the Owner thereof until the Board determines that the reconstruction of the Unit has restored its habitability. However, if the Board determines that such abatement will adversely and substantially affect the management, maintenance

and operation of Stream House it may elect to disallow such abatement.

(f) In the event that Condominium Buildings are totally or partially destroyed in more than one (1) project, the Board shall separately follow the procedures set forth in this Article as to each project so affected.

Section 13.02. Reconstruction Pursuant to Meeting. If the Board determines that the requirements of the Acceptable Range of Reconstruction Cost have not been met, if the Board does not make the determinations required under Section 13.01 within sixty days of the date of destruction, if the Board determines that none of the bids submitted reasonably reflects the anticipated reconstruction costs, or if the requisite number of affected Owners object in writing to a decision by the Board to reconstruct pursuant to Section 13.01, the Board shall call a meeting of the affected Owners by mailing notice of such determination and of the meeting to each such Owner at his address as shown on the records of the Association. Such meeting shall be held not less than fourteen (14) days and not more than twenty-one (21) days after such notice is mailed. Unless the affected Owners, by a vote at such meeting, or by written consent, of not less than sixty-six and two-thirds percent (66-2/3%) of such Owners based on one (1) vote for each Condominium, determine not to proceed with the reconstruction, the Board shall cause reconstruction to take place promptly as practicable. If reconstruction of the partially or totally destroyed Condominium Building is so to proceed, the Board shall levy a Reconstruction Assessment against each affected Owner at such time and in such aggregate amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds. The amount of the foregoing Reconstruction Assessment levied against each affected Owner shall bear the same relationship to the total amount of all such Reconstruction Assessments levied against all affected Owners as the total square footage of such Owner's Residential Element bears to the total square footage of the Residential Elements of all such Owners.

Section 13.03. Decision to Reconstruct. In the event that the Association undertakes reconstruction pursuant to Section 13.01 or Section 13.02, the following shall apply:

(a) As to each Condominium for which insurance proceeds have been paid to the Board, the Board shall apply all insurance proceeds allocable to such Condominium to reconstruction undertaken by the Association.

(b) For the purposes of this Article, the amount of insurance proceeds "allocated" or "allocable" to a Condominium shall be determined pursuant to this subsection (b). In the event that the insurance carrier allocates casualty insurance proceeds among Condominiums for which such proceeds are payable, such allocation shall be final and binding on the Owners, beneficiaries and the Association. The Board shall make every possible effort to cause such insurance carrier to make such allocation. In the event that such allocation is not made, the Board shall allocate

such proceeds among such Condominiums in totally or partially destroyed Condominium Buildings in accordance with an appraisal conducted by a qualified real estate appraiser hired by the Board at the expense of the Association (such appraisal to be treated by the Association as a Common Expense). Such allocation made by the Board shall be final and binding on the Owners, beneficiaries and the Association.

Section 13.04. Decision Not to Reconstruct; Procedure After Meeting. In the event that the affected Owners decide not to reconstruct at the meeting called pursuant to Section 13.02, the Board shall apply the insurance proceeds as follows:

(a) The Board shall first apply insurance proceeds to the reduction or elimination, as the case may be, of all outstanding deeds of trust for which insurance proceeds have been paid by reason of the casualty (such payments to be made, as between multiple beneficiaries whose deeds of trust encumber a single Condominium, in the order of deed of trust priority); provided, however, as to any Condominium, the Board shall not pay insurance proceeds to beneficiaries in an amount greater than (i) the outstanding indebtedness secured by deeds of trust encumbering said Condominium, or (ii) the insurance proceeds allocable to said Condominium, whichever of (i) or (ii) is the lesser.

(b) All proceeds allocated to Condominiums and remaining after payments to beneficiaries pursuant to subsection (a) shall be distributed by the Board to such Owners in the partially or totally destroyed Condominium Building or Common Area after the deduction of an amount determined pursuant to subsection (c) below.

(c) The Board shall levy a uniform Reconstruction Assessment against all affected Owners equal to the costs of clearing of the debris of totally or partially destroyed Condominium Buildings or Common Area and cleaning of the area. The Board shall retain, out of the insurance proceeds allocated to such Owners pursuant to subsection (b) above, said Reconstruction Assessments of the Owners of partially or totally destroyed Condominiums. In the event that insurance proceeds allocated to any Owner, after deduction of proceeds paid to beneficiaries, are not sufficient to pay the entire Reconstruction Assessment levied against such Owner, such Owner shall pay any such excess.

Section 13.05. Certificate of Intention to Reconstruct. In the event that the Association undertakes reconstruction pursuant to this Article, the Board shall execute, acknowledge and record in the Office of the County Recorder not later than one hundred eighty (180) days from the date of destruction, a certificate declaring the intention of the Association to rebuild. If no such certificate of reconstruction is so recorded within said one hundred eighty (180) day period, it shall be conclusively presumed that the Association has determined not to undertake reconstruction pursuant to this Article.

Section 13.06. Partition. In the event that a certificate described in Section 13.05 is not recorded within the one hundred eighty (180) day period provided therein, the right of any Owner to partition through legal action as described in the Article hereof entitled “Limitations Upon the Right to Partition and Severance” shall forthwith revive.

Section 13.07. Compliance with Condominium Plan and Original Plans. Any reconstruction undertaken pursuant to this Article shall substantially conform to the Condominium Plan of the damaged or destroyed Condominium Building or Condominium Buildings and the original construction plans (if available), unless changes recommended by the Board have been approved in writing by seventy-five percent (75%) of the affected Owners based on one (1) vote for each Condominium owned.

Section 13.08. Negotiations with Insurer. The Board shall have full authority to negotiate in good faith with representatives of the insurer of the totally or partially destroyed Condominium Building or any other portion of the Common Area and to make settlement with the insurer for less than the full insurance coverage on the damage to the Condominium Building or any other portion of the Common Area. Any settlement made by the Board in good faith shall be binding upon all Owners.

Section 13.09. Repair of Units.

(a) If improvements within the interior of a Unit are damaged, but the Condominium Building within which the Unit is located is not partially or totally destroyed, the Owner of the Unit shall repair the damage at his individual expense, and if the damage is covered by insurance maintained by the Association, the Board shall promptly distribute to any such Owner the proceeds of such insurance.

(b) If improvements within the interior of a Unit are damaged, the Condominium Building within which the unit is located is partially or totally destroyed and the repair of the Condominium Building is to proceed, the following provisions shall be applicable:

(i) If the damage to the improvements is covered by insurance maintained by the Association, the Board shall either (A) treat any such damaged improvements as “Common Area” and proceed with its repair in accordance with the terms and procedures set forth in this Article or (B) promptly distribute to any such Owner the proceeds of such insurance, in which case the damage shall be repaired by and at the individual expense of the Owner of the Unit.

(ii) If the damage to the improvements is not covered by insurance maintained by the Association, the damage shall nevertheless be repaired by and at the individual expense of the Owner of the Unit.

(c) If improvements within the interior of a Unit are damaged, the Condominium Building within which the Unit is located is partially or totally destroyed and the repair of the Condominium Building is not to proceed, the damaged

improvements shall be treated as "Common Area" under Section 13.04.

(d) All distributions of insurance proceeds to Owners under this Section shall be used for the repair of damaged improvements within the interior of the Owners' Units, subject to the prior rights of beneficiaries whose interests may be protected by Association insurance policies. All such repairs shall be performed by the Owners as promptly as practical and in a lawful and workmanlike manner.

Section 13.10. Amendment of Condominium Plan. In the event that reconstruction is to take place pursuant to this Article (other than pursuant to Section 13.11), the Board shall have the power to record an amendment to the Condominium Plan so that the Condominium Plan conforms to the Condominium Buildings as designed to be reconstructed; provided, however, the Board shall not file an amendment to the Condominium Plan without the prior authorization of any beneficiary of a deed of trust encumbering any Condominium, the plan of which Condominium would be altered by such amendment. In the event that the Board, together with said beneficiaries, if appropriate, decide to record such amendment to the Condominium Plan, all Owners within the affected project and the beneficiaries of deeds of trust encumbering property in said project shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and beneficiaries shall also execute such other documents of take such other actions as are required to make such amendment effective. Notwithstanding anything in this Section to the contrary, so long as the Federal Home Loan Mortgage Corporation is an Owner or a First Beneficiary within Stream House, no such amendment may be made to the Condominium Plan unless one of the following shall first occur:

(a) At least two-thirds (2/3) of the First Beneficiaries (based upon one vote for each first deed of trust owned) have given their prior written approval to said amendment;

(b) At least two-thirds (2/3) of the Owners (other than Declarant) of the individual Condominiums have given their prior written approval to said amendment; or

(c) The requirements of either (a) or (b) above have been waived in writing by the Federal Home Loan Mortgage Corporation.

Section 13.11. Reconstruction of Other Improvements. If Common Area, other than a Condominium Building, is totally or partially destroyed, the Board shall cause reconstruction to commence by the earlier of (i) within thirty (30) days after the Association's receipt of the insurance proceeds payable by reason of such destruction, or (ii) ninety (90) days after such destruction, and to thereafter be diligently and continuously prosecuted to completion within a reasonable period of time. The Board shall apply all insurance proceeds payable by reason of such destruction to the costs of reconstruction. In the event that the insurance proceeds are not sufficient to pay the costs of any such

reconstruction, the Board shall levy a uniform Reconstruction Assessment against all Owners in the project which suffered such damage to its Common Area, in a total amount equal to such difference. If the insurance proceeds exceed the cost of reconstruction, the Board shall distribute the excess in equal shares to each Owner in such project or to their beneficiaries as their interest may appear.

Section 13.12. Availability of Labor and Material. In determining whether the plans for a reconstructed Condominium Building are in substantial conformance with a Condominium Plan, the Board may take into consideration the availability and expense of the labor and materials used in the original construction of the project. If such labor or material is not available or is prohibitively expensive at the time of reconstruction, the Board may permit the substitution of such other labor or material as it deems proper.

Section 13.13. Contracting for Reconstruction. In the event repair or reconstruction is undertaken pursuant to this Article, other than Section 13.09, the Board or its delegates shall have the sole ability to contract for such work as may be necessary for said repair and reconstruction.

Section 13.14. Costs of Collecting Insurance Proceeds. If it should become necessary in the judgment of the Board to incur costs for appraisals, legal fees, court costs and similar expenses in order to determine or collect insurance proceeds, such costs shall be first deducted before distribution or application of insurance proceeds as provided in this Article.

## ARTICLE XIV

### Eminent Domain

Section 14.01. Definition of Taking. The term “taking” as used in this Article shall mean condemnation by eminent domain, or sale under threat thereof, of all or part of any project within Stream House.

Section 14.02. Representation by Board in Condemnation Proceeding. In the event of a taking, the Board shall, subject to the right of all beneficiaries who have requested the right to join the Board in the proceedings, represent all of the Owners in an action to recover all awards. No Owner shall challenge the good faith exercise of the discretion of the Board in fulfilling its duties under this Article. The Board is further empowered, subject to the limitations herein, to act as the sole representative of the Owners, in all aspects of condemnation proceedings not specifically covered herein.

Section 14.03. Procedure on Taking. In the event of a taking, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this Section after deducting therefrom fees and expenses related to the condemnation proceeding including, without



limitation, fees for attorneys and appraisers and court costs. In the event that the taking is by judgment of condemnation and said judgment apportions the award among the Owners affected by the taking and their respective beneficiaries, the Board shall distribute the amount remaining after such deductions among such Owners and beneficiaries on the allocation basis set forth in such judgment. In the event that the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the Board shall distribute the award among the Owners in the project in which the taking occurs and their respective beneficiaries, as their interests may appear, based upon the relative values of the Condominiums affected by such taking as determined by: (i) the appraised value of each Condominium prior to the taking as determined by a qualified real estate appraiser hired by the Board at the expense of the Association (such appraisal to be treated by the Association as a Common Expense) and (ii) the degree to which each Condominium has been affected by the taking as determined by such appraiser. The determination by such appraiser as to the value of each Condominium prior to the taking and the degree each Condominium has been affected by the taking shall be final and binding on all Owners and beneficiaries. Nothing contained herein shall entitle an Owner to priority over a beneficiary of his Condominium as to the portion of the condemnation award allocated to his Condominium. In no event shall any portion of such award be distributed by the Board to an Owner and/or the beneficiaries of his Condominium in a total amount greater than the portion allocated hereunder to such Condominium.

Section 14.04. Inverse Condemnation. The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

Section 14.05. Revival of Right to Partition. Upon a taking which renders more than fifty percent (50%) of the Condominiums in any project incapable of being restored to at least ninety-five percent (95%) of their floor area and substantially their condition prior to the taking, the right of any Owner within such project to partition through legal action as described in the Article hereof entitled "Limitations Upon the Right to Partition and Severance" shall forthwith revive. The determination as to whether Condominiums partially taken are capable of being so restored shall be made by the Board, whose decision shall be final and binding on all Owners and beneficiaries.

Section 14.06. Awards for Members' Personal Property and Relocation Allowances. Where all or part of a project is taken, each Member shall have the exclusive right to claim all of the award made for his personal property, and any relocation, moving expenses, or other allowance of a similar nature designed to facilitate relocation. Notwithstanding the foregoing provisions, the Board shall represent each Member in an action to recover all awards with respect to such portion, if any, of Members' personal property as is at the time of any taking, as a matter of law, part of the real property comprising any Condominium, and shall allocate to such Member so much of any award as is attributed in the

taking proceedings, or failing such attribution, attributed by the Board, to such portion of Members' personal property.

Section 14.07. Notice to Members. The Board, immediately upon having knowledge of any taking or threat thereof with respect to a project or any portion thereof, shall promptly notify all Members.

Section 14.08. Change of Condominium Interest. In the event of a taking, the Board may amend the Condominium Plan to reflect the change in the project or projects affected by a taking. In the event that the Board decides to record such amendment to the Condominium Plan, all Owners within such project or projects and the beneficiaries of deeds of trust encumbering property in such project or projects shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and beneficiaries shall also execute such other documents or take such other actions as are required to make such amendment effective. The Board shall cause a notice of change in the Condominium Plan to be sent to each Owner and beneficiary in such project or projects within ten (10) days of the filing of such amendments in the County Recorder's Office. Notwithstanding anything in this Section to the contrary, so long as the Federal Home Loan Mortgage Corporation is an Owner or a First Beneficiary within Stream House, no such amendment may be made to the Condominium Plan unless one of the following shall first occur:

(a) At least two-thirds (2/3) of the First Beneficiaries (based upon one vote for each first deed of trust owned) have given their prior written approval to said amendment;

(b) At least two-thirds (2/3) of the Owners (other than Declarant) of the individual Condominiums have given their prior written approval to said amendment; or

(c) The requirements of either (a) or (b) above have been waived in writing by the Federal Home Loan Mortgage Corporation.

## ARTICLE XV

### Rights of Lenders

Section 15.01. Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions contained in this Declaration, nor the enforcement of any lien provisions contained in this Declaration, shall affect, impair, defeat or render invalid the lien or charge of any deed of trust made in good faith and for value encumbering any Condominium, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Condominium.

### Section 15.02. Relationship with Assessment Liens.

(a) The lien provided for in the Article

hereof entitled "Non-Payment of Assessments" shall be subordinate to the lien of any first deed of trust which was recorded prior to the date any such Assessment becomes due.

(b) Any First Beneficiary who obtains title to a Condominium pursuant to the remedies provided in such First Beneficiary's deed of trust or foreclosure of the first deed of trust will not be liable for such Condominium's unpaid Assessments, dues or charges which accrue prior to the acquisition of title to such Condominium by such First Beneficiary, but shall take title to such Condominium subject to any lien or claim for unpaid Assessments against such Condominium which accrues subsequently to the time such First Beneficiary or purchaser obtains title to such Condominium as aforesaid.

(c) Nothing in this Section shall be construed to release any Owner from his obligation to pay any Assessment levied pursuant to this Declaration.

Section 15.03. Two-Thirds Vote of First Beneficiaries or Owners. Unless at least two-thirds (2/3) of the First Beneficiaries (based upon one vote for each first deed of trust owned), or Owners (other than Declarant) of the Condominiums have given their prior written approval, the Association shall not be entitled to do any of the following:

(a) By any act or omission, seek to abandon or terminate any project.

(b) Change the pro rata interest or obligations of any individual Condominium for the purpose of: (i) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium in the Common Area.

(c) Partition or subdivide a Condominium or any elements thereof.

(d) By act or omission, seek to abandon, partition, alienate, subdivide, encumber, sell or transfer the Common Area; provided, however, the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval. This provision shall not restrict or otherwise prohibit an Owner from selling or encumbering his Condominium.

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

Section 15.04. Other Rights of First Beneficiaries. Any First Beneficiary shall, upon written request to the Association, be entitled to:

(a) Inspect the books and records of the Association during normal business hours; and

(b) Receive the annual audited financial statements of the Association within ninety (90) days following the end of the Association's fiscal year; and

(c) Receive written notice of all annual and special meetings of the Members or of the Board, and First Beneficiaries shall further be entitled to designate a representative to attend, but not vote at, all such meetings; and

(d) Receive thirty days' written notice before the Association shall be entitled to (i) abandon, dissolve or terminate the Association, (ii) effectuate any decision to terminate professional management and assume self-management of Stream House or (iii) amend a material provision of this Declaration, the Articles or Bylaws. Without limiting the generality of the foregoing, the following provisions shall be deemed material: (i) this Article, (ii) the Article entitled "Insurance", (iii) any rights granted specifically to beneficiaries, and (iv) any provision which is a requirement of the Federal Home Loan Mortgage Corporation or Federal National Mortgage Association.

Section 15.05. Notice to First Beneficiaries of Owner Default. Any First Beneficiary shall, upon written request to the Association, be entitled to written notification from the Association of any default in the performance of the obligations imposed by this Declaration, the Articles or Bylaws by the Owner whose Condominium is encumbered by such beneficiary's deed of trust, which default has not been cured within sixty (60) days of a request therefor by the Association.

Section 15.06. Right of First Refusal. In the event this Declaration is amended to provide for any right of first refusal, no such right shall impair the rights of any First Beneficiary to:

(a) Foreclose or take title to a Condominium pursuant to the remedies provided in any such First Beneficiary's deed of trust; or

(b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by the trustor under any such First Beneficiary's deed of trust; or

(c) Sell or lease a Condominium acquired by such First Beneficiary.

Section 15.07. Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

Section 15.08. Notice of Destruction or Taking. In the event that any Unit or Common Area or any portion thereof is substantially damaged or destroyed or is made the subject of any condemnation or eminent domain proceeding, the Board shall promptly notify any First Beneficiary affected by such destruction, taking or threatened taking. If requested in writing by a First Beneficiary, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Beneficiary.

Section 15.09. Proceeds and Awards Priority. No provision in the Declaration, the Articles or Bylaws shall give or be construed as giving an Owner, or any other party, priority over any rights of a First Beneficiary of a Condominium pursuant to its deed of trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of such Owner's Unit and/or Common Area.

## ARTICLE XVI

### Limitations upon the Right to Partition and Severance

Section 16.01. No Partition. The right of partition is hereby suspended, except that the right to partition shall revive and any project may be sold as a whole when the conditions for such action set forth in the Articles hereof entitled "Destruction of Improvements" and "Eminent Domain" have been met; provided, however, notwithstanding the foregoing, any Owner may, upon the prior written approval of the First Beneficiary encumbering his Condominium, bring an action for partition by sale of the project in which his Condominium is located, as provided in Section 1354 of the Civil Code of the State of California or any similar statute then in effect upon the occurrence of any of the events therein provided. Provided, further, that if any Condominium shall be owned by two (2) or more co-tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants.

Section 16.02. No Severance. The elements of a Condominium and other rights appurtenant to the ownership of a Condominium are inseparable, and each Owner agrees that he shall not, while this Declaration or any similar declaration is in effect, make any conveyance of less than an entire Condominium and such appurtenances. Any conveyance made in contravention of this Section shall be void. The provisions of this Section shall terminate on the date that judicial partition shall be decreed.

### Section 16.03. Proceeds of Partition Sale.

(a) Whenever an action is brought for the partition by sale of a project whether upon the occurrence of any of the events provided in Section 1354 of the Civil Code of the State of California (or similar statute then in effect) or upon the revival of the right to partition pursuant to the Articles hereof entitled "Destruction of Improvements" or "Eminent Domain", a portion of the proceeds of such sale shall be allocated to each Condominium subject to such partition in accordance with an appraisal conducted by a qualified real estate appraiser hired by the Board at the expense of the Association (such appraisal to be treated by the Association as a Common Expense). Such allocation shall be final and binding upon the Association, all Owners and beneficiaries.

(b) The distribution of the proceeds of any such partition sale shall be adjusted as necessary to reflect any prior distribution of insurance proceeds or condemnation award as may have been made to Owners and their beneficiaries

pursuant to the Articles hereof entitled “Destruction of Improvements” and “Eminent Domain.” In the event of any such partition and sale, the liens and provisions of all deeds of trust or Assessment liens encumbering Condominiums within the project or projects so encumbered shall extend to each applicable Owner’s interest in the proceeds of such partition and sale. The Owner’s share of such proceeds shall not be distributed to such Owner except upon the prior payment of any deed of trust or Assessment lien encumbering such proceeds as aforesaid.

## ARTICLE XVII

### General Provisions

Section 17.01. Duration. The covenants, conditions, restrictions, easements, reservations, provisions, liens and charges of this Declaration shall run with and bind the property within Stream House and shall inure to the benefit of and be enforceable as provided herein by the Association, or the Owner, including Declarant, of any Condominium subject to this Declaration, their respective legal representatives, heirs, successors and assigns, and are imposed upon the real property within Stream House as a servitude in favor of each and every parcel of land therein as a dominant tenement, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions, restrictions, easements, reservations, provisions, liens and charges shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners of Condominiums, has been recorded with the County Recorder, agreeing to change said covenants, conditions and restrictions in whole or in part. In the event a Condominium is owned by more than one Owner, any one of the Co-Owners may sign such instrument in writing on the behalf of all Co-Owners.

Section 17.02. Amendment. Subject to the other provisions of this Declaration, this Declaration may be amended only by an instrument in writing signed by not less than sixty-six and two-thirds percent (66-2/3%) of each class of Members. When the Class B membership becomes converted to Class A membership in accordance with the provisions of Section 3.03, this Declaration may be amended, only by an instrument in writing signed by not less than (i) sixty-six and two-thirds percent (66-2/3%) of the Members and (ii) a majority of the Members other than the Declarant. Notwithstanding the foregoing, the percentage of voting power of the Members necessary to amend a specific clause or provision in this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under such clause or provision. Any amendment must be properly recorded. In the event a Condominium is owned by more than one Owner, any one of the Co-Owners may sign such instrument in writing on behalf of all Co-Owners.

Section 17.03. Notices. Any notice required to be sent to any Member, Owner or beneficiary under the provisions of this Declaration shall be in writing and shall be deemed to have been delivered when delivered personally or mailed, postage prepaid, if to an Owner or Member to the last known address of the person who appears as such a Member or Owner on the records of the Association at the time of such mailing, and, if to a beneficiary, to the address furnished to the Association by such beneficiary for notices or if no such address is furnished, to any office of the beneficiary in the County, or if no such office is located in the County, to any office of such beneficiary. In the case of Co-Owners, any such notice may be delivered or sent to any one of the Co-Owners.

Section 17.04. Enforcement.

(a) The Association or the Owner of any Condominium, including the Declarant (so long as the Declarant is the owner of any real property subject to this Declaration) shall have the right to enforce by proceedings at law or in equity all covenants, conditions, restrictions, easements, reservations, provisions, liens and charges now or hereafter imposed by this Declaration, the Articles and Bylaws, including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions, restrictions, easements, reservations, provisions, liens or charges to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) Should any Owner fail to comply with the provisions of this Declaration, the Articles, Bylaws or Association Rules and should any such failure of an Owner continue for a period of thirty (30) days following written notice of such failure from the Association to the Owner, the Association shall have the right as provided in Article III of its Bylaws, but not the duty, to correct any such noncompliance, and the cost thereof shall be borne by any such Owner; provided, however, that in the event such costs are not paid to the Association within thirty (30) days after the Association has furnished a statement therefor, the Association shall have the right, but not the duty, to levy a Reimbursement Assessment against any such Owner and his Condominium to cover the costs of correction, if any, of such noncompliance. No one or more failures or refusals by the Association to accomplish such compliance which an Owner shall have failed to perform shall be deemed a waiver of the right in the Association to correct such noncompliance at a later time as to the same or different noncompliance.

(c) The result of every action or omission whereby any covenant, condition, restriction, easement, reservation, provision, lien or charge herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner, either public or private, shall be applicable against every such result and may be exercised by the Association or

any Owner, including the Declarant, subject to these restrictions.

(d) In any legal or equitable proceeding for the enforcement or to restrain the violation of these covenants, conditions, restrictions, easements, reservations, liens or charges or any provisions hereof, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

(e) Failure by the Declarant, the Association, or by any Owner to enforce any covenant, condition, restriction, easement, reservation, provision, lien or charge herein contained shall in no event be deemed a waiver of any breach or violation or a waiver of the right to do so thereafter.

(f) Nothing contained herein shall be deemed to require the Declarant to enforce any covenant, condition, restriction, easement, reservation, lien, charge or provision hereof.

Section 17.05. Severability. Invalidation of any one or more of these covenants, conditions, restrictions, easements, reservations, provisions, liens or charges by judgment or court order shall not in any way affect any other provisions, which shall remain in full force and effect. The Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration.

Section 17.06. Headings, References and Exhibits. The Article and Section headings contained in this Declaration are for purposes of reference and convenience only and shall not limit or otherwise affect the meaning hereof. Unless otherwise indicated, all of the Article and Section references contained in this Declaration are references to Articles and Sections hereof. All of the exhibits attached hereto are incorporated herein by this reference.

Section 17.07. Number and Gender. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine, feminine and neuter genders shall be deemed to include the other or others.

Section 17.08. Construction. The provisions of this Declaration shall be liberally construed to effectuate this Declaration's purpose of creating a uniform plan for the development of a residential community with private social and recreational areas and for the maintenance of such areas.

Section 17.09. Phased Development: It is the intention of the Declarant to develop Stream House into a single interrelated and interdependent residential community in which the rights of all residents will be determined in substantially the same manner. The Declarant contemplates that it will construct Stream House and/or cause it to be constructed in several phases and annex each phase to Project No. 1 in



accordance with Article II. Although the Declarant contemplates the construction and annexation of such additional phases, it shall in no way be obligated to do so.

Section 17.10. Construction by Declarant. Nothing in this Declaration shall limit the right of the Declarant to commence and complete construction of improvements to Stream House (including, without limitation, constructing, maintaining and/or using temporary improvements during the course of such construction) or to alter the foregoing or the Condominiums or Common Area or to construct such additional improvements as the Declarant deems advisable prior to the completion and sale of the entire Stream House development. The Declarant may use any of the property within Stream House owned by it for model home sites and incidental parking and for any other purpose for which the Declarant may use the Condominiums or Common Area as provided in this Section 17.10. The Declarant shall have the right and an easement to enter upon, use and enjoy and designate and permit others (including, without limitation, Declarant's agents, employees, representatives, contractors and prospective purchasers) to enter upon, use and enjoy the Common Area for any purpose in connection with or incidental to (a) the construction, development, sale, lease or other transfer or property within or adjacent to Stream House (including, without limitation, the erection, construction and maintenance of displays, sales offices and incidental parking, exhibits, signs and other structures), (b) the management, operation or maintenance of Stream House and/or (c) the exercise of any rights or powers granted hereunder to the Declarant; provided, however, that the exercise of such right and easement shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members. The Declarant reserves the right to alter its construction and development plans and designs as it deems appropriate. This Declaration shall not limit the right of the Declarant at any time prior to acquisition of title by a purchaser from the Declarant to establish on any Common Area of Condominium additional easements, licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be necessary or appropriate to the proper development and disposal of Stream House. This Declaration shall not be amended to modify or eliminate this Section without the prior written approval of the Declarant and any attempt to do so shall have no effect.

Section 17.11. Nonliability of Officials. To the fullest extent permitted by law, neither the Board, any committees of the Association nor any member thereof shall be liable to any member or Owner or the Association for any damage, loss or prejudice suffered or claimed on account of any decision approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committee, or member reasonably believed to be the scope of their duties.

Section 17.12. Obligation of Owners and Members. The terms and provisions set forth in this Declaration are binding upon all Owners of all Condominiums, the Association and all Members. In addition, both the Member and the Condominium

owned shall be subject to the terms and provisions of the Articles and Bylaws as the same may be amended from time to time.

Section 17.13. Leases of Condominiums. Any Owner who shall lease his Condominium to any person or entity shall be responsible for assuring compliance by any such person or entity with all of the covenants, conditions, restrictions, easements, reservations, provisions, liens and charges of this Declaration. Any lease agreement between an Owner and a lessee must provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such leases shall be in writing, No Unit shall be leased for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days or any rental whatsoever, if the occupants of the Unit are provided customary hotel services, such as room service for food and beverage, maid service, laundry, linen or bellboy service.

Section 17.14. Mergers and Consolidations. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may be transferred to the surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may, subject to the terms and provisions of this Declaration, administer the covenants, conditions, restrictions, easements, reservations, provisions, liens and charges established by this Declaration with respect to Stream House together with the covenants, conditions, restrictions, easements, reservations, provisions, liens and charges established upon any other property, as one general plan and scheme or in such other plan of administration as the surviving or consolidated corporation deems reasonable.

Section 17.15. Assignment of Rights and/or Duties. Any or all of the rights and/or duties, if any, of the Declarant herein may be assigned or delegated, respectively, to any other person or entity and upon any such assignment or delegation any such person or entity shall, to the extent of such assignment or delegation, have the same rights and/or duties as are given to and/or assumed by the Declarant herein, and, thereupon, the Declarant shall be relieved of the performance of any further duty, if any, hereunder.

Section 17.16. Conflict. In the event of any conflict

between the Master Declaration and this Declaration, the terms and provisions of the Master Declaration shall control.

IN WITNESS WHEREOF, the undersigned has executed and sealed this Declaration on the day and year first above written.

THE AKINS COMPANY VENTURE I  
General Partnership

By The Akins Company, a  
California corporation,  
a general partner

By < Signature on File >  
Its President

By < Signature on File >  
Its Executive Vice President

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF Orange        )

On January 28, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Bruce K. Akins, known to me to be the President, and Patrick G. Hays, known to me to be the Exec Vice Pres of The Akins Company, a California corporation, the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the partners of the Akins Company Venture I, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature < Signature on File >  
Cynthia K. Berg

The undersigned, First Interstate Bank of California beneficiary under that certain deed of trust recorded May 29, 1981, in Book 14079, Page 1432, of the Official Records of Orange County, California, hereby consents to the within Declaration of Covenants, Conditions, and Restrictions for Stream House and hereby subordinates the lien of said deed of trust to the provisions contained herein.

FIRST INTERSTATE BANK OF CALIFORNIA

By < Signature on File >  
Its Vice President

By < Signature on File >  
Its Assistant Vice President

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF ORANGE    )

On January 29, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared T. P. Wallace, known to me to be the Vice President and Sonia H. Rache, known to me to be the Assistant Vice President of First Interstate Bank of California, the corporation that executed the within instrument, know to me to be the persons who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature < Signature on File >

82-044396

PROJECT NO. 1

All those certain lands in the City of Orange, County of Orange, State of California, described as follows:

Lot 1 of Tract No. 11357, as per map filed in Book 485, pages 36 through 38 of Miscellaneous Maps, records of said Orange County.

EXHIBIT "A"

LANDSCAPED CONTROL AREAS EASEMENT PLAN FOR PROJECT NO. 1

That area from exterior fence line of recreation center (Lot 6 of Tract 11357) to the adjacent Lots 1 and 2 of Tract 11357.

EXHIBIT "B"

82-044396

ANNEXABLE PROPERTY

Parcel 1 and Parcel 2 as per map recorded in Book 14074, page 1357 of Official Records of said Orange County and Lot 3 and Lot 5 of Tract No. 11357, as per map filed in Book 485, pages 36 through 38 of Miscellaneous Maps, records of said Orange County.

EXHIBIT "C"