

an agreement by Declarant that any Owner shall be entitled to any participation in, or discretion over, the preparation and recordation of a Condominium Plan or amendment to a Condominium Plan for all or any portion of the Property. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

10.8 SUPPLEMENTARY DECLARATION AND SUPPLEMENTARY CONDOMINIUM PLANS. So long as Declarant owns any portion of the Property, Supplementary Declarations and Supplementary Condominium Plans may be recorded by Declarant, without the consent of any Owner, for any of the purposes for which a Supplementary Condominium Plan or a Supplementary Declaration may be recorded.

ARTICLE XI INSURANCE

11.1 LIABILITY INSURANCE. The Association shall obtain and maintain commercial general liability insurance insuring the Association, the Board, any manager, the Declarant and the Owners and occupants of Condominiums and their Invitees against any liability incident to the ownership or use of the Common Area and the Association Property and the performance by the Association of its duties under this Declaration. Such policy shall include, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than Three Million Dollars (\$3,000,000) and shall be at all times in conformance with the requirements of Section 1365.9 of the California Civil Code. Such insurance shall cover all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall, to the extent available, include coverage against water damage liability, property of others and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

11.2 PROPERTY INSURANCE. The Association shall keep (i) any Improvements within the Common Area and the Association Property to be maintained by the Association insured against loss by fire and the risks covered by a "Standard All-Risk of Loss or Perils" insurance policy under an extended coverage casualty policy in the amount of the maximum insurable replacement value thereof (except that there may be lower dollar limits for specified items as is customarily provided in property insurance policies), and (ii) all personalty owned by the Association insured with coverage in the maximum insurable fair market value of such personalty as determined annually by an insurance carrier selected by the Association. Insurance proceeds for Improvements in the Common Area and the Association Property (excluding Units) and personalty owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction to the Common Area and the Association Property, the Association shall cause the same to be replaced, repaired or rebuilt in accordance with the provisions of this Declaration.

11.2.1 Description of Policy Coverages. The policy shall cover the following real and personal property:

(a) Common Area and the Association Property. All Improvements within the Common Area and the Association Property, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the Buildings and not located within a Unit; fences; monuments; lighting fixtures; exterior signs; personal property owned or maintained by the Association; but excluding land, foundations, excavations, and other items typically excluded from property insurance coverage; and

(b) Landscaping. Lawn, trees, shrubs and plants located in the Common Area and the Association Property.

11.2.2 Covered Cause of Loss. The policy shall provide coverage against losses caused by fire and all other hazards normally covered by a “special form” policy or its equivalent.

11.2.3 Primary. The policy shall be primary and noncontributing with any other insurance policy covering the same loss.

11.2.4 Endorsements. The policy shall contain the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent applicable), inflation guard, ordinance or law, and replacement cost, and such other endorsements as the Board in its discretion shall elect.

11.2.5 Waiver of Subrogation. Except as provided in **Section 7.19** of this Declaration, the Association waives all rights of subrogation between the Association and the Owners and their Invitees. All insurance policies obtained by the Association shall include a waiver of subrogation rights against any Owner and their Invitees; provided that a failure or inability of the Association to obtain such a waiver shall not defeat or impair the waiver of subrogation rights between the Association and the Owners and their Invitees set forth herein. Insurance proceeds for Improvements in the Common Area and Association Property and personalty owned by the Association shall be payable to the Association.

11.3 ADDITIONAL INSURED. The Association’s liability policy shall name as insured the Association, the Owners, the Declarant, as long as Declarant is the Owner of any Condominium and/or has any rights under **Article 9** of this Declaration, the management company of the Association, if requested by the Association, and may contain a loss payable endorsement in favor of the Trustee (as defined below). As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against the Association, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by and of said persons.

11.4 INDIVIDUAL INSURANCE. Each Owner shall maintain (i) property insurance against losses to personal property located within the Unit, and/or upon such portion of the Special Benefit Areas as is being utilized by such Owner, and/or upon such Owner’s Assigned Generator Area, and to any upgrades or Improvements located within the Unit, and (ii) liability insurance against any liability resulting from the use or occupancy of the Owner’s Unit, such Owner’s portion of the Special Benefit Area and/or Assigned Generator Area, if any, issued in

the form of a California Condominium Owners policy of insurance typically issued to Owners in attached condominium communities with minimum limits of liability of Two Million Dollars (\$2,000,000). Such liability insurance shall cover all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include, to the extent available, coverage against water damage liability, property of others and any other liability or risks customarily covered by individual liability insurance. The Association shall have the right to require an Owner to provide evidence of such insurance coverage, and in such case, the Owner shall provide a certificate evidencing the insurance coverage from an insurer qualified to do business in the state of California within fifteen (15) days after request by the Association. Such liability insurance policy shall name the Association as an additional insured. The Association's insurance policies will not provide coverage against any of the foregoing. All Owners hereby waive all rights of subrogation against the Association, and any insurance maintained by an Owner must contain a waiver of subrogation rights by the insurer as to the Association provided, however, that a failure or inability of an Owner to obtain such a waiver shall not defeat or impair the waiver of subrogation rights between the Owners and the Association set forth herein. No Owner shall separately insure any property covered by the Association's property insurance policy as described above. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association to the extent of the diminution. The Association may levy a reimbursement assessment against the Owner's Condominium to collect the amount of the diminution.

11.5 FIDELITY BOND. The Association shall maintain a fidelity bond in an amount equal to at least the estimated maximum of funds, including reserves, in the custody of the Association or a management agent at any given time during the term of the fidelity bond; provided, however, that the bond shall not be less than a sum equal to three (3) months aggregate of the Regular Assessments on all Units plus reserve funds of the annual assessments naming the Association as obligee and insuring against loss by reason of the acts of the Board, officers and employees of the Association, and any management agent and its employees, whether or not such persons are compensated for their services.

11.6 WORKER'S COMPENSATION INSURANCE. The Association shall maintain worker's compensation insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.

11.7 OFFICERS AND DIRECTORS OMISSIONS INSURANCE. The Association shall maintain a policy insuring the Association's officers and directors against liability for their negligent acts or omissions while acting their capacity as officers and directors. The limits of such insurance shall be not less than Three Million Dollars (\$3,000,000) for all claims arising out of a single occurrence.

11.8 OTHER INSURANCE. The Association shall maintain other types of insurance as the Board determines to be necessary to fully protect the interests of the Owners.

11.9 COPIES OF POLICIES. Copies of all such insurance policies of the Association (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and open for inspection by Owners at reasonable times. All such insurance policies

shall (i) provide that they shall not be cancelable or substantially modified by the insurer without first giving at least thirty (30) days' prior notice in writing to the Association, and (ii) contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners. In addition to the foregoing, the Association shall provide such information regarding the insurance of the Association as may be required by applicable law or under the Bylaws.

11.10 REVIEW OF INSURANCE. The Board shall review the adequacy of all insurance maintained by the Association at least once every year. The review shall include a replacement cost appraisal of all insurable Association Property Improvements without respect to depreciation. The Board shall adjust and modify the policies to provide coverage and protection that is customarily carried by and reasonably available to prudent owners of similar property in the area in which the Project is situated.

11.11 BOARD'S AUTHORITY TO REVISE INSURANCE COVERAGE. Subject to the provisions of **Section 11.1** and the requirements regarding insurance set forth in the Bylaws, the Board shall have the power and right to deviate from the insurance requirements contained in this **Article 11** in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this **Article 11**, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available, or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums.

11.12 ADJUSTMENT OF LOSSES. The Board is appointed attorney-in-fact by each Owner, to negotiate and agree on the value and extent of any loss under any policy carried by the Association pursuant to **Sections 11.1** and **11.2**. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

11.13 DISTRIBUTION TO MORTGAGEES. Any Mortgagee has the option to apply insurance proceeds payable directly to an Owner on account of a Condominium as provided in this Declaration in reduction of the obligation secured by the Mortgage of such Mortgagee.

ARTICLE XII DESTRUCTION OF IMPROVEMENTS AND CONDEMNATION

12.1 RESTORATION DEFINED. As used in this **Article 12**, the term "restore" shall mean repairing, rebuilding or reconstructing damaged Improvements to substantially the same condition and appearance in which it existed prior to fire or other casualty damage.

12.2 INSURED CASUALTY. If any Improvement required to be maintained by the Association is damaged or destroyed from a risk covered by the insurance required to be