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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

TRACT NO. 13966
(Eagle Point Estates)

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**TRACT NO. 13966****(Eagle Point Estates)**

This Declaration of Covenants, Conditions and Restrictions made by the undersigned affects Lots 1-54 and Lots A, B, C, E, I, J, K, and N of Tract 13966-1 and Lots 1-52 and Lots G, H, L, M, and O of Tract 13966-2, situated in the City of Big Bear Lake, County of San Bernardino, State of California, recorded in Book 249 of Maps, pages 50 - 60 of Official Records of said County (hereinafter the "Covered Property"). Individual lots within the Covered Property shall be hereinafter referred to as "lot".

RECITALS

A. Forest Properties, Inc., a California corporation, (hereinafter "Declarant") owns the Property and deems it desirable to establish covenants, conditions and restrictions upon the Covered Property and each and every portion thereof, which will constitute a general scheme for the management and development on an integrated basis of the Covered Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Covered Property and enhancing the quality of life within the Covered Property. All conveyances of lots or parcels made and accepted from the Covered Property shall be made and accepted subject to these covenants, conditions and restrictions and shall bind the parties to said conveyances, their heirs, successors and assigns.

B. It is desirable for the efficient management of the Covered Property and the preservation of the value, desirability and attractiveness of the Covered Property to create a corporation to which should be delegated and assigned the powers of managing the Covered Property, maintaining and administering the Covered Property and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessment and charges hereinafter created and referred to and to perform such other acts as shall generally benefit the Covered Property. Eagle Point Estates Homeowners Association, (hereinafter "Association") a non-profit mutual benefit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid.

C. Declarant will hereafter hold and convey title to all of the Covered Property subject to certain protective covenants, conditions and restrictions hereafter set forth.

NOW THEREFORE, Declarant hereby covenants, agrees and declares that all of its interests as the same may from time to time appear in the Covered Property shall be held and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of said interests in the Covered Property, and the Owners of said interests, their successors and assigns. The covenants, conditions, restrictions and easements shall run with said interests and shall be binding upon all parties having or acquiring any right or title in said interests or any part thereof, and shall inure to the benefit of each Owner thereof and are imposed upon said interests and every part thereof as a servitude in favor of each and every of said interests as the dominant tenement or tenements.

ARTICLE I - DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

Section 1.1 'Architectural Committee' shall mean and refer to the committee provided for in Article V hereof entitled 'Architectural Control'.

Section 1.2 'Articles' and 'Bylaws' shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended. In the event of any conflict between the Articles, the Bylaws and this Declaration, the provisions of this Declaration shall control.

Section 1.3 'Assessments': The following meanings shall be given to the Assessments hereinafter defined:

'Regular Assessment' shall mean a charge against the Owner and/or his Residence for Common Expenses.

'Special Assessment' shall mean a charge against an Owner and/or his Residence directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and/or his Residence (and, as to Lots 9-22, inclusive, of Tract 13966-1, the Exclusive Community Facilities) into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules, together with attorneys' fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

'Reconstruction Assessment' shall mean a charge against an Owner and/or his Residence representing a portion of the cost to the Association for reconstruction of any portion or portions of the Community Facilities, except the Association marina dock, pursuant to the provisions of this Declaration.

'Capital Improvement Assessment' shall mean a charge against an Owner and/or his Residence, representing a portion of the cost to the Association for the installation or construction of any capital improvements on any of the Community Facilities, except the marina dock, which the Association may from time to time authorize pursuant to the provisions of this Declaration.

'Slip Assessment' shall mean a charge against an Owner and/or his Residence, who is also an owner of a Slip in the marina, representing that portion of the cost to the Association for the reconstruction, operation, and maintenance of one (1) Slip within the marina including, but not limited to, the following: annual dock license fee payable to the Big Bear Municipal Water District or other appropriate agency, the cost of liability insurance related to the operation of the marina dock, the cost of maintenance and/or reconstruction of the dock, and capital improvements to the dock.

Section 1.4 'Association' shall mean and refer to Eagle Point Estates Homeowners Association, a nonprofit mutual benefit corporation, incorporated under the laws of the State of California, its successors and assigns.

Section 1.5 'Association Rules' shall mean rules adopted by the Association pursuant to Article VI hereof entitled 'Duties and Powers of the Association'.

Section 1.6 'Board' shall mean the Board of Directors of the Association.

Section 1.7 "Common Expenses" shall mean and refer to the actual and estimated costs of:

- (a) maintenance, management, operation, repair and replacement of the Community Facilities, including the Common Slips within the marina dock and all other areas on the Covered Property which are or may be maintained by the Association;
- (b) assessments unpaid or uncollected after being levied;
- (c) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
- (d) the costs of utilities, gardening and other services which generally benefit and enhance the value and desirability of the Covered Property;
- (e) the costs of fire, casualty, liability, 'Workers' Compensation and other insurance covering the Community Facilities;
- (f) the costs of any other insurance obtained by the Association except insurance related to the marina dock;
- (g) reasonable reserves as deemed appropriate by the Board;
- (h) the costs of bonding of the members of the Board, any professional managing agent or any person handling the funds of the Association;
- (i) taxes paid by the Association;
- (j) amounts paid by the Association for discharge of any lien or encumbrance levied against the Community Facilities or portions thereof;
- (k) costs incurred by committees established by the Board;
- (l) costs of security guards, guard gates and/or key gates at entrances to the Community Facilities, and any other security systems or services installed by or contracted for by the Association; and
- (m) other expenses incurred by the Association for any reason whatsoever in connection with the Community Facilities, or the costs of any other item or items designated by this Declaration, the Articles, Bylaws or Association Rules, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

Section 1.8 "Community Facilities" shall mean the following described real and personal property:

Lots E, H, and L together with such other real property from time to time owned or leased by or subject to easements in favor of the Association or for the common use and enjoyment of the Members, including a commercial marina permit and the Common Slips in the marina dock. Prior to the first conveyance of a Residence to an Owner by Declarant, Declarant shall convey the Community Facilities, including five (5) Common Slips in the marina dock, to the Association free of all liens and encumbrances except current real

property taxes and assessments (which taxes shall be prorated as of the date of conveyance), title exceptions of record and the covenants, conditions, reservations and restrictions contained in this Declaration and the instrument which conveys the Community Facilities to the Association.

Section 1.9 "Exclusive Community Facilities" shall mean Lots B, C, and I which shall be for the exclusive use of the owners of Lots 9 through 22 of Phase 1. Prior to the first conveyance of a Residence to an Owner by Declarant, Declarant shall convey the Exclusive Community Facilities to the association free of all liens and encumbrances except current real property taxes and assessments (which taxes shall be prorated as of the date of conveyance), title exceptions of record and the covenants, conditions, reservations and restrictions contained in this Declaration, easements to the owners of Lots 9 through 22 of Phase 1 and the instrument which conveys the Community Facilities to the Association.

Section 1.10 "County" shall mean and refer to San Bernardino County, California.

Section 1.11 "Covered Property" shall mean and refer to the following described real property:

Lots 1-54 and Lots A, B, C, E, I, J, K, and N of Tract 13966-1 and Lots 1-52 and Lots G, H, L, M, and O of Tract 13966-2, situated in the City of Big Bear Lake, County of San Bernardino, State of California, more particularly described as being a portion of Sections 16, 17, 20, & 21, Township 2 North, Range 1 East, S.B.B.M., as per Record of Survey recorded in Book 81, pages 13 & 14 of records of said County

Section 1.12 "Declarant" shall mean Forest Properties, Inc., a California Corporation.

Section 1.13 "Final Subdivision Public Report" shall refer to any report covering the Covered Property or any portion thereof issued by the Department of Real Estate of the State of California pursuant to Section 11018.2 of the California Business and Professions Code.

Section 1.14 "Institutional Mortgagee" shall mean and refer to a First Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, any federal or state agency, or any other institution regulated by federal or state law.

Section 1.15 "Lake" shall mean and refer to Big Bear Lake in the County.

Section 1.16 "Lot" shall mean and refer to any lot shown on any final map filed for record or any parcel shown on any parcel map filed for record to the extent such lot or parcel is part of the Covered Property.

Section 1.17 "Member" shall mean and refer to every person or entity who qualifies for membership pursuant to the Article of this Declaration entitled "Membership", including Declarant so long as Declarant qualifies for membership pursuant to said Article.

Section 1.18 "Mortgage" shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Residence. A "First Mortgage" shall refer to a Mortgage which has priority over any other Mortgage encumbering a specific Residence.

Section 1.19 "Mortgagee" shall mean and refer to the mortgagee or beneficiary under any Mortgage. A "First Mortgagee" shall mean the holder of a Mortgage that has priority over any other Mortgage encumbering a Residence.

Section 1.20 "Owner" shall mean and refer to one or more persons or entities who are, alone or collectively, the record Owner of a fee simple title to a Residence, including Declarant, or the vendee under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation. If a Residence is leased by Declarant for a term in excess of twenty (20) years and the lease or memorandum thereof is recorded, the lessee or transferee of the leasehold interest and not the Declarant shall be deemed to be the Owner. If fee title to a Residence is owned other than by Declarant, the Owner of the fee title and not the lessee of such Residence shall be deemed the Owner regardless of the term of the lease.

Section 1.21 "Residence" shall mean and refer to a lot shown on any final map filed for record or a parcel shown on any parcel map filed for record to the extent such lots or parcels are part of the Covered Property; provided, however, "Residence" shall not include any Community Facilities. "Residence" shall include the residential dwelling unit, together with garages, structures and other improvements on the same lot or parcel.

Section 1.22 "Slip" shall mean a portion of the marina dock capable of mooring one boat.

Section 1.23 "Common Slips" shall mean those Slips within the marina dock which are unassigned to individual Owners and are available on a limited term basis to all Owners. The number and usage of Common Slips shall be determined by the Board.

ARTICLE II - MEMBERSHIP

Section 2.1 - Membership. Every Owner shall be a Member in the Association. The terms and provisions set forth in this Declaration which are binding upon all Owners are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws and Association Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in any Residence. Ownership of a Residence shall be the sole qualification for membership; provided, however, a Member's voting rights or privileges in the Community Facilities, or both, may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules. Not more than one membership shall exist based upon ownership of a single Residence.

Section 2.2 - Transfer. The membership held by any Owners shall not be transferred, pledged or alienated in any way, except that any sale, transfer, or conveyance of a Residence to a new Owner shall operate to transfer the appurtenant membership without the requirement of any express reference thereto. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner. The Association shall have the right to impose a fee of twenty-five dollars (\$25.00) to be paid by the transferee to cover the cost of documentation and clerical services incurred with respect to the transfer of ownership interest on the books and records of the Association. Notwithstanding any other provision of this Declaration an Owner's right to vote shall not vest until such transfer fee has been paid.

Section 2.3 - Voting Rights. An Owner's rights to vote shall vest immediately upon the date Regular Assessments commence upon such Owner's Residence as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws, and Association Rules.

Section 2.4 - Classes of Voting Membership. The Association shall have three (3) classes of voting membership.

Class A. Class A Members shall be all Owners with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Residence in which they hold the interest required for membership. When more than one person owns a portion of the interest in a Residence required for membership, each such person shall be a Member and the vote for such Residence shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Residence. If any Owner casts a vote representing his Residence, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Residence.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Residence in which it holds the interest required for membership; provided that the Class B Membership shall cease and be converted to Class A Membership in the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership;
- (b) a date not later than the second anniversary of the original issuance of a Final Subdivision Public Report for the most recent phase of the development.
- (c) a date not later than the fourth anniversary of the original issuance of a Final Subdivision Report for the first phase of the development.

Class C. Class C Members shall consist of all Owners of individual Slips within the Association marina dock. All Class C members must also be either Class A or Class B members. To become a Class C member an Owner must purchase an existing slip in the marina from either another Owner or Declarant or pay the direct cost of constructing an additional Slip in the marina dock. Class C Members shall be entitled to one (1) vote, on issues relating only to Slips and/or the marina dock, for each Slip in which they hold the interest required for membership. When more than one person owns a portion of the interest in a Slip required for membership, each such person shall be a Member and the vote for such Slip shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Slip. If any Owner casts a vote representing his Slip, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Slip. In their capacities as Class C Members, each such member is entitled to vote only on issues relating to Slips, the marina dock, and their use and maintenance. Class C Members shall be entitled to vote on all other issues in their capacities as Class A or B Members. Class A and B Members who are not also Class C Members shall not be entitled to vote on issues relating solely to Slips, the marina dock, and their use and maintenance.

Section 2.5 - Special Class A Voting Rights. Notwithstanding the provisions of this Article, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Declaration and the Bylaws to elect at least twenty percent (20%) of the total number of directors on the Board, at any meeting of the Members at which directors are to be elected, then such Class A Members shall, by a majority vote, among themselves, elect the number of directors required to equal at least twenty percent (20%) of the total number of directors on the Board. In the event twenty percent (20%) of the total number of directors is equal to any fractional number, the number of directors to be elected pursuant to the Special Class A voting right shall be rounded to the next higher whole number.

Section 2.6 - Approval of Members. Unless otherwise specifically provided in this Declaration or the Bylaws, any provision of this Declaration or the Bylaws which requires the vote or written assent of a specified majority of the voting power of the Association or any class or classes of membership shall be deemed satisfied by the following:

- (a) the vote of the specified percentage at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members. Such percentage must include the specified number of all Members entitled to vote at such meeting and not such a percentage of those Members present;
- (b) written consents signed by the specified percentage of Members as provided in the Bylaws; and
- (c) in any matter requiring the consent of the Members, but not specifically provided for in this Declaration or the Articles, Bylaws or any contract executed by the Association, a simple majority of the voting power of Members entitled to vote on such matters shall suffice.

Section 2.7 - Approval by Each Class of Members. Except for Section 14.15 entitled "Enforcement of Bonded Obligations" and Section 14.18 entitled "Amendments" of this Declaration, and as long as there is a Class B Membership, any provision of the Articles, Bylaws, this Declaration, or the Association Rules which expressly requires the approval of a specified percentage of the voting power of the Association before being undertaken, shall require the approval of said specified percentage of each of the Class A and Class B Membership.

ARTICLE III - COVENANT FOR ASSESSMENTS

Section 3.1 - Creation of the Lien and Personal Obligation of Assessments. Each Owner, including the Declarant to the extent Declarant is an Owner as defined herein, of any Residence by acceptance of a deed or other conveyance, creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments, Reconstruction Assessments, and, if a Class C member Slip Assessments, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Residence against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Residence at the time when the Assessment becomes due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

Section 3.2 - Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members, the management of the Covered Property, enhancing the quality of life in the Covered Property, and the value of the Covered Property including, without limitation, the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Community Facilities (and Exclusive Community Facilities pursuant to the provisions of Section 3.9), or in the furtherance of any other duty or power of the Association.

Section 3.3 - Budgets and Financial Statements. The Board shall regularly distribute financial statements to all Members, regardless of the number of Members or the amount of assets of the Association, as follows:

- (a) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than forty-five (45) nor more than sixty (60) days before the beginning of the fiscal year.
- (b) A balance sheet -- as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Residence by Declarant -- and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the Residence and the Owner assessed.
- (c) An annual report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year.
 - (1) A balance sheet as of the end of the fiscal year.
 - (2) An operating (income) statement for the fiscal year.
 - (3) A statement of changes in financial position for the fiscal year.
 - (4) Any information required to be reported under Section 8322 of the Corporations Code.

The annual report shall be prepared by an independent accountant for any fiscal year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars (\$75,000.00). If the annual report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

Section 3.4 - Regular Assessments. The Board shall at the time it distributes the annual pro forma operating statement, determine the amount of the Regular Assessment to be paid by each Member. Each Member shall thereafter pay to the Association his Regular Assessment in installments as established by the Board. Each such installment shall be due and payable on the date established by the Board in the written notice sent to Members. In the event the Board shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due. After the Association's first fiscal year of operation, it shall not impose a Regular Assessment which is increased more than twenty percent (20%) over the amount of the Regular Assessment in the immediately preceding fiscal year, without the approval of a majority of the voting power of the Association vested in Members other than Declarant.

Section 3.5 - Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy in any fiscal year, a Capital Improvement Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Community Facilities to the extent the same is not covered by the provisions affecting Reconstruction Assessments in Article IX hereof, entitled "Destruction of Improvements", including the necessary fixtures and personal property related thereto. The Association shall not impose a Capital Improvement Assessment, the total amount of which exceeds five percent (5%) of the estimated Common Expenses, as estimated in accordance with Section 3.3 hereof, without the approval of a majority of the voting power of the Association vested in members other than Declarant. Any reserves collected by the Association for the future maintenance and repair of the

Community Facilities, or any portion thereof, shall not be included in determining said annual capital improvement limitation. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital amount of the Association by the Members.

Section 3.6 - Slip Assessments. The Board shall at the time it distributes the annual pro forma operating statement, determine the amount of the Slip Assessment to be paid by each Class C Member. Each Class C Member shall thereafter pay to the Association his Slip Assessment in installments as established by the Board. Each such installment shall be due and payable on the date established by the Board in the written notice sent to Members. In the event the Board shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all expenses associated with the operation of the marina dock for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the dock expenses and determine the revised amount of Slip Assessment against each Class C Member, and the date or dates when due. After the Association's first fiscal year of operation, it shall not impose a Slip Assessment which is increased more than ten percent (10%) over the amount of the Slip Assessment in the immediately preceding fiscal year, without the approval of a majority of the voting power of the Association vested in Class C Members other than Declarant.

Section 3.7 - Uniform Assessment. Regular, Reconstruction and Capital Improvement Assessments shall be fixed at an equal amount for each Residence and may be collected at intervals selected by the Board. Slip Assessments shall be fixed at an equal amount for each Slip in the marina dock and may be collected at intervals selected by the Board.

Section 3.8 - Certificate of Payment. The Association shall, upon demand, furnish to any Member liable for Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the Assessments on a specified Residence have been paid, and the amount of delinquency, if any. A reasonable charge not to exceed Fifteen Dollars (\$15.00) may be collected by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 3.9 - Special Assessments. Special Assessments shall be levied by the Board against a Residence, after notice and hearing, to reimburse the Association for:

- (a) costs incurred in bringing an Owner and his Residence to compliance with the provisions of this Declaration, the Articles, the Bylaws or Association Rules or caused by the negligence or intentional acts of such Owner or persons holding under him or their families, guests or invitees;
- (b) any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules; and
- (c) attorneys' fees, interest and other charges relating thereto as provided in this Declaration.

Consistent with Section 2792.26(c) of the Regulations of the California Real Estate Commissioner, a monetary penalty imposed by the Association as a disciplinary measure for failure of an Owner to comply with this or other governing instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Community Facilities for which an Owner was allegedly responsible or in bringing an Owner and his or her subdivision interest into compliance with the governing instruments may not be characterized nor treated as an assessment which may become a lien against the Owner's subdivision interest enforceable by a sale

of the interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code.

In the event the Association undertakes to provide materials or services which benefit individual Residences and which can be accepted or not by individual Owners, such as tree trimming, such Owners in accepting such materials or services agree that the costs thereof shall be a Special Assessment.

All assessments for maintenance of or otherwise applicable to Lots B, C, or I of Tract 13966-1 shall be made as Special Assessments to the owners of Lots 9-22, inclusive, of Tract 13966-1, only. No form of assessment collected from the owners of lots other than Lots 9-22, inclusive, of Tract 13966-1 shall be applied for the benefit of Lots B, C, or I of Tract 13966-1.

Section 3.10 - Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to all Residences on the first day of the month following the conveyance of the first Residence by Declarant to an individual Owner. In the event the amount budgeted to meet Common Expenses for the then current year proves to be excessive in light of the actual Common Expenses, the Board in its sole discretion may either reduce the amount of the Regular Assessment or may abate collection of Regular Assessments as it deems appropriate; provided, however, so long as the Declarant holds a majority of the voting power of the Association or the Board, there shall be no reduction or abatement in the collection of Regular Assessments pursuant to this section.

Section 3.11 - No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that (i) the Association is not properly exercising its duties and powers as provided in this Declaration; (ii) a Member has made or elects to make no use of the Community Facilities; or (iii) any construction or maintenance performed pursuant to Section 7.7 hereof, entitled "Assumption of Maintenance Obligation", shall in any way postpone Assessments or entitle a Member to claim any such offset or reduction.

Section 3.12 - Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of California now in effect, or in effect from time to time hereafter.

Section 3.13 - Reserves. The Regular and Slip Assessments shall include reasonable amounts as determined by the Board as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Community Facilities, or any other purpose as determined by the Board. All amounts collected as reserves, whether pursuant to this section or otherwise, shall be deposited by the Board in separate bank accounts to be held in trust for the purpose for which they are collected as reserves, whether pursuant to this section or otherwise, shall be deposited by the Board in separate bank accounts to be held in trust for the purpose for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members.

ARTICLE IV NONPAYMENT OF ASSESSMENTS

Section 4.1 - Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said date (the "delinquency date"). If any such Assessment is not paid within thirty (30) days after delivery of notice of such delinquency from the Association, a late charge in an amount equal to the greater of ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00) shall be levied and the Assessment shall bear interest from the delinquency date at the rate of ten percent (10%) per annum and shall constitute a lien against the Residence and

Member's interest in the Association ("Assessment Lien"). An Assessment Lien shall be subordinate to the lien of any first encumbrance against the Member's interests in the Residence and/or Association. The transfer of an interest in the Residence and/or Association as a result of the exercise of a power of sale or a judicial foreclosure involving a default under the first encumbrance shall extinguish the Assessment Lien due and payable prior to the transfer of the interest in the Residence and/or Association. The Association may, at its option, and without waiving the right to judicially foreclose its lien against the Residence, pursue any available remedies, including without limitation, bringing an action at law against the Member personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 4.2 hereof, entitled "Notice of Lien", to foreclose the Assessment Lien. If action is commenced, there shall be added to the amount of such Assessment the late charge, interest, the cost of such action, and attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include said late charge, interest and a reasonable attorneys' fee, together with the costs of action. Each Member vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure against such Member or other Members for the collection of such delinquent Assessments. Although the exercise of a power of sale or a judicial foreclosure involving a default under the first encumbrance shall extinguish an Assessment Lien due and payable prior to a transfer of the interest in the Residence and/or Association, the Member's accepted delivery of a deed in lieu of foreclosure shall not extinguish such past due Assessments.

Section 4.2 - Notice of Lien. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale provided herein until thirty (30) days after the date of notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Residence, and a copy thereof is recorded by the Association in the office of the County Recorder in the County; said notice of claim of lien must recite a good and sufficient legal description of any such Residence, the record Owner or reputed Owner thereof, the amount claimed which shall include interest on the unpaid Assessment at the rate of ten percent (10%) per annum, a late charge in an amount equal to the greater of ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien, and the name and address of the claimant.

Section 4.3 - Foreclosure Sale. Said Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized by the Board to make the sale after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above is to be conducted in accordance with the provisions of Section 2924 et seq., of the Civil Code of the State of California, as said statutes may from time to time be amended, applicable to the exercise of powers of sale in mortgages and 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 Residence, using Association funds, or funds borrowed for such purpose, at the sale, and to acquire and hold, lease, mortgage and convey the same.

Section 4.4 - Curing of Default. Officers of the Association or any other person designated by the Board may file or record, as the case may be, an appropriate release of a notice of a claim of lien upon the timely payment or other satisfaction of:

- (a) all delinquent Assessments specified in the notice of claim of lien;
- (b) all other Assessments which have become due and payable with respect to the Residence as to which such notice of claim of lien was recorded;
- (c) interest, late charges, attorneys' fees and the costs of collection pursuant to this Declaration and the notice of claim of lien which have been recorded, and

- (d) payment by the defaulting Owner of a fee, to be determined by the Association, but not to exceed One Hundred Dollars (\$100.00) to cover the costs of preparing and filing or recording such release.

ARTICLE V ARCHITECTURAL CONTROL

Section 5.1 - Appointment of Architectural Committee. The Architectural Committee shall consist of not less than three (3) nor more than five (5) persons as fixed from time to time by resolution of the Board. The Declarant shall initially appoint the Architectural Committee. After one (1) year from the date of issuance of the Final Subdivision Public Report for the first phase of the subdivision, the Board shall have the power to appoint one (1) member to the Architectural Committee until ninety percent (90%) of all of the subdivision interests in the overall development have been sold or until the fifth (5th) anniversary date of the original issuance of the Final Subdivision Public Report for the first phase of the Subdivision Public Report for the first phase of the subdivision whichever occurs first. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Committee. Persons appointed by the Board to the Architectural Committee must be Members; however, persons appointed by Declarant to the Architectural Committee need not be Members, in Declarant's sole discretion.

Section 5.2 - General Provisions.

- (a) The Architectural Committee may establish reasonable procedural rules and may assess a fee not to exceed Two Hundred Fifty Dollars (\$250.00) per submission of plans in connection with review of plans and specifications including, without limitation, the number of sets of plans to be submitted; however, the Architectural Committee may delegate its plan review responsibilities to one or more members of such Architectural Committee. Upon such delegation, the approval or disapproval of plans and specifications by such persons shall be equivalent to approval or disapproval by the entire Architectural Committee. Unless any such rules are complied with, such plans and specifications shall be deemed not submitted.
- (b) The address of the Architectural Committee shall be the principal office of the Association as designated by the Board pursuant to Bylaws. Such address shall be the place of the submittal of plans and specifications and the place where the current Architectural Standards shall be kept.
- (c) The establishment of the Architectural Committee and the systems herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain, repair, alter or modify or otherwise have control over the Residences as may otherwise be specified in this Declaration, in the Bylaws or in any Association Rules.
- (d) In the event the Architectural Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted in accordance with any rules regarding such submission adopted by the Architectural Committee, such plans and specifications will be deemed approved.

Section 5.3 - Approval and Conformity of Plans. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Residences nor shall there be any addition to or change in the exterior of any structure or other improvement to any Residences including, without limitation, the painting of exterior walls and fences, unless plans and specifications therefor have been submitted to and approved by the Architectural Committee. The Board shall, from time to time, adopt and promulgate architectural standards ("Architectural Standards") to be administered through the Architectural Committee. The Architectural Standards

shall include, among other things deemed appropriate by the Board, those restrictions and limitations upon the Owners set forth below:

- (a) Time limitations for the completion of the architectural improvements for which approval is required pursuant to the Architectural Standards;
- (b) Conformity of completed architectural improvements to plans and specifications approved by the Architectural Committee; provided, however, as to purchasers and encumbrancers in good faith and for value, unless notice of noncompletion or nonconformance identifying the violating Residence and its Owner and specifying the reason for the notice, executed by the Architectural Committee, shall be filed of record in the Office of the County Recorder of the County, and given to such Owner within thirty (30) days of the expiration of the time limitation described in subsection (a) above, or unless legal proceedings shall have been instituted to enforce compliance or completion within said thirty (30) day period, the completed architectural improvements shall be deemed to be in compliance with plans and specifications approved by the Architectural Committee and in compliance with the Architectural Standards of the Association, but only with respect to purchasers and encumbrancers in good faith and for value;
- (c) Such other limitations and restrictions as the Board in its reasonable discretion shall adopt, including, without limitation, the regulation of the following: construction, reconstruction, exterior addition, change or alteration to or maintenance of any building, structure, wall or fence, including, without limitation, the nature, kind, shape, height, materials, exterior color and surface and location of such building or structure; the type, location and elevation of trees, bushes, shrubs, plants, hedges and fences; the harmony of exterior design and color in relation to other dwellings and structures within the Covered Property; effect of location and use of improvements and landscaping on neighboring property, improvements, landscaping, operations and uses; relation of topography, grade and finished ground elevation of the property being improved to that of neighboring property; proper facing of main elevations with respect to nearby streets; preservation of view and aesthetic beauty; with respect to fences, walls and landscaping, assurance of adequate access to the Association in connection with the performance of its duties and the exercise of its powers hereunder; and conformity of the plans to the purpose and general plan and intent of this Declaration.
- (d) No chain link or similar fence shall be constructed within the front yard area of any Residence. No chain link or similar fence shall be constructed within the side yard or rear yard area of any Residence unless it is completely screened from all exterior views. The Architectural Committee shall not approve the erection of any wall or fence more than five and one half (5.5) feet in height.
- (e) The Architectural Committee shall have the authority to require the Owner of any Residence to trim, top, or prune any tree, shrub, bush or plant which has been planted by said Owner or his predecessor in interest which in the reasonable belief of the Architectural Committee unreasonably impedes or detracts from the view of any Residence. No tree with a trunk size of eight (8) inches or more measured at a point three (3) feet above the ground shall be removed without the prior written consent of the Architectural Committee.
- (f) Each dwelling constructed on the Covered Property shall have a minimum floor space (excluding garages, open porches, patios, and breezeways) of one thousand eight hundred (1,800) square feet if a single story building and a minimum of one thousand

six hundred (1,600) square feet on the main floor, if a multi-story building. A fully enclosed garage shall be constructed concurrent with the construction of the dwelling unit. The minimum garage area shall be not less than four hundred (400) square feet and shall not exceed thirty-six (36) feet in width.

Section 5.4 - Nonliability for Approval of Plans. Plans and specifications are not approved for engineering design, and by approving such plans and specifications neither the Architectural Committee, the members thereof, the Association, the Members, the Board, nor Declarant assume liability or responsibility, therefor, or for any defect in any structure constructed from such plans and specifications.

Section 5.5 - Appeal. In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request shall be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. The Board shall submit such request to the Architectural Committee for review, whose written recommendations shall be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

ARTICLE VI DUTIES AND POWERS OF THE ASSOCIATION

Section 6.1 - General Duties and Powers. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

Section 6.2 - General Duties of the Association. The Association through the Board shall have the duty and obligation to:

- (a) enforce the provisions of this Declaration, the Articles, Bylaws, and Association Rules, by appropriate means and carry out the obligations of the Association hereunder;
- (b) maintain and otherwise manage the following:
 - (i) all easements and real property and all facilities, improvements and landscaping thereon in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association;
 - (ii) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association; and
 - (iii) all property, real or personal, which the Association is obligated to repair or maintain pursuant to this Declaration, including, without limitation, Article VII hereof, entitled "Repair and Maintenance";
- (c) pay any real and personal property taxes and assessments which are, or could become, a lien on the Common Facilities;
- (d) obtain, for the benefit of the Community Facilities, sewer, water, gas, electric, refuse collection, and other services; and
- (e) act as a managing agent for all of the Covered Property.

Section 6.3 - General Powers of the Association. The Association through the Board shall have the power but not the obligation to:

- (a) employ maintenance or other persons and contract with independent contractors to maintain the Community Facilities;
- (b) acquire interests in real or personal property for the benefit of the Members;
- (c) borrow money as may be needed in connection with the discharge by the Association of its powers and duties;
- (d) contract with the Big Bear Municipal Water District or other appropriate agency for operation of dock facilities on the Covered Property or on areas adjacent thereto, to establish reasonable rules and regulations (in conformity with such rules and regulations of the Big Bear Municipal Water District or other appropriate agency as may then be in effect) pertaining to the use of such dock facilities, and to impose Slip Assessments on Owners utilizing the same to reimburse the Association for any and all costs incurred in connection therewith; and
- (e) negotiate and enter into contracts with Institutional Mortgagees and mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by Mortgages within the Covered Property.

Section 6.4 - General Limitations and Restrictions on the Powers of the Board. In addition to the limitations and restrictions herein, and without limiting the generality thereof, the Board shall be prohibited from taking any of the following actions without the approval of a majority of the voting power of the Association vested in members other than Declarant:

- (a) enter contracts for materials or services which have a term in excess of one (1) year, with the following exceptions:
 - (i) 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; and
 - (ii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the applicable policy permits short rate cancellation of the insured.
- (b) incur aggregate expenditures for capital improvements to the Covered Property in any fiscal year in excess of five percent (5%) of the estimated Common Expenses for the fiscal year;
- (c) sell any real or personal property of the Association with an aggregate fair market value in excess of five percent (5%) of said estimated Common Expenses during any fiscal year; and
- (d) pay compensation to directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 6.5 - Association Rules. The Board shall also have the power to adopt, amend and repeal such rules and regulations as it deems reasonable (the "Association Rules") which may include the establishment of a system of fines and penalties enforceable as Special Assessments, all as provided in the Bylaws. The Association Rules shall govern such matters in furtherance of the purpose of the Association, including, without limitation, the use of the Community Facilities and marina dock; provided, however, that the Association Rules may not discriminate among Owners, and shall not be inconsistent with 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 or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be delivered to each Owner in the same manner established in this Declaration for the delivery of notices. Upon completion of the notice requirements, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and their successors in interest whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Institutional Mortgagee upon request. In the event of any conflict between any such Association Rules and any other provision of this Declaration, or the Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles, or the Bylaws to the extent of any such conflict.

Section 6.6 - Delegation of Powers. The Association shall have the right, according to law, to delegate to committees, officers, employees or agents any of its duties and powers under this Declaration, the Articles and Bylaws; provided, however, no such delegation to the Architectural Committee or otherwise shall relieve the Association of its obligations to perform such delegated duty.

Section 6.7 - Pledge of Assessment Rights. The Association shall not have the power to pledge the right to exercise its Assessment powers in connection with obtaining funds to repay a debt of the Association.

ARTICLE VII REPAIR AND MAINTENANCE

Section 7.1 - Repair and Maintenance by Association. Except to the extent that an Owner may be obligated, or a governmental entity has accepted the obligation, to maintain and repair as hereinafter provided, and without limiting the generality of the statement of duties and powers contained in this Declaration, the Articles, Bylaws or Association Rules, the Association shall have the duty to accomplish the following upon the Covered Property or other land in such a manner and at such times as the Board shall prescribe:

- (a) maintain, operate, repair, restore, replace and make necessary improvements to the Community Facilities and Exclusive Community Facilities, including, without limitation, the following:
 - (i) marina entry gates, driveways, parking areas, docks, gangways, buoys, aeration system, walls, landscaping and other facilities on Lot E;
 - (ii) entry signs and related streetscapes within or on Lots M and 18 of Tract 13966-2 or elsewhere within the Covered Property;
 - (iii) tennis court and other facilities on Lot H;
 - (iv) drainage facilities and easements; and

- (v) open space areas including the maintenance of fences, where applicable and other control features to prevent damage to the sensitive plant species and/or perch trees on the parcels.
- (b) maintain, or cause to be maintained, in a clean and aesthetically pleasing fashion as it deems appropriate, those shoreline portions of the Community Facilities and Exclusive Community Facilities adjacent to the Lake;
- (c) maintain sloped and landscaped improved areas within the Community Facilities and Exclusive Community Facilities, including any drainage facilities located thereon, in a neat, orderly and safe condition and in such a manner as to enhance their appearance, maintaining established slope ratios, preventing erosion or sliding problems and facilitating the orderly discharge of water. No structure, planting or other material shall be placed or permitted to remain, or other activities undertaken on any area within the Covered Property which might create erosion or sliding problems, or interfere with established drainage systems or patterns. Any area drains and other drainage facilities within the Community Facilities and Exclusive Community Facilities shall be maintained by the Association, in a neat, orderly and safe condition and in such a manner as to facilitate the orderly discharge of water by means of same; and
- (d) maintain all other areas, facilities, equipment, services or aesthetic components of whatever nature as may from time to time be requested by the vote or written consent of two-thirds (2/3) of the voting power of the Members. Notwithstanding the foregoing, the Association shall have the obligation and duty to operate, maintain and replace, as necessary, the aeration system or similar device within the marina area in such a manner as to keep the dredged area aerated during the summer months and free of significant ice formation during the winter months when waterfowl and eagles are present.

Section 7.2 - Repair and Maintenance by Owner. Except to the extent that the Association shall be obligated to maintain and repair as provided in this Declaration, every Owner shall:

- (a) maintain all structures on his Residence in good condition and repair; and
- (b) install and thereafter maintain in attractive condition landscaping on his Residence in accordance with the Best Management Practices Manual developed for Tract 13966 and the provisions of this Article;

The Owner(s) of Lots G, J, K, M, and O shall maintain such lots to the extent necessary to retain and preserve the natural plant or eagle habitat for which each such Lot has been identified as open space, and subject to the use restrictions identified in Articles 11 and 12 of this Declaration. Further, the owner of Lot K shall install and maintain such perimeter fencing on and around such Lot as is directed by the City of Big Bear Lake Community Development Department to protect the plant life for which such Lot has been identified as open space.

Section 7.3 - Right of Association to Maintain and Install. In the event that an Owner fails to accomplish any installation or maintenance required by this Article, the Association or its delegates may, but shall not be obligated to, cause such maintenance or installation to be accomplished as hereinafter set forth.

- (a) Upon finding by the Board of a deficiency in such maintenance or installation, the Board shall give notice of deficiency and set a date for hearing before the Board or a

committee selected by the Board for such purpose. The Board may delegate its power under this subsection to a duly appointed committee of the Association.

- (b) Such hearing shall be held not less than ten (10) days nor more than thirty (30) days from the date of said notice.
- (c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to such Owner. If the Board or any such committee renders a decision against the Owner, it shall further set a date by which the deficiency is to be corrected by the Owner. A decision of such committee may be appealed to the Board, but a decision of the Board shall be considered final.
- (d) If the deficiency continues to exist after the time limitation imposed by a final decision of the Board or any such committee, the Board or such committee may cause such maintenance or installation to be accomplished.
- (e) In the event the Board or such committee elects to cause such maintenance or installation to be accomplished, the following shall apply:
 - (1) the Owner shall have no more than ten (10) days following the receipt thereby of written notice of such election from the Board or such committee to select a day or days upon which such maintenance or installation work shall be accomplished;
 - (2) the date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period;
 - (3) if said Owner does not select such day or days within said ten (10) day period, the Board or such committee may select a day or days upon which such work may be accomplished which shall not be less than twenty-five (25) nor more than fifty-five (55) days from the last day of said ten (10) day period; and
 - (4) unless the Owner and the Board otherwise agree, such maintenance or installation shall take place only during the daylight hours of any day, Monday through Friday, excluding holidays;
- (f) If the Association pays for all or any portion of such maintenance or installation, such amount shall be a Special Assessment against the affected Owner and Residence.

Section 7.4 - Standards for Maintenance and Installation. Each Owner with respect to each Residence owned by him shall be obligated to:

- (a) maintain the exterior of all structures on his Residence, including without limitation walls, fences and roofs, in accordance with the Architectural Standards and, if required by the Architectural Standards, only after approval of the Architectural Committee;
- (b) landscape all unimproved portions of his Residence in accordance with an approved landscaping plan on or before a date six (6) months from the issuance of a certificate of occupancy for the first structure erected on such Residence. Thereafter, such

landscaping shall be maintained by the Owner in an attractive condition according to any rules promulgated by the Board; and

- (c) maintain sloped and landscaped improved areas within his Residence, including any drainage facilities located thereon, in a neat, orderly and safe condition and in such a manner as to enhance their appearance, maintain established slope ratios, prevent erosion or sliding problems, and not interfere with established drainage systems or patterns.

Section 7.5 - Right of Entry. Upon twenty-four (24) advance oral notice to the Owner (and any lessee, if applicable) the Association shall have the right to enter upon any Residence in connection with any maintenance, repair, or construction in the exercise of the powers and duties of the Association. The advance notice requirement of this section shall be waived in the event of any emergency, as determined in good faith by the Association or its authorized agent or representative.

Section 7.6 - Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace or restore the underground facilities or public utilities which are located within easements in the Community Facilities owned by such public utilities. However, the Association shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 7.7 - Assumption of Maintenance Obligations. Declarant, its subcontractors and the agents and employees of the same shall have the right to come on the Community Facilities to complete the construction of any landscaping or other improvement to be installed on the Community Facilities. In the event that Declarant's subcontractors are contractually obligated to maintain the landscaping and/or other improvements on the Community Facilities 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 construction or 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 VIII INSURANCE

Section 8.1 - Types. The Association, to the extent available, shall obtain and continue in effect in its own name the following types of insurance so long as such amounts or types of insurance coverage are not, in the good faith judgment of the Board, prohibitively expensive or are no longer necessary or appropriate for the protection of the Covered Property, the Association and the Members:

- (a) a comprehensive policy of public liability insurance covering the Community Facilities and Exclusive Community Facilities 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, such coverage to include protection against water damage liability, liability for non-owned and hired automobiles and liability for property of others, and such other risks as shall customarily be covered with respect to similar planned unit developments in the area of the Covered Property, and shall contain a "severability of interest" endorsement or the equivalent which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Association or other Owners;
- (b) fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible to handle the funds of 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 or from any definition of "employee" or similar expression.

Section 8.2 - Waiver by Members. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association, the Owners and the Mortgagees as their interests may appear. As to each of said policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Association, the Board, other Owners, 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 or by breach of any agreement by said person, but to the extent of insurance proceeds received in compensation for such loss only.

Section 8.3 - Other Insurance. The Board shall also purchase and maintain worker's compensation insurance, to the extent that the same shall be required by law, for all employees of the Association. The Board shall also purchase and maintain in effect such insurance, as it deems necessary or as is required by any Institutional Mortgagee including, without limitation, officers' and directors' liability insurance.

Section 8.4 - Premiums, Proceeds and Settlement. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association except insurance related specifically to the operation of the marina dock shall be a Common Expense to be included in the Regular Assessments levied by the Association. Casualty 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 hereof entitled "Destruction of Improvements". The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. A majority of the 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 8.5 - Annual Insurance Review. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Covered Property in light of increased construction costs, inflation, practice in the area in which the Covered Property is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under the existing policies are necessary or desirable to protect the interests of the Owners and of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 8.6 - Trustee. Except as provided below, all insurance proceeds payable under Section 8.1 hereof, shall be paid to a Trustee. The Trustee shall hold, distribute and expend such proceeds for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear, pursuant to the provisions of Article IX hereof, entitled "Destruction of Improvements". The Trustee shall be appointed by the Board and shall be a commercial bank, or branch thereof, or a trust company, or branch thereof, in the County of San Bernardino, which has agreed in writing to accept such trust. When proceeds from a single claim do not exceed Ten Thousand Dollars (\$10,000), such proceeds shall be paid to the Association to be used as provided in Article IX, entitled "Destruction of Improvements".

Section 8.7 - 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 Owners or 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 agent, contractors and employees of any insured;
- (e) any right of the insurer to repair, rebuild or replace and, in the event the building is not repaired, rebuilt or replaced following loss, any right to pay under the insurance the lesser of the replacement value of the improvements insured or the fair market value thereof;
- (f) notice of the assignment of any Owner of its interest by virtue of a conveyance of any Residence; and
- (g) any right to require any assignment of any mortgage to the insurer.

ARTICLE IX DESTRUCTION OF IMPROVEMENTS

Section 9.1 - Duty of Association. In the event of partial or total destruction of improvements upon the Community Facilities, it shall be the duty of the Association to restore and repair the same as promptly as practical pursuant to this Article. The proceeds of any casualty insurance maintained pursuant to this Declaration shall be used for such purpose, subject to the prior rights of Mortgagees whose interest may be protected by said policies.

Section 9.2 - Automatic Reconstruction. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be at least eighty-five percent (85%) of the estimated cost of restoration and repair or the cost not covered by insurance proceeds is less than the sum of Two Hundred Fifty Dollars (\$250.00) per year per Residence, a Reconstruction assessment, with each Owner contributing a like sum, may be levied by the Association to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose, and the Board shall cause the damaged or destroyed Community Facilities to be restored as closely as practical to its condition prior to the destruction or damage.

Section 9.3 - Vote of Members. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be less than eighty-five percent (85%) of the estimated cost of restoration and repair or greater than the sum of Two Hundred Fifty Dollars (\$250.00) per year per Residence, the improvements shall not be replaced or restored unless a majority of the voting power of the Association agrees in writing to such replacement or restoration or gives its affirmative vote at a meeting duly called therefor. Such majority vote must include at least a seventy-five percent (75%) majority of the Class A members. If the Members approve such replacement or restoration, the Board shall cause the damaged or destroyed Community Facilities to be restored as closely as practical to its former condition prior to the destruction or damage. In the event of a determination, as provided above, not to replace or restore the improvements on the Community Facilities, the Community Facilities shall be cleared and landscaped for community use and the costs thereof shall be paid for with the insurance proceeds, and any deficiency may be raised by Reconstruction Assessment in an amount determined by the Board.

Section 9.4 - Excess Insurance Proceeds. In the event any excess insurance proceeds remain, after any reconstruction by the Association pursuant to this Article, the Board, in its sole discretion, may retain such sums in the general funds of the Association or distribute pro rata all or a

portion thereof to the Members subject to the prior rights of Mortgagees whose interest may be protected by insurance policies carried by the Association. In the absence of such prior rights, the rights of an Owner and the Mortgagee of his Residence as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such residence.

Section 9.5 - Use of Reconstruction Assessments. All amounts collected as Reconstruction Assessments shall only be used for the purposes set forth in this Article and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Such funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

Section 9.6 - Costs of Collecting Insurance Proceeds. If it should become necessary in the judgment of the Board to incur costs for appraisals, legal fees, construction 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 IX.

ARTICLE X EMINENT DOMAIN

Section 10.1 - Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation by eminent domain or sale under threat of condemnation of all or any portion of the Community Facilities.

Section 10.2 - Representation by Board in Condemnation Proceedings. In the event of a threatened taking of all or any portion of the Community Facilities, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action.

Section 10.3 - 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 10.4 - Award for Community Facilities. Any awards received on account of the taking of Community Facilities shall be paid to the Association. The Board may in its sole discretion retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Members. The rights of an Owner and the Mortgagee of his Residence as to any pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Residence.

ARTICLE XI USE RESTRICTIONS

Section 11.1 - Commercial Use. No part of the Covered Property shall be used or caused to be used or allowed or authorized to be used in any way directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or any non-residential purposes; provided, however, that the Association shall have the right to provide or authorize such services on the Community Facilities as it deems appropriate for the enjoyment of the Community Facilities or for the benefit of the Members.

Section 11.2 - Signs. No sign or billboard of any kind shall be displayed to the public view on any portion of the Covered Property except such signs as may be used by Declarant or its sales agents in connection with the development of the Covered Property and sale of the Residences; provided, however, that a Member may display at his Residence, a sign advertising its sale or lease by him so long as such sign shall comply with any customary and reasonable standards promulgated by the Board as to the size, color, shape or other qualifications for permitted signs.

Section 11.3 - Nuisance. No noxious or offensive trade or activity shall be carried on upon any Residence, or any part of the Covered Property, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective Residence, or which shall in any way increase the rate of insurance.

Section 11.4 - Temporary Structures. No structure of a temporary character, trailer, tent, Recreational Vehicle, shack, garage, barn, or other out-building shall be used at any time for either temporary or permanent residence on any of the Covered Property.

Section 11.5 - Vehicles. No trailer, camper, recreational vehicle, boat or similar equipment shall be permitted to remain upon the Covered Property other than temporarily, including, without limitation, streets or driveways, unless placed or maintained within an enclosed structure or otherwise screened from all exterior views. No off road motorcycles, all terrain vehicles, or other vehicles which tend, by virtue of excessive noise, to disturb or annoy other Owners, shall be permitted to be operated within the Covered Property. 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 or the Owners and parking of vehicles belonging to or being used by Owners for loading and unloading purposes. The Board may adopt rules for the regulation of the parking of vehicles within the Covered Property, including the Special Assessments on Owners who violate or whose invitees violate such rules, and the designation of parking areas which may only be used for the parking of vehicles by the guests of Owners. In no event shall vehicles be permitted to interfere with or block the ingress or egress of any other Owner to a driveway within the Covered Property.

Section 11.6 - Animals. No animals, livestock, reptiles, insects, or poultry of any kind shall be raised, bred or kept upon the Covered Property, except that dogs, cats or other household pets may be kept on the Residences, provided they are not kept, bred or maintained for any commercial purpose, or in numbers deemed unreasonable by the Board. Notwithstanding the foregoing, no animals or fowl may be kept on the Residences which in the good faith judgment of the Board or a committee selected by the Board for this purpose, result in an annoyance or are obnoxious to residents in the vicinity.

Section 11.7 - Oil and Mineral Rights. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in the Covered Property nor subsequent to the recording of this Declaration, shall oil wells, tanks, tunnels, or mineral excavations or shafts be installed upon the surface of the Covered Property or within five hundred (500) feet below the surface of such properties. No derrick or other structure designed for use in boring for water, oil or natural gas may be erected, maintained or permitted upon the Covered Property.

Section 11.8 - Unsightly Items. All weeds, rubbish, debris or unsightly material or objects of any kind shall be regularly removed from the Residences and shall not be allowed to accumulate thereon. All refuse containers, woodpiles, storage areas, machinery and equipment shall be prohibited upon any Residence unless obscured from view of adjoining streets or portions of the Covered Property.

Section 11.9 - Antennae and Satellite Dishes. No television, radio or other electronic antenna or device of any type, other than satellite dishes or similar devices shall hereafter be erected, constructed, placed or permitted to remain on the Covered Property unless the same be contained within a building. No Owner shall install or cause to be installed a satellite dish or similar device in the front yard area of any Residence or at a location on the Residence such that it is visible from the street. A satellite dish or similar device installed anywhere on a Residence shall be visually screened from adjacent residences and open space lots.

Section 11.10 - Drainage. As used herein, the term "drainage pattern and system" includes, but is not necessarily limited to, underground drain pipes, above or below ground, patterns of drainage over or through Residences and roofs from and to adjoining properties and improvements. Each Owner with respect to his Residence and the Association with respect to the Community Facilities shall have the right to use the established drainage pattern and system for the purpose of draining their respective Residences and improvements thereon; provided that such right of drainage shall not include the right to discharge noxious or offensive matter. Water from any Residence and the improvements thereon may drain or flow into adjacent streets. Water shall not be allowed to drain or flow onto adjacent Residences except to the extent provided for by the established drainage pattern and system. All slopes or terraces on any Residence shall be maintained as provided herein so as to prevent the modification or erosion of the established drainage patterns and system and to prevent any erosion of the Residence upon adjacent streets or adjoining property.

Section 11.11 - Garages. No garage doors shall be permitted to remain open except for a temporary purpose, and the Board may adopt rules for the regulation of the opening of garage doors, including the assessment of charges to Owners who violate or whose invitees violate such rules. Any charges so assessed shall be Special Assessments.

Section 11.12 - Window Covers. Curtains, drapes, shutters or blinds may be installed as window covers. No window shall be covered with aluminum foil, posters, reflective materials, newspapers, or similar materials.

Section 11.13 - Single-Family Residential. All Residences shall only be used for single family residential purposes. No Residence through lease, "time-share", or otherwise shall be used for transient purposes, which is defined as the right of occupancy for any period less than three consecutive months in any calendar year; provided, however, that no Owner shall be restricted in his personal use of his residence on a part-time basis, regardless of the duration or frequency of such use.

Section 11.14 - Use of Community Facilities. The Community Facilities shall be used for community purposes only, and shall not be used for residential dwelling purposes and no residential dwelling shall be constructed thereon.

Section 11.15 - Trees. Excepting only those trees which must be removed for purposes of construction, no living tree on any lot in the Covered Property shall be cut down or removed unless designated by a public or licensed private Forester as diseased, or unless approved by the Architectural Committee for reasons of health and safety. For each tree over twenty-four (24) inches (DBH) that is removed for any reason the Owner of the Residence upon which the tree was removed shall pay a fee of \$200 to the Association and plant a minimum of two (2), fifteen (15) gallon trees on the Covered Property. The fees paid to the Association pursuant to this section shall be kept in a separate fund and shall be used to trim other trees on the Covered Property to serve as Bald Eagle Perch trees or to otherwise enhance Bald Eagle perch habitat within the Covered Property.

Section 11.16 - Entry Signs and Streetscape. The Owners of Lots M and 18 of Tract 13966-2 shall in no way interfere with, modify, or otherwise change or remove the entry signs, fences, or streetscape landscaping located on portions of such lots without the prior written consent of the Board and shall permit the Association access to such portions of such lots for maintenance of such improvements.

Section 11.17 - Seasonal Restrictions. All use of Lots A, B, C, E, I, and N of Tract 13966-1 and Lots G and H of Tract 13966-2 shall be limited to the period April 1 through December 1, inclusive, of each calendar year and prohibited at all other times, except for necessary maintenance and similar activities. This use restriction is included within this Declaration as a condition of

approval of the City of Big Bear Lake, in order to avoid disturbing wintering bald eagle habitat on such parcels.

Section 11.18 - Lot A Restrictions. The Owner of Lot A shall maintain it as public access to Big Bear Lake. Due to the presence of a bald eagle perch on this lot, such public access shall be limited to the period April 1 through December 1, inclusive, of each calendar year and prohibited at all other times, except for necessary maintenance and similar activities. Public usage of Lot A shall be limited to passive recreational uses that are compatible with a residential neighborhood.

Section 11.19 - Lot G Restrictions. The Owner of Lot G of Tract 13966-2 shall preserve it as bald eagle winter perch habitat. Uses and activities that do not harm the perch trees shall be permitted during the period April 1 through December 1, inclusive, of each year and prohibited at all other times except for necessary maintenance, if any, and similar activities.

Section 11.20 - Lots I and O Restrictions. The Owner of Lots J and O of Tract 13966-1 shall preserve them as flood control open space. No facilities shall be constructed in the channel, but periodic clearing by the City shall be permitted to ensure flood flows can be carried within the channel without damaging adjacent structures. Uses and activities that do not harm the riparian habitat in the channel shall be permitted.

Section 11.21 - Lot K Restrictions. The Owner of Lot K of Tract 13966-1 shall preserve it in its undisturbed condition for preservation of the Montane wet meadow plant habitat which exists there. In order to assure and enhance such preservation, the Owner shall have the obligation to install and maintain perimeter fencing as described in Section 7.2 of this Declaration.

Section 11.22 - Lot M Restrictions. The Owner of Lot M of Tract 13966-2 shall maintain such Lot as open space; provided, however, that such Owner may utilize such Lot for any and all general recreational purposes, activities, and facilities consistent with its maintenance as open space.

Section 11.23 - Lot N Restrictions. The Owners of Lot N of Tract 13966-1 shall not erect, construct, place or maintain any improvement, building, or structure or other thing on the Property, and shall maintain such Lot as open space. Such Owners shall be entitled to nonexclusive use, between or among themselves, and exclusive use, as to all other persons, for ingress or egress from Big Bear Lake and for general recreational purposes, including for the attachment of offshore gangways, docks and related facilities; provided, however, that all such use shall be limited to the period April 1 through December 1, inclusive of each year and prohibited at all other times, except for necessary maintenance and similar activities. Such Owners shall conduct no activity on such Lot which would jeopardize the survival of rare and endangered plant or animal interests proven to exist there, but may conduct any activities within the bounds of this Section with which such plant and animal interests are capable of coexisting. All gangways, docks, vehicles, and other equipment shall be moved or removed on or through Big Bear Lake and shall not be moved, removed, stored or otherwise transported over or kept upon any portion of Lot N.

ARTICLE XII RIGHTS OF ENJOYMENT

Section 12.1 - Ownership of Community and Exclusive Community Facilities. The Community Facilities shall be owned by the Association in fee simple and shall be held for the use, enjoyment and benefit of the Owners. The Exclusive Community Facilities shall be owned by the Association in fee simple and shall be held for the use, enjoyment, and benefit of only the Owners of Lots 9-22, inclusive, of Tract 13966-1. Every Residence shall have an equal right and non-exclusive easement of use and enjoyment in, on and to the Community Facilities for ingress, egress, and general recreational purposes, subject to all of the easements, covenants, conditions,

restrictions and other provisions contained in this Declaration, including, without limitation, the following provisions:

- (a) Lots E, and H and the facilities thereon shall be available for the use and enjoyment of all Owners for the period between April 1 and December 1, inclusive, of each year. Due to the presence of Bald Eagles and their use of wintering perch habitat, usage shall be prohibited outside this period except for necessary maintenance or similar activities.
- (b) Lots B, I, and C shall be available only to the Owners of Lots 9-22, inclusive, of Tract 13966-1, which Residences abut one or more of these lettered lots, for the purpose of ingress and egress to the lake and general recreational purposes during the period between April 1 and December 1, inclusive, of each year. Due to the presence of Bald Eagles and their use of wintering perch habitat, usage shall be prohibited outside this period except for emergency maintenance or similar activities. Lots B, I and C shall not be used for any activity that would threaten or otherwise harm the perch trees on Lot C or the endangered wetlands rare plant habitat values that may exist on Lots B and I. Regardless of the rules and regulations of the Big Bear Municipal Water District or other appropriate lake management authority, Lots B, I, and C shall not be used for the placement or attachment of boat docks or marina facilities for the benefit of any party, including any owner(s) of Lots 9-22, inclusive of Tract 13966-1. No vehicles or mechanical equipment shall be permitted upon Lots B, I, and C except as required for maintenance or emergency activities, including periodic clearing of Lot I by the City of Big Bear Lake to ensure flood flows.
- (c) Lot L and any facilities thereon shall be available for the use and enjoyment of all Owners for any use consistent with its designation as open space. A portion of Lot L shall be the designated location for centralized collection of domestic recyclable wastes should the City of Big Bear Lake institute such a program.
- (d) The Association shall have the right to limit the number of guests of Members and to limit the use of the Community Facilities by persons not in possession of a Residence, but owning a portion of the interest in a Residence required for Membership.
- (e) The Association shall have the right to establish reasonable rules and regulations pertaining to the use of the Community Facilities.
- (f) The Association shall have the right to suspend the right of a Member to use the Community Facilities or any portion thereof designated by the Board during any time in which any Assessment against his Residence remains unpaid and delinquent or for a period not to exceed thirty (30) days for any single infraction of the rules and regulations of the Association, provided that any suspension of such right to use such Community Facilities, except for failure to pay Assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the Bylaws. Notwithstanding the foregoing, the Association shall not have the right hereunder to suspend any Member's right to use any portion of the Covered Property necessary for such Member to gain access to his Residence.
- (g) The Association shall have the right to grant underground easements under the Community Facilities to public utilities or governmental entities or agencies, provided that such easement shall not unreasonably interfere with the right of any Owner to the use and enjoyment of his Residence and the Community Facilities. No such easement shall be effective unless an instrument signed by Members entitled to cast

two-thirds (2/3) of the voting power of the Association 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 two-thirds (2/3) of the voting power of the Members residing in the Development in which the easement will be granted shall be deemed conclusive proof thereof.

- (h) The Association shall have the right to keep, maintain, and replace but not enlarge the entry signage and related landscaping on Lot 6 of Tract 13966-1 and Lots M and 18 of Tract 13966-2.

Section 12.2 - Non-Severability of Easements. The non-exclusive easements described in Section 12.1 shall be appurtenant to and shall run with the Residences, and such rights, interests and Easements shall be owned, held and used only in conjunction with the ownership and use of the Residence and shall not be partitioned or segregated therefrom except as otherwise expressly permitted herein. Each conveyance or transfer of a Residence shall include the conveyance of all appropriate Community Facilities irrespective of whether the deed or other instrument evidencing such a conveyance specifically describes therein such rights, interests and easements as constituting part of the property so conveyed.

Section 12.3 - Delegation of Use. Any Member may delegate his right of enjoyment of the Community Facilities to the members of his family or his tenants who reside on his Residence, or to his guests, subject to rules and regulations adopted by the Board. Each Member shall be liable to the Association for any damage to the Community Facilities or to any of the equipment or improvements thereon which may be sustained by reason of the negligence or willful misconduct of said Member or his family, relatives, guests or invitees, both minor or adult.

Section 12.4 - Nonwaiver of Use. No Member may exempt himself from personal liability for Assessments duly levied by the Association, nor release the Residence owned by him from the liens, charges and other provision of this Declaration, the Articles, Bylaws and Association Rules, by waiver of the use and enjoyment of the Community Facilities, or the abandonment of his Residence.

ARTICLE XIII - ANNEXATION

Section 13.1 - Annexation With Consent. Additional Lots and Common Area may be annexed to the Covered Property with the written consent of not less than sixty-six and two-thirds percent (66-2/3%) of the total voting power of the Association residing in Association Members other than the Declarant unless the proposed annexation is in substantial conformance with a detailed plan submitted to the Department of Real Estate with the application for a public report for the first and second phases of the Covered Property as set forth below.

Section 13.2 - Annexation Without Consent. If, at any time on or before the third anniversary date of the issuance of the original public report for the immediately preceding phases of the Covered Property, the Declarant should develop additional lands within the areas depicted in Exhibit "A", attached hereto and by this reference made a part hereof, such additional lands may be annexed to the Covered Property without the consent of the Class A Members and be made subject to the Declaration and thereby become subject to the jurisdiction of the Association; provided, however, that the development of the additional lands described in this Article shall be in accordance with the general plan set forth in this Article. Detailed plans for the development of additional lands must be submitted to the California Department of Real Estate prior to such development of additional lands. If the California Department of Real Estate determines that such detailed plans are not in accordance with the general plan on file and such agency so advises the Association and the Declarant, the annexation of the additional lands must be in accordance with Section 13.1

immediately above. A supplementary Declaration of Covenants, Conditions and Restrictions as described hereinafter in Section 13.3 of this Article, covering the real property or portions thereof depicted in Exhibit 'A' hereto, shall be executed and recorded by the Owner of such property to be annexed.

Section 13.3 - Supplementary Declaration. The additions authorized under the foregoing section shall be made by filing of record a supplementary Declaration of Covenants, Conditions and Restrictions, or similar instrument, with respect to the additional property which shall extend the plan of this Declaration to such property. Such Supplementary Declaration contemplated above may contain such complementary additions or 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 property as are not inconsistent with the plan of this Declaration. In no event, however, shall any such supplementary Declaration, revoke, modify or add to the covenants established by this Declaration within the existing Covered Property, except as hereinafter otherwise provided. The closing of the first escrow within a particular phase or increment for which a Supplementary Declaration has been recorded, shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association and thereafter all of the Owners of Lots in said real property shall be Members of the Association in accordance with the terms and provisions of this Declaration and such supplementary Declaration. Upon the effective date of the annexation as provided in Section 13.4 of this Article, all Owners of Lots within a phase of the Covered Property for which assessments have commenced shall have an equal right to the use of all of the Common Areas within the phases of the Properties for which assessments have commenced. Nothing herein shall obligate Declarant to annex to the Covered Property all or any portion of the Lots depicted in Exhibit 'A' hereto, and any decision to effect such annexation shall be in the sole discretion of Declarant.

Section 13.4 - Effective Date of Annexation. Notwithstanding anything to the contrary as may be contained herein, any annexation pursuant to the provisions of this Article shall only be effective upon the close of the first escrow within each particular phase or increment which has been annexed pursuant to the provisions of this Declaration or upon the commencement of assessments pursuant to the provisions of this Declaration, whichever is first to occur.

Section 13.5 - Deannexation by Declarant. Declarant may delete all or any portion of any real property annexed to the Covered Property from coverage of this Declaration and the jurisdiction of the Association, so long as Declarant is the owner of all of such annexed real property, and provided that (a) a Notice of Deletion of Territory is recorded in the Office of the San Bernardino County Recorder in the same manner as the applicable Supplementary Declaration was recorded; (b) Declarant has not exercised any Association vote with respect to any portion of such annexed real property; (c) assessments have not yet commenced with respect to any portion of such annexed real property; (d) no escrow has closed for the sale of any Lot in any portion of such annexed real property to the public; and (e) the Association has not made any expenditures or incurred any obligations with respect to any portion of such annexed real property.

ARTICLE XIV - GENERAL PROVISIONS

Section 14.1 - Enforcement. The Association, any Owner, and/or the City of Big Bear Lake shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violations. The Association, any Owner and/or the City of Big Bear Lake shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles or Bylaws and any amendments thereto. With respect to architectural control, Assessment liens or any other liens or charges and Association

Rules, the Association shall have the exclusive right to the enforcement thereof. In addition to the enforcement rights provided in this Section, the City of Big Bear Lake shall additionally have the enforcement rights and other rights contained in an agreement to be executed among the City, the Declarant, and the Association, including that of approval of any proposed deannexation of lettered open space lots pursuant to Government Code Section 51093 to the extent applicable.

Section 14.2 - No Waiver. Failure by the Association or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles, Bylaws or Association Rules in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition, or restriction.

Section 14.3 - Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or Mortgagees under this Declaration are cumulative, and not one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

Section 14.4 - Severability. Invalidity of any one or a portion of these covenants, conditions or restrictions by judgments or court order shall in no way affect any other provisions.

Section 14.5 - Covenants to Run with the Land; Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Covered Property and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners and approved by the City of Big Bear Lake, has been recorded at least one (1) year prior to the end of any such period, agreeing to change said covenants, conditions and restrictions in whole or in part.

Section 14.6 - Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential community and for the maintenance of the Covered Property. The Article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 14.7 - Singular Includes Plural. Whenever the context of this Declaration requires the same, the singular shall include the plural and the plural the singular, and the masculine shall include the feminine and the neuter.

Section 14.8 - Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

Section 14.9 - Attorneys' Fees. In the event action is instituted to enforce any of the provisions in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit.

Section 14.10 - Notices. Any notice to be given to an Owner or a Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

- (a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Residence. Any notice so deposited in the mail within the County shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered on all such co-Owners.
- (b) Notice to a Mortgagee or its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished to the Association by such Mortgagee or such contractor for the purpose of notice or, if no such address is furnished, to any office of the Mortgagee in the County, or if no such office is located in the County, to any office of such Mortgagee.
- (c) The affidavit of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner, to any Mortgagee, or to all Members or all Mortgagees, to the address or addresses shown on the records of the Association, shall be deemed conclusive proof of such mailing, whether or not such notices are actually received.

Section 14.11 - Effect of Declaration. This Declaration is made for the purposes set forth in the recitals to this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

Section 14.12 - Personal Covenant. To the extent the acceptance of a conveyance of a Residence creates a personal covenant between the Owner of such Residence and Declarant or other Owners, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

Section 14.13 - Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the Architectural Committee, any other committees of the Association or any member of such Board or committee shall be liable to any Member 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, committees or persons reasonably believed to be the scope of their duties.

Section 14.14 - Enforcement of Bonded Obligations. In the event that the improvements to the Community Facilities have not been completed prior to the issuance of a Final Subdivision Public Report, and the Association is the obligee under a bond or other arrangement (hereinafter the "Bond") to secure performance of the commitment of Declarant to complete such improvements, the following provisions shall apply:

- (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 improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the

completion of any Community Facilities 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 such extension.

- (b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such questions as provided above, the Board shall call a special meeting of the Members for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the Bylaws dealing with meetings of the Members, but in any event 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 meeting signed by Members representing ten percent (10%) of the total voting power of the Association.
- (c) The only Members entitled to vote at such meeting of Members shall be the Owners other than Declarant. A vote at such meeting of a majority of the voting power of such 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 such decision by initiating and pursuing appropriate action in the name of the Association.

Section 14.15 - Leases. Any agreement for the leasing or rental of a Residence (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, and the Association Rules. Said lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease his Residence shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, the Bylaws and the Association Rules; provided, however, the obligation of the foregoing sentence shall not apply to Declarant in the event Declarant leases a Residence for a term of twenty (20) years or more and such lease, or memorandum thereof, is recorded.

Section 14.16 - Construction by Declarant. Nothing in this Declaration shall limit the right of Declarant to alter the Community Facilities, or to construct such additional improvements as Declarant deems advisable prior to the conveyance of the Community Facilities to the Association. However, nothing in this Declaration shall limit the right of Declarant to erect, construct and maintain on the Covered Property such structures and displays as may be reasonably necessary for the conduct of the business or completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a purchaser or a Residence from Declarant to establish on the covered Property additional licenses, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the property development and disposal of the Development. Declarant reserves the right to alter its construction plans and designs as it deems appropriate. The rights of Declarant hereunder may be assigned to any successor or successors to all or part of said entity's respective interest in the Covered Property, by an express assignment incorporated in a recorded deed or lease, as the case may be, transferring such interest to such successor. Declarant shall exercise its rights contained in this provision in such away as not to unreasonably interfere with the Members' rights to use and enjoy the Covered Property.

Section 14.17 - Amendments. Subject to the other provisions of this Declaration, this Declaration may be amended as follows:

- (a) Until such time as there is a Class A Membership pursuant to this Declaration, amendments or modifications shall be effective when executed by Declarant and

when recorded in the Official Records of the County. Thereafter, any amendments of this Declaration may be amended only by the affirmative vote or written consent of Members representing not less than two-thirds (2/3) of the voting power of each class of membership. From and after such time as the Class B voting rights terminate as provided for in Article II hereof, entitled "Membership", this Declaration may be amended by the affirmative vote or written consent of a majority of the voting power of the Association and at least two-thirds (2/3) of the voting power of Membership other than Declarant, except as may be otherwise provided by law.

- (b) An amendment or modification that requires the vote and written assent of the Members as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as hereinabove provided, and when recorded in the Official Records of the County.
- (c) Notwithstanding the foregoing, any provision of this Declaration which relates to the usage of the open space lots A, B, C, G, H, I, J, K, L, and M or the operation and maintenance of the lake aeration system shall not be amended without the written approval of the Community Development Director of the City of Big Bear Lake.

IN WITNESS WHEREOF, Declarant has caused their names to be affixed hereto this 31st day of July, 1992.

FOREST PROPERTIES, INC.
a California corporation

by _____

by _____

STATE OF CALIFORNIA
COUNTY OF San Bernardino } ss.

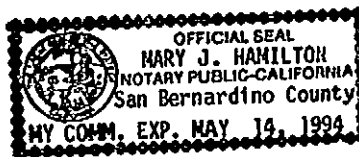
On July 31, 1992 before me, Mary J. Hamilton,

personally appeared Stephen D. Foulkes,

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____



(This area for official notarial seal)

TENTATIVE MAP
 TR. 13966
 EAGLE POINT ESTATE
 BEING A SUBDIVISION OF A PORTION OF
 16, 17, 20, & 21, T2N, R1E, S.B.M., A:
 RECORD OF SURVEY RECORDED IN BOOK
 13 & 14 OF RECORDS OF SURVEY SAN
 COUNTY RECORDS.

OWNER / SUBDIVIDER
 FOREST PROPERTIES INC.
 PO BOX 7104
 BIG BEAR LAKE, CALIF. 92315
 (714) 866-9270

ENG'N.
 HICKS
 37 E
 REDLA
 (714)

JAMES W.
 ROE 233

VICE PRESIDENT DATE

SCALE: 1"=100'
 CONTOUR INTERVAL =
 MAR. 21, 199

92-344188

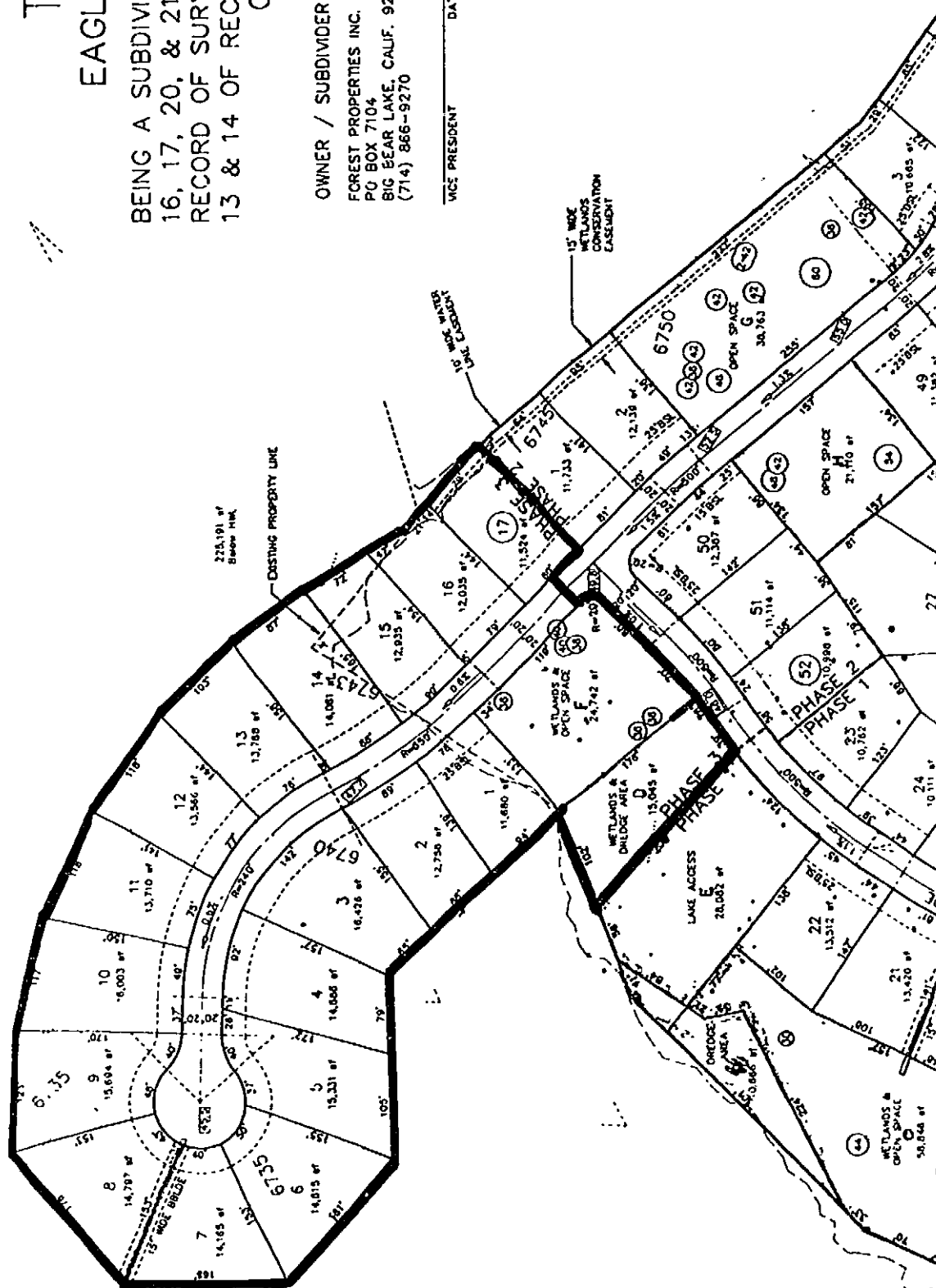


EXHIBIT "A"