

ARTICLE 6
INSURANCE

Section 6.1. Obligation to Insure: The Association shall obtain and maintain in effect insurance and fidelity bond coverage in the amounts and with endorsements deemed adequate by the Board which shall be not less than the coverages hereinafter required in this Section. All coverages must be consistent with Local Government and California insurance laws.

(a) Public Liability Insurance: The comprehensive general liability insurance policy shall insure the Association, the Declarant for as long as Declarant is an Owner, and the agents and employees of each and the Owners, and their respective family members, guests, employees, tenants or agents against any liability incident to the ownership or use of the Common Property or any other areas including any commercial spaces (even if such commercial spaces are leased to others) and public ways under the supervision of the Association. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000) for claims arising out of a single occurrence for personal injury, bodily injury, deaths of persons and property damage. Coverage under this policy shall include without limitation liability of the insureds for property damage, bodily injury and deaths of persons in connection with the operation, maintenance or use of the Common Property. If such policy does not include "severability of interest" in its terms, a specific endorsement will be required precluding the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

(b) Fire and Casualty Insurance: The master or blanket policy of fire and casualty insurance shall cover all of the insurable Improvements within the Property, including Residence Improvements and fixtures and building service equipment that are part of the Common Property as well as common personal property and supplies belonging to the Association. The term "insurable Improvements," as used in this Article, shall mean those Improvements which are capable of being insured and specifically do not include items that are usually excluded from insurance coverage.

The policy shall be in an amount equal to one hundred percent (100%) of the insurable value of all such insurable Improvements and shall provide for loss

or damage settlement on the current replacement cost, without deduction for depreciation or coinsurance, of all of the property covered by the policy.

Such insurance must afford protection against at least loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, and such other perils which are customarily covered and required by private institutional mortgage investors with respect to condominium projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement. The policy shall name as insured the Association, for the use and benefit of the Owners, designated by name or may be issued in the name of the Trustee for the use and benefit of the Owners. Loss payable clause shall be in favor of the Association or the Trustee as trustee for each Owner and each such Owner ' s Mortgagee (s), if any.

(c) Worker's Compensation Insurance: The Board shall purchase and maintain in force worker's compensation insurance, to the extent that the same shall be required by law, for all employees of the Association.

Section 6.2. Notice of Cancellation or Modification: All insurance policies maintained by the Association must provide that such policies may not be canceled, reduced or substantially modified without at least ten (10) days' prior written notice to the Association and to each First Mortgagee listed as a scheduled First Mortgagee in the policy. All fidelity bonds maintained by the Association must provide that such fidelity bonds may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association or the Trustee and each mortgage servicing contractor acting on behalf of any of the Federal Agencies.

Section 6.3. Waiver by Owners: 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 breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 6.4. 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 agents, 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 in the insurance by virtue of a conveyance of any Condominium; and

(g) any right to require any assignment of any Mortgage to the insurer.

Section 6.5. Annual Insurance Review: The Board shall at least annually determine whether the amounts and types of insurance it has obtained provide adequate coverage in light of increased construction costs, inflation, practice in the area in which the Property is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interest 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 6.6. Rights of Owners to Insure: Nothing contained in this Declaration shall preclude an Owner from insuring Improvements not insured by the Association pursuant to the subsection entitled "Fire and Casualty Insurance" of this Article. Should any Owner separately insure his Residence or any part thereof against loss by fire or other casualty, and should any loss intended to be covered by insurance carried by the Association occur and the proceeds payable thereunder be reduced by reason of insurance carried

by such Owner, such Owner shall assign the proceeds of such insurance carried by it to the extent of such reduction to the Trustee for application by the Board to the same purposes as the reduced proceeds are to be applied. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Association or the Trustee, the Board may levy a Special Assessment against such Owner and his Condominium for such amount. It is the responsibility of each Owner to insure his personal property against loss by fire or other casualty and to carry public liability insurance covering his individual liability for damage to persons or property occurring inside his individual Residence. All such policies as may be carried by the Owners shall contain waivers of subrogation of claims against the Association, the Board, other Owners, Declarant and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only; provided, however, such other policies shall not adversely affect or diminish any liability under any insurance obtained by the Association. Duplicate copies or certificates of such other policies shall be deposited with the Board.

Section 6.7. Requirements of Federal Agencies: Notwithstanding the foregoing provisions of this Article, the Association shall obtain and maintain in effect such fidelity bonds and insurance policies, coverages and endorsements established from time to time by any of the Federal Agencies which, as of the recordation of this Declaration, include without limitation those specifically itemized below, except to the extent that any such policies, coverages and endorsements are not available or have been waived in writing by the particular Federal Agency that had imposed the requirements.

(a) Hazard Insurance: Each hazard insurance policy must be written by an insurance carrier that meets the requirements of the Federal Agencies. Unless a higher maximum is required by California law, the maximum deductible amount shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. Funds for such deductible amounts must be included in the Association's reserves and must be so designated. The following endorsements are required:

(i) an Inflation Guard Endorsement, when it can be obtained;

(ii) Construction Code Endorsement, if there is a construction code provision that would require change to undamaged portions of the building(s) even

when only part of a building is destroyed by an insured hazard. Typical endorsements include Demolition Cost Endorsements, Contingent Liability from Operation of Building Laws Endorsement and Increased Cost of Construction Endorsement;

(iii) Steam Boiler and Machinery Coverage Endorsement, if the project has central heating or cooling. This coverage should provide for the insurer's minimum liability per accident to at least equal the lesser of Two Million Dollars (\$2,000,000) or the insurable value of the building(s) housing the boiler or machinery; and

(iv) Agreed Amount Endorsement.

The insurance policy should also provide that any Insurance Trust Agreement will be recognized, the right of subrogation against Owners will be waived, the insurance will not be prejudiced by any acts or omissions of Owners that are not under the control of the Association and the policy will be primary even if an Owner has other insurance that covers the same loss. These requirements are usually covered by a Special Condominium Endorsement. The Association must also obtain any additional coverage commonly required by private mortgage investors for developments similar in construction, location and use.

(b) Liability: The Association shall obtain such other coverage in kinds and amounts usually required by mortgage investors in other projects in the area including, where applicable and available, comprehensive automobile liability, bailee's liability, elevator collision liability, garage keeper's liability, host liquor liability, workers' compensation and employer's liability and contractual liability.

(c) Fidelity Bonds: The blanket fidelity bond shall cover losses resulting from dishonest or fraudulent acts on the part of anyone who handles or is responsible for funds held or administered by the Association, including directors, officers, trustees, employees or volunteers of the Association. Where the Association delegates some or all of the responsibility for the handling of funds to a management agent, fidelity bonds are required for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association whether or not such persons receive compensation for services. A management agent who handles funds for the Association should also be covered by its own fidelity bond which must provide the same coverage required by the Association and must submit evidence of such cov-

erage to the Association. The Association shall be named as an additional obligee in the management agent's bond. The fidelity bond should cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force but must be written in an amount of not less than a sum equal to three (3) months' aggregate Regular Assessments on all Condominiums, plus reserves. Fidelity bonds shall name the Association as obligee and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(d) Flood Insurance: If any part of the Improvements on the Common Property are located in a Special Flood Hazard Area (which is designated as A, AE, AH, AO, A1-30, A-99, V, VE, OR V1-30 on a Flood Insurance Rate Map), the Association shall obtain and maintain a policy of flood insurance to cover any Improvements. The policy should cover all buildings and any other common property. In the event the Condominium Project consists of high-rise or other vertical dwellings, the Association shall obtain a separate flood insurance policy for each building that houses Units. The amount of flood insurance should be at least equal to the lesser of one hundred percent (100%) of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program. For Condominium Projects that consist of high-rise buildings or other vertical buildings, the building coverage shall equal one hundred percent (100%) of the insurable value of the building including machinery and equipment that are part of the building. The contents coverage must include one hundred percent (100%) of the insurable value of all contents, including any machinery and equipment that are part of the building but which are owned in common by the Owners. If the required coverage exceeds the maximum coverage available under the National Flood Insurance Administration's programs, the coverage should then be in an amount equal to the maximum amount that is available under the National Flood Insurance Administration's programs. Unless a higher deductible amount is required by California law, the maximum deductible amount for policies covering the Common Property or policies covering each building in a high-rise or vertical Condominium project shall be the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the policy's face amount. Funds for such deductible amounts must be included in the Association's reserves and must be so designated. A

separate Association endorsement is required if not already a part of the policy.

(e) Mortgage Clause: All policies documenting insurance for hazard and flood insurance coverages obtained by the Association must have the "standard mortgage clause" or equivalent endorsement providing that coverage of a Mortgagee under the insurance policy will not be adversely affected or diminished by an act or neglect of the Mortgagor, which is commonly accepted by private institutional mortgage investors in the area in which the Property is located, unless such coverage is prohibited by applicable law. Mortgages owned by FNMA must name as Mortgagee either FNMA or the servicer for the Mortgages held by FNMA encumbering the Condominiums. When a servicer is named as the Mortgagee, its name should be followed by the phrase "its successors and assigns." If the Mortgage is owned in whole by FHLMC the name of the servicer of the Mortgage followed by the phrase "its successors and assigns, beneficiary" should be named as Mortgagee instead of FHLMC. The Mortgage clause must be endorsed to fully protect FHLMC's interests or the interest of FHLMC and the servicer where applicable. If FHLMC must be named as Mortgagee, the endorsement should show the servicer's address in lieu of FHLMC's address. A mortgage clause in favor of Mortgagees holding Mortgages on Condominiums is not required on a policy insuring the Association Property.

ARTICLE 7 ENFORCEMENT OF BONDED OBLIGATIONS

In the event that the Improvements to the Nonexclusive Use Common Area have not been completed prior to the issuance of a Final Subdivision Public Report covering the Property, and the Association is obligee under a bond or other arrangement (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 Common Property Improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed