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NAPA VALLEY GATEWAY BUSINESS PARK

DECLARATION

OF

RESTRICTIONS

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**DECLARATION
OF
RESTRICTIONS**

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NAPA VALLEY GATEWAY BUSINESS PARK

DECLARATION OF RESTRICTIONS

This Declaration of Covenants, Conditions and Restrictions is executed by NAPA VALLEY GATEWAY LIMITED, a California limited partnership (the "Declarant") with reference to the following facts:

- A. Declarant is constructing a business park development in Napa County, California, in multiple phases. Phase One consists of that certain real property known as lots 1 through 16 described in Exhibit A attached hereto. Declarant desires to establish an association to manage and maintain a vineyard that will be installed around the periphery of the development and to maintain certain improvements and landscaping that benefit the entire park development, including the landscaping within the public rights-of-way and within the Sheehy Creek area.
- B. Declarant also desires to impose certain restrictions on the lots in the business park that will benefit and bind each lot as covenants running with the land and equitable servitudes and to describe certain easements that will be appurtenant to the lots and/or in favor of the association.
- C. Phase One will benefit and be bound by the provisions of this Declaration on the recordation of the Declaration and the conveyance by Declarant of the first lot in Phase One. Each subsequent phase will benefit and be bound by the provisions of the Declaration on the recordation of a declaration of annexation annexing the subsequent phase into the development.

DECLARANT DECLARES AS FOLLOWS:

ARTICLE 1 - Definitions

Unless the context indicates otherwise, the following terms shall have the following definitions:

- 1.1 Articles. The Articles of Incorporation of the Association and any amendments thereto.
- 1.2 Association. Napa Valley Gateway Business Park Association, a California nonprofit mutual benefit corporation.
- 1.3 Association Property. Any real property owned by the Association and all Improvements thereon.
- 1.4 Board. The Board of Directors of the Association.
- 1.5 Bylaws. The Bylaws of the Association and any amendments thereto.
- 1.6 Declarant. Napa Valley Gateway Limited, a California limited partnership, and any successor or assign that assumes in writing the rights and duties of the "Declarant" hereunder.
- 1.7 Declaration. This Declaration of Restrictions and any amendments or corrections thereto.
- 1.8 Development. The Property that is subject to the restrictions contained in the Declaration.
- 1.9 Governing Documents. This Declaration, the Articles of Incorporation, and the Bylaws of the Association.
- 1.10 Improvements. Any fixtures affixed to any Lot in the Development within the meaning of Civil Code Section 660.
- 1.11 Landscape and Vineyard Area. The area shown on the Map as the "Landscape Easement" and on Exhibit B attached hereto and incorporated herein, which may be maintained by the Association as described in Section 4.3, and any additional landscape and vineyard area that is included in the Association's maintenance responsibilities as a part of the annexation of any subsequent phases into the Development as described in Article 13.
- 1.12 Lots. Lots 1 - 8 as shown on the Unit Two Phase One Map (as adjusted by any subsequent lot-line adjustments) and lots 9 - 16 (as shown on the Unit Two Phase Two Map) and all Improvements thereon, and any additional lots and Improvements thereon that may be subsequently annexed into the park as described in Article 13.
- 1.13 Map. The subdivision map entitled "Final Map of Napa Valley Gateway Unit Two Phase One" filed for record in Napa County, California, on February 28, 1991, in Book 18 of Maps at pages 14 - 17, as adjusted by the lot-line adjustments described in Exhibit A attached hereto, the subdivision map entitled "Final Map of Napa Valley Gateway Unit Two Phase Two" filed for record in Napa County, California, on September 27, 1991, in Book 18 of Maps at pages 78 through 81 (the "Unit Two Phase

Two Map*), and any additional recorded maps that describe any lots that are subsequently annexed into the Development as described in Article 13.

1.14 Member. A member of the Association.

1.15 Mortgage. A recorded mortgage or deed of trust against a Lot in the Development.

1.16 Mortgagee. A mortgagee under a Mortgage or a beneficiary under a deed of trust recorded against a Lot in the Development.

1.17 Owner. The record title owner or owners of a Lot in the Development. For purposes herein, any Person who purchases a Lot under a contract of sale shall not be an Owner unless and until that Person provides the Association with a recorded copy of the contract of sale or other recorded document signed by that Person and the record title Owner designating that Person as the Owner for purposes hereunder by reason of an executed contract of sale.

1.18 Person. Any natural person, partnership, corporation or other legal entity.

1.19 Property. The Lots shown on the Map, together with all Improvements thereon, and any additional land, together with all Improvements thereon, that are subsequently annexed into the Development as described in Article 13.

1.20 Public Right-of-Way Improvements. The landscaping located within the public rights-of-way within the Development, including the landscaping abutting the curbs and the landscaping within the median strips, the irrigation system that services the landscaping, the sidewalks, and street lighting. The roadbed, pavement, curbs, gutters, sewer and storm drainage systems, and public utility equipment (other than the street lighting and landscaping irrigation) shall not be considered a part of the Public Right-of-Way Improvements.

1.21 Sheehy Creek. The portion of Sheehy Creek as shown on the site plan attached as Exhibit B that may be maintained by the Association as described in Section 4.3.

1.22 Sheehy Creek Improvements. The landscaping Improvements and other facilities installed along Sheehy Creek, including any trails, bike or jogging paths, landscaping and irrigation and/or lighting systems.

ARTICLE 2 - Property Rights and Easements

2.1 Type of Development. The Development is a business park that will be developed in multiple phases. The first phase will consist of 16 Lots. It is anticipated that the entire Development may take approximately 10 to 15 years to complete from the date of recordation of this Declaration. The ultimate size of the completed Development cannot be determined as of the time this Declaration is recorded. The property that may be annexed into the Development as a part of a future phase is described in Exhibit C. Declarant reserves the right, at its absolute discretion to annex additional phases into the Development as described in Section 13.1. Declarant does not represent, warrant or guarantee that all or any portion of the property described in Exhibit C will be annexed into the Development. Furthermore, Declarant reserves the right, in its sole discretion, to revise the anticipated phasing schedule, including revisions to the number of phases, order of phases, number of Lots in a phase, and the areas to be owned and/or maintained by the Association in each phase.

2.2 Property Rights. Each Owner shall own a fee interest in a Lot and shall be a Member of the Association.

2.3 The Landscape and Vineyard Area Easement. Each Lot as the servient tenement is subject to an easement in favor of each other Lot as the dominant tenement for the purpose of providing access to and exclusive use of the Landscape and Vineyard Area by the agents of the Association to install, maintain, manage, repair, replace, relocate, harvest and cultivate the grape vines, landscaping, irrigation system, sidewalks, and other related Improvements located in, on or over the Landscape and Vineyard Area and to accommodate any over-spray from the irrigation of the Landscape and Vineyard Area or from the distribution of any fertilizer within the Landscape and Vineyard Area. The easement shall be in perpetuity unless otherwise terminated by operation of law.

2.4 Other Easements. Each Lot is subject to such other easement(s), rights-of-way, or dedications as may be granted or reserved on the Map, any deed to the Lot or any other appropriate public record, including, but not limited to, an ingress and egress easement over portions of the Sheehy Creek as shown on the Map or other recorded document.

2.5 Appurtenant Easements. Each easement described herein is an easement that is appurtenant to the dominant tenement and any transfer of the dominant tenement automatically transfers the easement appurtenant thereto regardless of whether the instrument of transfer describes the easement.

2.6 Reservation of Rights. Notwithstanding any property rights, including easements, granted or reserved herein, each Lot is subject to each of the following rights:

(i) The right of Declarant or its agents to enter on any portion of the Development to construct the Improvements that Declarant intends to construct on the Property, to advertise and sell Lots in the Development, to make repairs and to correct any construction problems thereon, provided that such entry does not unreasonably interfere with the use or occupancy of any occupied Lot unless authorized by its Owner which authorization shall not be unreasonably withheld;

(ii) The right of the Association's agents to enter any Lot to cure any violation or breach of this Declaration or the Bylaws or the Rules provided that at least 30 days prior written notice of such violation or breach (except in the cases of emergency) has been given to the occupant and provided that, within the 30-day period such Owner has not acted to cure such violation or breach; and

(iii) The right of the Association's agents to enter any Lot to perform its obligations and duties under this Declaration, including the obligations and the duties with respect to maintenance or repair of any Improvement or landscaping located in the Landscape and Vineyard Area.

2.7 Authority to Grant Easements. Declarant or the Association shall have the power to grant and convey in the name of the Association and/or all of the Owners as their attorney-in-fact to any Owner or other party easements and rights-of-way in, on, over or under the Landscape and Vineyard Area or Sheehy Creek for the purpose of constructing, erecting, operating, maintaining or replacing lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, paths, bike trails, landscaping, lighting systems, and any similar public or quasi-public Improvements or facilities; and each purchaser in accepting a deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Association and Declarant (as long as Declarant owns one or more Lots) as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. In no event shall any such easement be granted if it would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of his or her Lot.

2.8 Association Property. Declarant reserves the right, at its sole discretion and without the consent of any other Owner, to transfer title to certain real property to the Association. On the date of the transfer, the property shall become Association Property as defined in Section 1.3. It is anticipated that if Declarant elects to transfer real property to the Association, it will consist of property located within Sheehy Creek, the airport-clear zone, or other areas that contain open space, landscape areas, pathways, or other similar Improvements. Declarant's right to convey real property to the Association shall terminate on the last to occur of following: (i) Declarant no longer owns any Lots in the Development; (ii) Declarant no longer has a right to annex any additional property into the Development as described in Section 13.1; or (iii) the 15th anniversary of the date this Declaration is recorded.

With respect to all or any portion of the Association Property, the Board, with the consent of Declarant, shall have the right and authority to convey, encumber, dedicate, lease, and/or grant easements, licenses or other rights to use or occupy all or any portion of the Association Property. The obligation to obtain the consent of the Declarant shall terminate on the date Declarant's right to convey real property to the Association terminates.

ARTICLE 3 - Restrictions

3.1 Use. Each Lot shall be used only in strict compliance with all local zoning laws and ordinances, including any airport land use plan. Notwithstanding anything herein to the contrary, the uses set forth in Exhibit D are prohibited regardless of whether such use may be in compliance with local zoning laws and ordinances.

3.2 Nuisance. No activity shall be conducted on any Lot that constitutes a nuisance or unreasonably interferes with the use or quiet enjoyment of the occupants of any other Lot.

By way of example only, the following activities may constitute nuisances:

(i) Use which emits dusts, sweepings, dirt or cinders, or discharges liquids, solid waste or other matter in any water reclamation area or other waterway in a manner that may adversely affect the health, safety, comfort or intended use of any Property within the Development;

(ii) Escape or discharge of any fumes, odors, gases, vapors, steam, acids or other substances which are detrimental to the health, safety or welfare of any Person, interfere with the comfort of Persons within the Development, or are harmful to any Property or vegetation within the Development;

(iii) The radiation or discharge of intense glare or heat, atomic, electromagnetic, microwave, ultrasonic, laser or other radiation; or

(iv) Any vibration, noise, sound or disturbance which interferes with the quiet use and enjoyment of any other Property within the Development because of its intermittence, beep, frequency, strength, shrillness or volume.

3.3 Trash Removal. Each Lot Owner shall be responsible for the removal of all the trash and refuse from that Owner's Lot. Each Owner shall engage a trash removal service for the periodic removal from the Owner's Lot unless the Board approves some other arrangement in writing. All trash or refuse shall be kept only in sanitary containers, which containers shall be kept in the areas approved by the Architectural Review Committee.

3.4 Subdivision. Except for any Lots owned or under the control of Declarant or any entity in which Declarant holds a majority interest in capital and profits, no Lot shall be subdivided into two or more Lots without the prior written consent of the Declarant or the Association.

3.5 Commonly Metered Utilities. The Board may adopt Rules regulating the use of any commonly metered utilities that are paid by the Association.

3.6 Construction, Alterations, Modifications or Additions. There shall be no construction, alteration, modification or addition made to any Lot or any Improvement thereon except in compliance with the provisions of Article 7.

3.7 Compliance with Law. No Owner shall permit anything to be done or kept on his or her Lot that violates any law, ordinance, statute, rule or regulation of any local, county, State or federal agency. Nothing shall be done or kept in any Lot that might increase the rate of or cause the cancellation of any insurance maintained by the Association.

3.8 Reimbursement and Indemnification. If any Owner, occupant, tenant, invitee, or agent damages any Property maintained by the Association, the Owner, on demand from the Association, immediately shall reimburse the Association for any costs, including attorneys' fees, resulting from such damage. Furthermore, the Owner shall defend, indemnify and hold the Association harmless from any claim, demand, liability or cost, including attorneys' fees arising from such damage.

3.9 Drilling. No drilling, mining, or quarrying operation shall be conducted on any Lot at any time.

3.10 Signs. No signs shall be displayed from any Lot except pursuant to guidelines established by the Architectural Review Committee or as otherwise expressly authorized by the Committee in writing.

3.11 Animals. No animals of any kind shall be permitted on any Lot except guide dogs for the visually-impaired Person.

ARTICLE 4 - Maintenance and Landscaping Obligations

4.1 Owner's Maintenance Obligations. Except for that portion of any Lot maintained by the Association, each Owner shall maintain his or her Lot and all Improvements and landscaping thereon in good condition and repair at all times.

If any Owner fails to maintain his or her Lot as required herein, the Association, after notice and hearing as described in the Bylaws, may, but is not obligated to, enter the Lot and perform the necessary maintenance and repair. The Association may levy a reimbursement assessment against the Lot in the manner described in Section 6.4.

4.2 Owner's Landscaping Obligations. Except for such landscaping as may be maintained by the Association as described in Section 4.3, each Owner, at his or her cost, shall maintain the landscaping on any Owner's Lot in a healthy and weed-free condition. The Owner shall immediately remove and replace any dying or dead vegetation on the Owner's Lot. Maintenance shall include regular fertilization, irrigation, pruning and other customary prudent landscaping practices. If the Owner fails to properly maintain the landscaping on the Owner's Lot, the Association may enter the Lot and

perform the maintenance under the procedures described in Section 4.1 above and shall have the same rights as described in Section 4.1 above.

4.3 Association's Management, Maintenance, and Landscaping Responsibilities. The Association shall manage and maintain the Landscape and Vineyard Area, the Sheehy Creek Improvements, the Public Right-of-Way Improvements, and any Association Property in good condition and repair at all times. The Association shall retain a Person or Persons with experience in the management and maintenance of vineyards to manage and maintain the vineyards within the Landscape and Vineyard Area. No management contract shall be in excess of one year unless the Board specifically authorizes a longer term and in no event longer than three years, provided that the vineyard management and maintenance contract may exceed three years. The contract shall contain such terms and conditions as the Board in its reasonable business judgment deems appropriate. The Board shall be responsible for supervising the performance of the manager under the management contract. Notwithstanding anything herein to the contrary, the Association shall not enter into any contract with any Person or amend, modify or rescind any existing contract with any Person without the prior written consent of Declarant, which consent shall be required until the last to occur of the following:

- (i) Declarant no longer owns any Lots in the Development;
- (ii) Declarant no longer has the right to annex any additional Property into the Development as described in Section 13.1; or
- (iii) The 15th anniversary of the date this Declaration is recorded.

The Association shall assume its management and maintenance responsibilities on the date it is notified by Declarant in writing to assume these responsibilities. Pending notification, Declarant shall perform the management and maintenance responsibilities.

It is anticipated that this Development will take a number of years to be completed. As of the date this Declaration is recorded, Declarant is unable to determine the exact extent of the Association's management and maintenance responsibilities when the entire Development is completed. For example, it is anticipated that as Lots are sold and landscaping installed, adjustments may be made within the Landscape and Vineyard Area so that the Lot Owner and not the Association maintains all or a portion of the landscaping and Improvements within this Area. In addition to the areas described in this Section 4.3, there may be other areas, Improvements and facilities for which it would be appropriate for the Association to manage and maintain. For example, pathways or other access points to Sheehy Creek may be installed which may be appropriate for the Association to maintain. The addition of any management and maintenance responsibilities will increase the costs of operating the Association and therefore will necessarily increase assessments. In addition, Declarant may convey title to certain of these areas to the Association as described in Section 2.8.

Declarant reserves the right, at its sole discretion without the consent of any other Lot Owners, to amend the Declaration from time to time to increase, modify, alter, supplement or otherwise revise the Association's management and maintenance responsibilities. The amendment need only be executed by Declarant and shall be effective and binding on all the Lots as of the date it is recorded in the records of Napa County, California. Declarant's right to amend the Declaration as described herein shall terminate on the last to occur of the following: (i) Declarant no longer owns any Lots in the Development; (ii) Declarant no longer has a right to annex any additional property into the Development as described in Section 13.1; or (iii) the 15th anniversary of the date this Declaration is recorded.

ARTICLE 5 - The Association

5.1 Formation of the Association. The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California. The Association shall commence operations no later than the date that assessments commence. Pending the commencement of the Association's operations, Declarant shall perform the duties and shall have the rights of the Association as described herein.

5.2 Governing Body. The governing body of the Association shall be the Board. It shall be the responsibility of the Board to ensure that the Association exercises its rights and performs its duties as described within the Declaration, the Articles, the Bylaws and any amendments thereto.

5.3 Membership. Each Owner of a title interest in a Lot automatically shall be a Member of the Association. If there is more than one title Owner of a Lot, each Owner shall be a Member. The holder of a security interest in a Lot shall not be a Member of the Association except and until that holder obtains both the legal and equitable interest in the Lot. If any Owner executes an installment contract of sale for the sale of that Owner's Lot, the purchaser shall become the Member upon satisfaction of the requirements described in Section 1.17 and the Owner no longer shall be a Member. If the purchaser's rights are terminated under the contract without transfer of title to the purchaser, the Board, upon receipt of satisfactory evidence of the termination of the purchaser's rights, shall reinstate the Owner as the Member and the purchaser shall no longer be a Member.

Membership shall be appurtenant to the Lot and may not be separated therefrom. Any transfer of an Owner's interest in a Lot (other than a security interest), by operation of law or otherwise, automatically transfers the membership to the Owner's successor in interest. No Owner may resign or revoke his or her membership for any reason.

5.4 Voting Rights. Each Lot shall be entitled to exercise the number of votes allocated to that Lot as described in Exhibit E. The number of votes is based on the square footage of the Lots. One vote is allocated for each 1,000 square feet. There are no fractional votes. Lots with an excess of 500 feet or more are rounded up to one additional vote. The total number of votes shall increase and each Lot's percentage of total votes shall decrease if additional Lots are annexed into the Development as described in Article 13.

Voting rights shall vest at the time that assessments are levied against the Owner's Lot. Except as otherwise provided in this Declaration, the Articles or the Bylaws, all matters requiring the approval of the Owners shall be approved if: (i) approved at a duly called regular or special meeting at which a quorum was present, either in Person or by proxy, by Owners holding the majority of the total voting power of all Owners present; (ii) approved by written ballot pursuant to the requirements of Corporations Code Section 7513; or (iii) approved by unanimous written consent of all the Owners.

5.5 Joint Ownership Votes. The votes attributed to each Lot may not be cast on a fractional basis. If the Lot has more than one Owner and the Owners are unable to agree as to how the votes shall be cast, the votes shall be forfeited on the matter in question. Any votes cast by an Owner for any Lot are conclusively presumed to be the votes cast by all the Owners of that Lot. If more votes are cast for a Lot than are allocated to that Lot, all votes cast on behalf of that Lot for that matter shall not be counted and shall be conclusively presumed to be forfeited.

5.6 Powers of the Association. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the general nonprofit mutual benefit corporation laws of California, subject only to such limitations on the exercise of these powers as are set forth in the Articles, Bylaws and this Declaration. The Association shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this Declaration, the

Articles and the Bylaws and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including without limitation, each of the following:

(i) The Association shall establish, fix and levy assessments against the Owners and collect and enforce payment of such exceptions in accordance with the provisions of Article 6 of this Declaration.

(ii) The Association may adopt, amend and repeal Rules as it considers appropriate. The Rules shall regulate the use and enjoyment of the Landscape and Vineyard Area, Sheehy Creek, and such other matters as are authorized herein. A copy of the Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. If any provision of this Declaration, the Articles or the Bylaws is inconsistent with or materially alters any Rules, the Declaration, the Articles or the Bylaws shall control to the extent of any such inconsistency.

Any Rules adopted by the Association shall apply to all Owners or occupants in a uniform and nondiscriminatory manner. The Association may adopt a Rule as the result of an act or omission of any Owner or occupant or their family members or guests or a Rule that does not directly affect all Owners or occupants in the same manner, as long as the Rule applies to all Owners or occupants.

(iii) In addition to any other enforcement rights described in this Declaration and the Bylaws or as may be authorized by law subject to any restrictions on the Association's enforcement rights, including any due process requirements imposed by this Declaration, the Bylaws or by law, the Association may take any of the following actions against any Person or entity whose act or failure to act violates or threatens to violate any provisions of this Declaration, the Bylaws or Rules: (a) impose monetary penalties, including late charges and interest, (b) suspend voting rights in the Association, and (c) commence any legal or equitable action for damages, injunctive relief or both. The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Association. Any legal action may be brought in the name of the Association on its own behalf and on behalf of any Owner who consents, and the prevailing party in such action shall be entitled to recover costs and reasonable attorneys' fees. The Association, in its sole discretion, may resolve or settle any dispute, including any legal action under such terms and conditions as it considers appropriate.

Under no circumstances may the Association cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's Lot on account of the failure of the Owner to comply with the provisions of the Declaration, Articles, Bylaws or Rules, except by judgment of a court or decision of an arbitrator resulting from the foreclosure or sale under power of sale for failure of the Owner to pay assessments duly levied by the Association.

(iv) The Association may delegate any of its powers and duties to its employees, committees or agents, including a professional management agent.

5.7 Duties of the Association. In addition to the duties described in the Articles or Bylaws, or elsewhere in this Declaration, the Association shall have the duty to perform the management and maintenance described in Section 4.3 (including, but not limited to, the maintenance of the Landscape and Vineyard Area, Sheehy Creek Improvements, Public Right-of-Way Improvements and any Association Property conveyed to the Association as described in Section 2.8), prepare and distribute financial statements, reports and copies of Governing Documents as described in Section 5.10, levy and collect assessments as described in Article 6, and procure and maintain the insurance as described in Article 8. The Association shall perform such other acts as may be reasonably necessary to exercise its powers to perform its duties under any of the provisions of this Declaration, the Articles, Bylaws, Rules or Board resolutions.

5.8 Taxes and Assessments. The Association shall pay all real and personal property taxes and assessments and all other taxes levied against the Association, the Association Property, or any personal property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

5.9 Utility Service to the Landscape and Vineyard Area. The Association may acquire, provide and pay for water, electrical, and other necessary utility services for the Landscape and Vineyard Area, Sheehy Creek, public right-of-way, Association Property, and other areas in which the Association has management and/or maintenance responsibility.

5.10 Reporting Requirements. The Association shall prepare and distribute such financial statements and reports as may be required by the Board and as may be required by law.

ARTICLE 6 - Assessments

6.1 Obligations to Pay Assessments. The Owner of each Lot is obligated to pay any assessments levied against that Owner's Lot on or before the due date of the assessment. If there is more than one Owner of the Lot, the obligation is joint and several. Each Owner, on acceptance of title to a Lot, automatically personally assumes the obligation to pay any assessments against the Owner's Lot and agrees to allow the Association to enforce any assessment lien established hereunder by nonjudicial proceedings under the power of sale or by any other means authorized by law. The Owner shall be liable for the full assessment levied against that Owner's Lot regardless of the Owner's possession or use of the Lot, or any services rendered by the Association. The Owner has no right or power to commit or omit any act in an attempt to eliminate or reduce the assessments against that Owner's Lot. An assessment shall be both a personal obligation of the Owners of the Lot against which the assessment is levied and, on the recordation of a notice of delinquent assessment, a lien against the Lot. Any Owner that transfers a Lot shall remain personally liable for any unpaid assessments that accrued on or before the date of the transfer. No Owner shall be liable for any defaults of the Owner's predecessor in interest in the payment of any assessment that have accrued prior to the Owner taking title to the Property unless that Owner expressly assumes the obligation to cure the delinquent assessments. Notwithstanding the foregoing, any Owner that takes title to a Lot on which a lien for a delinquent assessment has been established will take title subject to the lien and the Association's enforcement remedies as a result thereof, unless the Owner takes title under a foreclosure or trustee sale resulting from a foreclosure or exercise of a power of sale under a Mortgage, deed of trust, or other lien recorded before the recordation of the notice of delinquent assessment.

6.2 Regular Assessment. Not more than 90 days nor less than 60 days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the annual regular assessment for the forthcoming fiscal year. At such meeting the Board shall review a preliminary pro forma operating budget, any written comments received from Members and Mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate and subject to such Member approval as may be required by Section 6.5, the Board will establish an annual regular assessment for the forthcoming fiscal year. Each annual regular assessment shall include a portion for reserves in such amount as the Board in its discretion considers appropriate to meet the cost of the future repair, replacement or additions to the major Improvements and fixtures that the Association is obligated to maintain and repair. Reserve funds shall be deposited in a separate account and the signatures of at least two Persons who shall either be Members of the Board or one officer who is not a Member of the

Board and a Member of the Board shall be required to withdraw monies from the reserve account. Reserve funds may not be expended for any purpose other than repairing, replacing or adding to the major Improvements or fixtures that the Association is obligated to maintain without the consent of Owners holding a majority of the voting power obtained either at a duly held meeting or by written ballot.

If the Board for any reason fails to take the appropriate steps to establish the annual regular assessment for the next fiscal year, the annual regular assessment for the preceding fiscal year shall continue in effect subject to the Board's right at any time during the next fiscal year to adjust the assessment pursuant to the procedures described herein.

6.3 Special Assessments. Subject to the restrictions described in Section 6.5, the Board may levy a special assessment if the Board in its discretion determines that the Association's available funds are or will become inadequate to meet the estimated expense of the Association, including expenses resulting from inadequate reserves, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital Improvements, inadequate insurance proceeds or otherwise. The Board may levy the entire special assessment immediately or levy it in installments over a period the Board considers appropriate.

6.4 Reimbursement Assessment. The Board shall have the authority to levy reimbursement assessments against one or more Lot Owners to reimburse the Association for any costs incurred by the Association as the result of any act or omission of any Owner or occupant of any Lot or their family members, guests or agents. In addition to reimbursing the Association for costs necessary to repair the Landscape and Vineyard Area or other Property that is maintained by the Association, the Association may seek reimbursement for any costs incurred by the Association, including attorneys' fees, to bring the Owner or occupant or the Owner's Lot into compliance with this Declaration, the Articles, or Bylaws. A reimbursement assessment may not be levied against any Lot until notice and hearing have been provided the Owner as described in the Bylaws.

6.5 Assessment Increase Restriction. Notwithstanding any other provision in this Declaration to the contrary, the Board may not: (i) impose an annual regular assessment for any fiscal year more than 20% above the annual regular assessment for the Association's preceding fiscal year; or (ii) impose special assessments which in the aggregate exceed 5% of the budgeted gross expenses of the Association for that fiscal year without the approval of a majority of the votes at a meeting of the Members of the Association for which a quorum is present, and without the consent of Declarant as long as Declarant owns any Lots in the Development or has any rights to annex any additional property into the Development as described in Section 13.1.

6.6 Commencement of Annual Regular Assessments. Annual regular assessments shall commence for all Lots in Phase One on such date as shall be selected by Declarant and no later than six months after the date the Association assumes its maintenance responsibilities as described in Section 4.3. Assessments shall commence against Lots in any subsequent phase on the first day of the month after the phase has been annexed into the Development and Declarant has sold a Lot in that phase or on the date assessments commence against Lots in Phase One, whichever occurs later.

6.7 Due Dates of Assessments. Unless otherwise directed by the Board, the annual regular assessment shall be collected in monthly installments and shall be due and payable on the first day of each month. As described in Section 6.3, special assessments shall be due on such date or dates as selected by the Board. Reimbursement assessments shall be due and payable ten days after the Owner receives the notice of the reimbursement assessment. The notice shall be deemed received on the date described in Section 12.15.

Any assessment not paid within 15 days after the due date shall be delinquent, shall bear interest at the rate of 12% per annum from 30 days after the due date until paid, and shall incur a late

penalty in an amount to be set by Board from time to time not to exceed the maximum amount permitted by law.

6.8 Allocation of Assessments. Regular and special assessments levied by the Board shall be allocated among the Lots in accordance with the allocation set forth in Exhibit E. The allocation is based on the proportion that the total square footage of each Lot bears to the total square footage of all the Lots in the Development at the time the assessment is due and payable. On the annexation of any subsequent phases as described in Article 13 and commencement of assessments against the Lots in that phase as described in Section 6.6, the assessment allocation shall be appropriately adjusted to take into account the additional Lots. The adjustment shall be made based on the square footage proportion and shall be effective on the date assessments commence against the annexed phase as described in Section 6.6.

6.9 Enforcement of Delinquent Assessments. The Association may elect to pursue one or both of the following remedies in the event of a delinquent assessment:

(i) Personal Obligation. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the assessment, and in such action, shall be entitled to recover the delinquent assessment or assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in Section 6.9(ii).

(ii) Assessment Lien. The Association may impose a lien against the Owner's Lot for the amount of the delinquent assessment or assessments, together with accompanying late charges, interest, costs and reasonable attorneys' fees, by recording a notice of delinquent assessment in the records of the county in which the Development is located. The notice shall describe the amount of the delinquent assessment or assessments, the related charges authorized by this Declaration, a description of the Lot, the name of the Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or an employee or agent of the Association authorized to do so by the Board.

Unless the Board considers the immediate recording of the notice to be in the best interests of the Association, the notice shall not be recorded until 15 calendar days after the Owner has received a written notice of default and a demand for payment from the Association. The notice shall be deemed received on the date described in Section 12.15. If the delinquent assessment or installment and related charges are paid or otherwise satisfied, the Association shall record a notice of satisfaction and release of lien.

The Board may enforce any assessment lien established hereunder by filing an action for judicial foreclosure, or, if the notice of delinquent assessment contained the name and address of the trustee authorized by the Association to enforce the lien by nonjudicial foreclosure, by recording a notice of default in the form described in Civil Code Section 2924c(b)(1) to commence a nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted in accordance with the requirements of Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g and 2924h that apply to nonjudicial foreclosure of Mortgages or deeds of trust. The sale shall be conducted by the trustee named in the notice of delinquent assessment or by a trustee substituted in accordance with the provisions of Civil Code Section 2934(a). The Association may bid on the Lot at the sale and may hold, lease, mortgage and convey the acquired Lot. If the default is cured before the sale, or before completing a judicial foreclosure, including payment of all costs and expenses incurred by the Association, the Association shall record a notice of satisfaction and release of lien, and on receipt of a written request by the Owner, a notice of rescission of the Declaration of Default and Demand for Sale. In addition to the remedies described herein, the Board, pending the payment in full of all delinquent assessments and related charges, may suspend the voting rights of the Owner.

6.10 Estoppel Certificate. Within ten days of the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (i) whether to the knowledge of the Association, the Owner or occupant of the Owner's Lot is in violation of any of the provisions in this Declaration, the Articles, Bylaws or Rules; (ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year the request is received; and (iii) the amount of any assessments levied against the Owner's Lot that are unpaid as of the date of the statement, including any late charges, interest or costs of collection and as of the date of the statement are or may be made a lien against the Owner's Lot as provided by this Declaration.

ARTICLE 7 - Architectural Review

7.1 Architectural Review Committee. An Architectural Review Committee (the "Committee") may be established by the Declarant. The Committee shall consist of three members. Declarant may appoint all of the original members of the Committee and all replacements until the 15th anniversary date of the recording of this Declaration in the records of Napa County, California. Appointees need not be Members of the Association. Thereafter the Board shall have the power to appoint all of the members of the Committee. The term of the members shall be as designated by the Declarant or by the Board. If a member is removed from the Committee for any reason, the Person appointing the member immediately shall appoint a replacement for the balance of the removed member's term. Until a replacement is named, the remaining members of the Committee shall have full authority to act on behalf of the Committee. No member of the Committee shall be entitled to any compensation for serving as a member, provided that member shall be entitled to be reimbursed for any expenses incurred by the member in performing its duties by the Committee provided the member received prior authorization for the incurrence of the expense. All actions of the Committee shall be governed by a majority vote of the members. The Committee shall meet at such times and places as it shall designate. Meetings of the members shall be open to all Members of the Association.

The Committee may adopt guidelines regarding the type, location, quality, size, height and other matters relating to any Improvements or landscaping to be constructed or installed on the Lots and may establish a procedure for reviewing all plans and specifications submitted to it for prior approval and shall be responsible for periodic review and modification of the guidelines. The guidelines shall comply with the use restrictions described in Article 3. Factors that shall be considered in approving proposed plans and specifications shall include, without limitation: (i) conformity and harmony with the Napa Valley character that has been established for this Development; (ii) conformity and harmony of external design with other Lots in the Development; (iii) effect of the proposed location on neighboring Lots; (iv) relation of the topography, grade and finished ground elevation to that of adjoining Lots; (v) proper facing of elevations with respect to nearby streets and adjoining Lots; (vi) overall conformity with the general purpose of the Development and the restrictions in this Declaration; (vii) adequate parking; and (viii) the guidelines.

7.2 Approval. None of the following actions shall take place on any Lot without the prior written approval of the Committee:

(i) Any construction, installation, repair (including exterior painting), replacement, alteration or removal of any building, outbuilding, structure, wall, fence, sign, garage, trash enclosure, storage area, berms, parking area, utilities (gas, electricity, telephone, water or otherwise) or other Improvements;

(ii) Any grading, excavation or site preparation;

- (iii) Any landscaping or irrigation system;
- (iv) Any placement or storage of building materials or temporary structures (including trailers, tents, mobile homes, offices or vehicles; or
- (v) Any installation of any exterior signs, displays, flags or similar property.

Approval shall require the applicant to submit to the Committee plans and specifications in a manner and form satisfactory to the Committee. All plans and specifications shall conform with any guidelines established by the Committee. Plans shall adequately describe the proposed Improvements; plot layout; all exterior elevations; materials; colors; signs; landscaping plans (including the type of sodding, seeding, trees, hedges, shrubs and irrigation); number, size and layout of parking; storage areas; trash enclosures; grading and excavation plans; easements and utility locations; proposed fencing; construction schedule; and such other information as the Committee shall require. The Committee, in its sole discretion, may grant variances or exceptions from any guidelines it has established for approving plans and specifications, which variances or exceptions may contain such conditions and time limitations as the Committee deems appropriate.

If the Committee has established landscaping guidelines, all landscaping and planting (including tree removal) shall comply with the guidelines, subject to such variances as may be approved in writing by the Committee.

Notwithstanding anything herein to the contrary, any Owner may repaint the Improvements on the Owner's Lot in the same colors and remove and replace any siding or roofing materials in the same material and in the same color as originally constructed by Declarant without the approval of the Committee.

The Committee may establish reasonable fees to reimburse the Committee for any out-of-pocket costs incurred by the Committee in reviewing plans and specifications. Except as paid or reimbursed by the applicant, any costs incurred by the Committee in the performance of its duties shall be paid by the Association. If the Committee fails to approve or disapprove any plans or specifications within 60 days of receipt of either the plans and specifications or any advance payments required by the Committee, whichever shall occur later, the plans and specifications shall be deemed approved unless a written extension is executed by the Person submitting the plans and by the Committee.

Any member of the Committee, or any authorized agent of the Committee, from time to time and anytime during normal business hours may enter any Lot for the purpose of inspecting any construction to confirm compliance with the plans and specifications as approved by the Committee.

In approving or disapproving any proposed modification, the Committee shall comply with all federal, State and local laws regulating the rights of handicapped persons.

7.3 Completion of Work. On receipt of approval, the Owner shall commence the work as soon as reasonably practicable and shall diligently pursue the completion of the work. If the work is not commenced within 60 days after receipt of approval or completed within 120 days or by such later date as the Committee shall approve, the approval automatically shall be deemed revoked and no further work shall be done without again obtaining the written approval of the Committee as described herein. The work shall be done in strict compliance with the approved plans except for minor non-material changes as may be necessary during the course of construction. Any change that affects the exterior appearance in any manner shall conclusively be presumed to be a material change and shall require the prior written approval of the Committee.

7.4 Nonliability. The Association, the Committee, the Declarant, or the other Lot Owners, or their respective successors or assigns, shall not be liable to any Person submitting plans to the

Committee for approval or to any other Lot Owners or occupants by reason of any act or omission arising out of or in connection with the approval or disapproval of any plans or specifications. Approval shall not constitute any warranty or representation by the Committee or its members that the plans satisfy any applicable governmental law, ordinance or regulation or that any Improvement constructed in accordance with the plan shall be fit for the use for which it was intended and safe for use and occupancy. Applicants shall make their own independent verifications of the foregoing and shall not rely on the Committee or its members in any manner in this regard.

7.5 Enforcement. If any Owner or occupant violates the provisions of this Article 7, the Declarant or the Association, in addition to any other remedy available at law or equity, may bring an action to compel compliance, including an action for a court order mandating the removal of any Improvement or other property constructed or installed in violation of the provisions of this Article 7. In such action, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

7.6 Board's Authority. If for any reason the Committee is not established or not active, the Board shall perform the duties and shall have the rights of the Committee as described in this Article 7.

7.7 Governmental Approval. Before commencement of any alteration or Improvement approved by the Committee, the Owner shall comply with all the appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required from any governmental entity with appropriate jurisdiction.

ARTICLE 8 - Insurance

8.1 Liability Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance insuring the Association, any manager, Declarant, the Association's directors and officers and the Owners and occupants of the Lots against any liability incident to the maintenance or use of the Landscape and Vineyard Area, Sheehy Creek Improvements, Public Right-of-Way Improvements, Association Property, or any other Association owned or maintained real or personal property and including, if obtainable, a cross liability or severability of interest endorsement insuring each insured against the liability to each other. The limits of such insurance shall not be less than \$5,000,000 per occurrence applying to bodily injury, property damage and personal injury liability. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain the liability insurance required hereunder because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Mortgagee entitled to notice that the liability insurance will not be obtained or renewed.

8.2 Individual Property Insurance and Liability Policies. Each Owner shall obtain and maintain, at the Owner's expense, a property insurance policy as may be required by the Owner's Mortgagee or, if no Mortgagee encumbers the Lot, a property insurance policy for the full replacement value of the Improvements and providing coverage for fire and all other hazards normally covered under a "special form" policy or its equivalent. All such individually carried insurance shall contain a waiver of subrogation rights by the insurer as to the other Owners, the Association, Declarant and any first mortgagee of any Lot. On demand, the Owner shall provide the Association with satisfactory evidence that the required insurance has been obtained.

Each Owner shall, at Owner's expense, procure and maintain commercial general liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate combined single limit of bodily injury and property damage liability. The policy shall include blanket contractual liability, personal injury liability (libel, slander, false arrest and wrongful eviction), broad form property damage and products liability. The Association and any managing agent are to be included as additional insureds, and the policy is to be endorsed to state that coverage under it is primary and any other coverage available to the Association and managing agent shall be excess and noncontributory. On demand, Owner shall provide the Association with satisfactory evidence that the required insurance has been obtained.

8.3 Other Insurance. In addition to the policies described in Sections 8.1 and 8.2, the Association may be obtain and maintain the following insurance:

- (i) Workers Compensation Insurance to the extent required by law;
- (ii) Fidelity bonds or insurance covering officers, directors and employees that have access to any Association funds;
- (iii) Officers and directors liability insurance; and
- (iv) Such other insurance as the Board in its discretion considers necessary or advisable, including appropriate insurance in connection with the operation in the Landscape and Vineyard Area.

8.4 Board's Negotiation Authority. The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

ARTICLE 9 - Damage, Destruction or Condemnation

9.1 Repair or Reconstruction. If an Improvement on any Lot is damaged or destroyed by fire or other casualty, the Owner of such Lot shall repair or reconstruct the Improvement in accordance with the original as-built plans and specifications subject to such modifications as may be approved by the Architectural Review Committee or as required by law. Notwithstanding the foregoing, no Owner shall be responsible for the repair or reconstruction of any Improvement within the Landscape and Vineyard Area, Sheehy Creek or public right-of-way that is maintained by the Association.

If any Improvement within the Landscape and Vineyard Area or Association Property is damaged or destroyed by fire or other casualty, the Association shall repair or reconstruct the Improvement substantially in accordance with the original as-built plans and specifications subject to such modifications as may be approved by the Architectural Review Committee or as required by law unless a majority of the total voting power of the Association and the Declarant elects not to reconstruct or restore the damaged or destroyed Improvement.

9.2 Completion of Repair or Reconstruction. The repair or reconstruction of any Improvement shall commence no later than 180 days after the date of such damage or destruction and shall be completed no later than 270 days subject to extensions of like periods because of delays that are beyond the control of the party responsible for making the repairs. The party responsible for

making the repairs immediately shall take such steps as may be reasonably required to secure any hazardous condition resulting from the damage or destruction and to screen any unsightly views.

9.3 Condemnation. If any action for condemnation of all or any portion of the Landscape and Vineyard Area or Sheehy Creek or Association Property is proposed or threatened by any governmental agency having the right of eminent domain, then, after approval by vote or written consent of Members holding at least 51% of the total voting power of the Association and with the consent of the first mortgagees as may be required herein, the Property, or any portion thereof, may be sold and conveyed to the condemning authority by the Owner. Proceeds of any such sale shall be allocated between the Owner and the Association in a fair and equitable manner, considering the Owner's fee interest and the Association's easement rights and the value of the vineyard and other Improvements thereon and any costs incurred by the Association including any costs in connection with the replacement of the condemned area by property that could be used for similar purposes. Notwithstanding the foregoing, any condemnation proceeds allocated to Association Property shall be distributed to the Association. On the vote of a majority of the total voting power of the Association, any condemnation proceeds allocated to the Association may be distributed equally among the Owners on the basis of one share for each Lot owned. Any dispute between the Association and the Owner shall be submitted to binding arbitration to the American Arbitration Association for resolution in accordance with its commercial rules. Proceeds allocated to the Association after deduction for any costs incurred by the Association shall be distributed among all the Lot Owners in the same percentage as the then allocation of assessments. If the Landscape and Vineyard Area or any portion of it is not sold but is instead taken, the award shall be apportioned among the Owners and their respective Mortgagees and the Association by the terms of the judgment of condemnation; and if not so apportioned, then the award shall be apportioned as if the area had been sold.

ARTICLE 10 - Rights of Mortgagees

10.1 Lender Definitions. Unless the context indicates otherwise, the following terms as used in this Article 10 shall have the definitions contained in this Section 10.1. An "institutional" mortgagee is a first mortgagee that is a bank or savings and loan association or mortgage company or other entity chartered or licensed under federal or State laws whose principal business is lending money on the security of real property or investing in such loans.

10.2 Encumbrance. Any Owner may encumber the Owner's Lot with a Mortgage or Mortgages.

10.3 Rights of Institutional Mortgagees. Any institutional mortgagee who obtains title to a Lot pursuant to the remedies provided in the first mortgage including judicial foreclosure or nonjudicial foreclosure under a power of sale (but excluding voluntary conveyance to the first mortgagee) shall take the Lot free of any obligation to pay any assessments that were delinquent as of the date the institutional mortgagee acquired title to the Lot including any interest, penalties or late charges in connection therewith. The institutional mortgagee as Owner of the Lot shall be obligated to pay any assessments that were not delinquent as of the date the institutional mortgagee took title to the Lot and all future assessments levied against the Lot as long as the institutional mortgagee remains in title, including any special assessments levied by the Association to raise operating or reserve funds needed because of uncollected delinquent assessments as long as the special assessment is allocated equally among all the Lots.

10.4 Subordination. Any assessment lien established under the provisions of this Declaration is expressly made subject to and subordinate to the rights of any Mortgage that encumbers all or any

portion of the project or any Lot made in good faith and for value and recorded before the recordation of a notice of delinquent assessment. No assessment lien shall in any way defeat, invalidate or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interest in writing to such lien. If any Lot is encumbered by a Mortgage made in good faith and for value, the foreclosure of any assessment lien cannot operate to effect or impair the lien of any Mortgage recorded prior to the recordation of the notice of delinquent assessment. Upon the foreclosure of any prior recorded Mortgage, any lien for delinquent assessment shall be subordinate to the Mortgage lien, and the purchaser at the foreclosure sale shall take title free of the assessment lien. By taking title, the purchaser shall be obligated to pay only assessments or other charges that were not delinquent at the time the purchaser acquired title or that were levied by the Association on or after the date the purchaser acquired title to the Lot. Any subsequently levied assessments or other charges may include previously unpaid assessments provided all Owners including the purchaser and its successors and assigns are required to pay their proportionate share of such unpaid assessments.

ARTICLE 11 - Amendments

11.1 Amendment Before Close of First Sale. Before the close of the first sale of a Lot in the Development to a purchaser other than Declarant or an entity controlled by Declarant, this Declaration may be amended in any respect or rescinded by Declarant by recording an instrument amending or rescinding the Declaration. Before the close of a first sale of a Lot in a second or subsequent phase of the Development to a purchaser other than Declarant or entity controlled by Declarant, any declaration of annexation recorded pursuant to Article 13 with respect to such phase may be amended in any respect or rescinded by the Declarant by recording an instrument amending or rescinding the declaration of annexation. The amending or rescinding instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder of the county in which the Development is located. For purposes herein, a Person is considered controlled by Declarant if the Declarant holds 50% or more of the capital and profit interests if a partnership, 50% or more of the shares if a corporation and 50% or more of the beneficial interests if a trust.

11.2 Amendment After Close of First Sale. Subject to Declarant's amendment rights as described in Sections 4.3 and 13.1, after the close of the first sale of a Lot in the Development to a purchaser other than Declarant or an entity controlled by Declarant, this Declaration may be amended or revoked in any respect with the vote or written consent of the holders of not less than 51% of the total voting power of the Association and with the prior written consent of Declarant as long as Declarant owns any Lots in the Development and/or has the right to annex additional property into the Development as described in Section 13.1. If any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Owners in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Owners shall be required to amend or revoke such provision.

The amendment (other than an amendment authorized under Sections 4.3 or 13.1) is effective when it has been approved by the appropriate percentage of Owners as required herein, the approval has been certified in a writing executed and acknowledged by the officer designated in the Declaration or by the Association for that purpose or, if no one has been designated, the president of the Association, and the amendment and certification have been recorded in the records of Napa County, California. Any amendment authorized under Sections 4.3 or 13.1 is effective when the amendment, duly executed by the Declarant and containing a certificate that the amendment was enacted under the authority of Sections 4.3 or 13.1, has been recorded in the records of Napa County, California.

ARTICLE 12 - Miscellaneous Provisions

12.1 Headings. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

12.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other provision.

12.3 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and nonexclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

12.4 Discrimination. No Owner shall execute or cause to be recorded any instrument that imposes a restriction on the sale, leasing or occupancy of the Owner's Lot on the basis of race, sex, marital status, national ancestry, color or religion.

12.5 Access to Books. Any Owner, at any reasonable time and upon reasonable notice to the Board or manager, may cause, at the Owner's expense, an audit or inspection to be made of the books and financial records of the Association.

12.6 Notification of Sale. No later than five days after the execution of a binding contract to sell any Lot, the selling Owner shall notify the Association of such sale. Such notification shall be in writing and shall set forth the name and address of the buyer and the date of sale.

12.7 Number and Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine and neuter shall include the masculine, feminine or neuter as the context requires.

12.8 Reservation or Grant of Easements. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in any deed to any Lot.

12.9 Incorporation of Exhibits. All exhibits referred to herein and attached to this Declaration are incorporated herein by reference as fully set forth herein. The exhibits include the following:

<u>Exhibit</u>	<u>Description</u>
A	Legal Description
B	Landscape and Vineyard Area and Sheehy Creek Area Site Plan
C	Description of Property That May Be Annexed
D	Prohibited Uses
E	Vote and Assessment Allocations

12.10 Enforcement Rights and Remedies. The covenants, restrictions, right and duties contained in this Declaration constitute covenants running with the land and equitable servitudes that benefit and bind each Lot in the project, each Owner, and each successive Owner thereto, and may be enforced by the Association or any Owner in any legal or equitable action pursuant to the procedures described herein.

Each Owner acknowledges and agrees that if any Person breaches any of the restrictions contained herein, money damages may not be adequate compensation. As a result, each Owner agrees that in the event of a breach, the non-breaching party, in addition to any other remedy available at law or equity, shall be entitled to equitable relief, including, but not limited to, an order compelling the breaching party to perform an act which it is required to perform under this Declaration which is necessary to bring the breaching party or the breaching party's Lot into compliance with restrictions contained herein or prohibiting the breaching party from performing any act that violates the restrictions.

Notwithstanding anything herein to the contrary, the Association shall have the exclusive right to levy assessments and to take appropriate action to enforce delinquent assessments, including imposition of an assessment lien and the foreclosure of the lien. Furthermore, the Association shall have the primary responsibility for enforcing the restrictions contained in Article 3 and the architectural provisions contained in Article 7. If any Owner or occupant desires the Association to take any enforcement action, the Owner or occupant shall notify the Association in writing of the alleged violation. On receipt, the Board shall review the matter and shall determine what action, if any, to take. Neither the Board nor the Association or any director, officer or agent thereof shall be liable if the Board in the exercise of its judgment elects not to take any action. To the extent applicable, the Board shall comply with the due process requirements described in the Bylaws. If within 90 days after receipt of the notice, the Board has failed to take any corrective action and the alleged violation has not been cured and is continuing, any Owner may bring an action on the Owner's behalf for appropriate legal and/or equitable relief. In such action, the Owner shall bear his or her own costs and attorneys' fees, provided that the prevailing party in such action shall be entitled to recovery of such costs and fees.

12.11 Term. The term of this Declaration shall be for a period of 50 years from the date on which this Declaration is recorded in the county in which the Development is located. After that time, this Declaration and each of its restrictions and covenants and other provisions automatically shall be extended for successive ten-year periods unless this Declaration is rescinded by the written consent of Owners holding a majority of the total voting power of the Association. The rescission shall be effective on recordation of a notice of rescission in the records of the county in which the Development is located.

12.12 Reserved Rights of Declarant. Declarant is recording this Declaration as part of the construction of a business park development. No covenant or restriction contained herein shall be applied in any manner that would unreasonably interfere with Declarant's rights to complete the construction of the Improvements and to sell the Improvements. The rights retained by Declarant during the construction and sales period include, but are not limited to, the right to:

- (i) Maintain construction equipment, personnel and materials on the Property;
- (ii) Use such portions of the Property as may be necessary or advisable to complete the construction or sales;
- (iii) Maintain construction or sales offices on the Property;
- (iv) Maintain sale signs or other appropriate advertisements on the Property; and

(v) Allow prospective purchasers or managers access to the Property to inspect the Landscape and Vineyard Area, Sheehy Creek, Association Property, and any other areas to be managed or maintained by the Association.

12.13 Assignment by Declarant. Declarant may assign all of its rights and delegate all of its duties to any other Person; and from and after the date of such assignment and/or delegation, the Declarant shall have no further rights and/or duties hereunder. Any successor or assign of the rights and duties of the Declarant may execute an instrument assuming the rights and duties of the Declarant hereunder and thereafter shall be entitled to exercise all the rights of Declarant and shall be obligated to perform all the Declarant's duties, provided such successor or assign shall not be liable in any manner for any act or omission committed or omitted by the Declarant before the date the successor or assign succeeded to the rights of the Declarant hereunder.

12.14 Attorneys' Fees. Except as provided in Section 12.17, in the event of any litigation or arbitration regarding the rights or obligations of the Association, or any Person subject to this Declaration, the prevailing party in such litigation or arbitration proceeding shall, in the discretion of the judge or the arbitrator, be entitled to recover costs, including reasonable attorneys' fees.

12.15 Notices. Any notice permitted or required by this Declaration, the Articles, Bylaws or Rules shall be considered received on the date the notice is personally delivered to the recipient or 48 hours after the notice is deposited in the United States mail, first-class, registered or certified, postage prepaid and addressed to the recipient at the address that the recipient has provided the Association for receipt of notice or, if no such address was provided, at the recipient's Lot address in the Development.

12.16 No Enforcement Waiver. Failure to enforce a restriction in the past shall not, in and of itself, constitute a defense to any action brought against any Owner for violation of any restriction contained herein. Each Owner, by acceptance of a deed to a Lot in the Development, acknowledges that the enforcement of these restrictions may vary as a result of different Owners, Boards or Architectural Review Committees, changing conditions, or other reasons, and agrees that the failure of any Owner, Board or Committee to enforce any particular restriction, even if such failure is for an extended period of time, shall not in any manner restrict or estop the right of any Owner, Board or Committee to enforce these restrictions at any future time.

12.17 Dispute Notification and Resolution Procedure (Declarant Disputes). Any disputes between the Association (or any Owners) and the Declarant or any director, officer, partner, employer, subcontractor or agent of the Declarant relating to this Declaration, the use or condition of the Property, and/or the design, construction and installation of any Improvements located thereon shall be subject to the following provisions:

(i) Notice: Any Person with a claim against the Declarant or any director, officer, partner, employer, subcontractor or agent thereof (collectively the "Declarant" for purposes of this section) shall notify the Declarant in writing of the claim, which writing shall describe the nature of the claim and the proposed remedy (the "Claim Notice").

(ii) Right to Inspect and Right to Corrective Action: Within a reasonable period after receipt of the Claim Notice, which period shall not exceed 60 days, the Declarant and the Claimant shall meet at a mutually-acceptable place within the Development to discuss the claim. At such meeting or at such other mutually-agreeable time, Declarant and Declarant's representatives shall have full access to the Property that is subject to the claim for the purposes of inspecting the Property. The parties shall negotiate in good faith in an attempt to resolve the claim. If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Development to take and complete corrective action.

(iii) **Non-Binding Mediation:** If the parties cannot resolve the claim pursuant to the procedures described in subparagraph (ii) above, the matter shall be submitted to non-binding mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No Person shall serve as a mediator in any dispute in which the Person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

Within ten days of the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within ten days following the submittal of the memorandum and shall be concluded within 15 days from the commencement of the mediation unless the parties mutually agree to extend the mediation period. The mediation shall be held in Napa County, California, or such other place as is mutually acceptable by the parties.

The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, providing the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

Prior to the commencement of the mediation session, the mediator and all parties to the mediation shall execute an agreement pursuant to California Evidence Code section 1152.5(c) or successor statute in order to exclude the use of any testimony or evidence produced at the mediation and any subsequent dispute resolution forum, including, but not limited to, court proceedings or arbitration hearings. Pursuant to California Evidence Code section 1152.5(a), the agreement shall specifically state:

Evidence of anything said or of any admission made in the course of the mediation is not admissible evidence, and disclosure of any such evidence shall not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given. Unless the document provides otherwise, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence; and disclosure of any such document shall not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of the parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by the mediator while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the expenses of any witnesses, or the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise.

(iv) **Judicial Reference:** If the parties cannot resolve the claim pursuant to the procedures described in subparagraph (iii) above, prior to the commencement of any litigation in any

court of competent jurisdiction, the parties shall negotiate in good faith regarding the submission of the claim to judicial reference pursuant to Code of Civil Procedure sections 638.1 and 641 - 645 or any successor statutes thereto. The parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. Declarant shall not be required to participate in the judicial reference proceeding unless it is satisfied all necessary and appropriate parties will participate.

The general referee shall have the authority to try all issues, whether of fact or law, and to report a statement of decision. The parties shall use the procedures adopted by the American Arbitration Association for judicial reference or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties, provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise:

- (a) The proceedings shall be heard in Napa County in which the Development is located;
- (b) The referee need not be an attorney or retired judge; but, if not, the referee must have at least five years' experience in relevant real estate matters;
- (c) Any dispute regarding the selection of the referee shall be resolved by the entity providing the reference services or, if no entity is involved, by the court with appropriate jurisdiction;
- (d) The referee may require one or more pre-hearing conferences;
- (e) The parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge;
- (f) A stenographic record of the hearing shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and any appeals;
- (g) The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable; and
- (h) The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

If the Association and/or Owner has complied with the requirements of subparagraphs (i), (ii), (iii) and (iv) above and either party elects not to participate in the judicial reference proceeding because all necessary parties will not participate, the Association, any Owner, or Declarant may bring an action in any court of competent jurisdiction to resolve the dispute. The Association and each Owner covenant that each shall forbear from commencing any litigation against the Declarant without complying with the procedures described in subparagraphs (i), (ii), (iii) and (iv) above. If the Association or any Owner breaches the foregoing covenant, Declarant may obtain an appropriate order compelling the Association and/or Owner to comply with the procedures described in subparagraphs (i), (ii), (iii) and (iv). The procedures set forth in subparagraphs (i), (ii), (iii) and (iv) above shall not apply to any action taken by the Association against Declarant for delinquent assessments, which shall be governed by Section 6.9. Furthermore, nothing herein shall prevent the Association or any Owner from commencing any legal action which in the good faith determination of the Board or Owner is necessary to preserve any Association's or Owner's rights under any applicable statute of limitations, provided that the Association or Owner shall take no further steps in prosecuting the action until it has complied with the procedures described in subparagraphs (i), (ii), (iii) and (iv).

Notwithstanding any other provision herein to the contrary, in any dispute between the Association and/or any Owner and the Declarant, each party shall bear its own attorneys' fees.

Any and all communications by and between the parties, whether written or oral, which are delivered by the parties or their attorneys or other representatives in an effort to settle the claim shall be considered communications undertaken in the course of effecting a settlement or compromise as such shall not be admissible as the admission on the part of any party or any representative or agent of that party to be utilized for any such purpose in any action or proceeding.

Nothing herein shall extend or toll any applicable statute of limitations unless the parties agree otherwise in writing.

ARTICLE 13 - Annexation

13.1 Automatic Annexation. At anytime within 15 years from the recordation of the Declaration in the records of Napa County, California, Declarant, without the requirement to obtain the vote or approval of any Lot Owner in the Development, may annex additional property into the Development, subject the property to benefits and burdens set forth in this Declaration, and alter, modify, supplement, increase and/or decrease the areas to be managed and maintained by the Association, including, but not limited to, the Landscape and Vineyard Area, Sheehy Creek, public rights-of-way, and other areas and Improvements. The property shall be annexed by recording a declaration of annexation in Napa County, California. The declaration of annexation shall describe the real property to be annexed and shall state that it is being executed pursuant to the terms of this Declaration for the purpose of annexing the property described in the declaration of annexation to the Development and to subject the property to the terms of this Declaration. Any declaration of annexation recorded in accordance with the terms of this section shall be conclusive in favor of all Persons who relied on it in good faith. In recording the declaration of annexation in accordance with the provisions of this Declaration, the real property described in the declaration of annexation shall be a part of the Development and subject to the provisions of this Declaration and to the rights and powers of the Association pursuant to the terms of this Declaration, the Articles and the Bylaws; and thereafter all Owners of Lots constituting a portion of the annexed real property shall automatically be Members of the Association with voting rights commencing on the date regular assessments commence. Regular and special assessments with respect to the annexed property shall commence at the time and to the extent described in Section 6.6.

The declaration of annexation may contain complimentary additions, amendments and modifications of this Declaration necessary to reflect the different character, if any, of the real property being annexed which are not inconsistent with the general scheme of this Declaration or which are required by any institutional Mortgagee as defined in Section 10.1 to make Lots in the Development eligible for Mortgage purchase, guarantee or insurance.

Attached hereto as Exhibit C is a description of the additional property Declarant anticipates will be annexed into the Development. Declarant has no obligation to annex any additional property, and the actual property that may be annexed may not include all the property described in Exhibit C and may include property other than the property described in Exhibit C. Declarant reserves the right, at its sole discretion, to determine the number of additional phases, the actual property to be annexed, the order of the phases, the number of Lots in a phase, and/or the amount of Landscape and Vineyard Area, Sheehy Creek Improvements, Public Right-of-Way Improvement, or other landscaping and Improvements to be managed and maintained by the Association.

On annexation of any additional phase, Declarant reserves the right to amend this Declaration, without the consent of any other Owner, by recording a new Exhibit E that shows the new assessment

allocations as described in Section 6.8. The new exhibit may be recorded as a part of the declaration of annexation or as a separate document.

13.2 Annexation by Approval. Except for the automatic annexation provision contained in Section 13.1, no additional real property shall be annexed into the project without the approval of Members holding a majority of the total voting power of the Association and the prior written consent of Declarant as long as Declarant owns any Lot in the Development.

THIS DECLARATION is executed this 27th day of JAN, 1994

NAPA VALLEY GATEWAY LIMITED,
A CALIFORNIA LIMITED PARTNERSHIP

BY: NAPA VALLEY GATEWAY ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP,
A GENERAL PARTNER

BY: 12/29 ASSOCIATES, A
CALIFORNIA GENERAL PARTNERSHIP,
GENERAL PARTNER

BY: PACIFIC UNION CO.,
A CALIFORNIA CORPORATION,
GENERAL PARTNER

BY: [Signature]
CHARLES H. PRATT
ITS: VICE PRESIDENT

STATE OF CALIFORNIA)
COUNTY OF San Francisco) ss.

On January 27, 1994, before me, Marilyn Rutsky, personally appeared Charles H. Pratt, 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 [Signature]

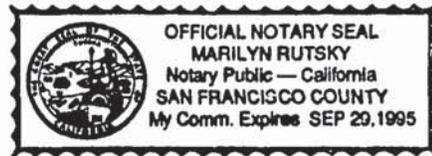


EXHIBIT "A"

ADJUSTED LOT 1:

Lot 1 and a portion of the Remaining Lands of Herbert Gunn, Jr., Trustee as shown on Map No. 4453, entitled, "Final Map of Napa Valley Gateway Unit Two, Phase One", filed February 20, 1991 in Book 18 of Maps, at pages 14-17, in the office of the County Recorder of said Napa County, more particularly described as a whole as follows:

COMMENCING at the Southeast corner of said Lot 1; thence along the Southern, Eastern and Northern lines of said Lot 1, the following courses: South 87° 05' 00" West 363.05 feet to the beginning of a non-tangent curve to the left having a radius of 60.00 feet to which beginning a radial line bears North 57° 01' 28" East; thence Northwesterly and Westerly along said curve through a central angle of 87° 45' 34" an arc length of 91.90 feet; thence North 02° 55' 00" West 78.99 feet to the beginning of a reverse curve to the left having a radius of 90.00 feet; thence Northwesterly along said curve through a central angle of 38° 07' 30" an arc length of 59.89 feet to the beginning of a reverse curve to the right having a radius of 60.00 feet; thence Northerly and Easterly along said curve through a central angle of 147° 35' 46" an arc length of 154.56 feet; thence, leaving the Northern line of said Lot 1, North 19° 56' 51" East 75.91 feet to a point in the center of Sheehy Creek; thence along the centerline of said creek the following courses: South 60° 16' 57" East 20.12 feet; thence North 52° 32' 50" East 31.89 feet; thence North 19° 40' 38" East 138.71 feet; thence North 58° 01' 51" East 52.68 feet; thence South 64° 13' 31" East 91.18 feet; thence North 36° 00' 30" East 104.11 feet; thence North 07° 24' 39" West 48.43 feet; thence North 68° 37' 27" East 77.21 feet to a point on the Western line of State Highway No. 29 as established by the Final Order of Condemnation recorded July 8, 1954 in Book 446 at page 521 of Official Records of Napa County; thence along said Western line and the Western line of said Lot 1, South 03° 41' 58" East 592.00 feet to the point of commencement.

LOTS 2 through 7, inclusive, as shown on Map No. 4453 entitled, "Final Map of Napa Valley Gateway Unit Two, Phase One", filed February 20, 1991 in Book 18 of Maps at pages 14-17 in the office of the County Recorder of said Napa County.

ADJUSTED LOT 8:

Lot 8, and a portion of the Remaining Lands of Herbert Gunn, Jr., Trustee, as shown on Map No. 4453, entitled, "Final Map of Napa Valley Gateway Unit Two, Phase One", filed February 20, 1991 in Book 18 of Maps, at pages 14-17, in the office of the County Recorder of said Napa County, more particularly described as a whole as follows:

COMMENCING at the most Southern corner of said Lot 8; thence along the Southwesterly line thereof and its Northwesterly extension North 51° 58' 51" West 565.31 feet; thence North 38° 21' 00" East 422.82 feet to the beginning of a non-tangent curve to the left having a radius of 628.50 feet and to which beginning a radial line bears South 33° 14' 59" West; thence Southeasterly along said curve through a central angle of 04° 02' 35" an arc length of 44.35 feet to the most Northern corner of said Lot 8; thence along the Northeastern, Eastern
(Continued)

and Southeastern lines of said Lot 8, the following courses: Southeasterly continuing along the aforementioned curve to the left having a radius of 628.50 feet through a central angle of 28° 50' 56" an arc length of 316.45 feet to the beginning of a curve to the right having a radius of 40.00 feet; thence Easterly and Southerly along said curve through a central angle of 79° 24' 33" an arc length of 55.44 feet; thence South 10° 14' 00" West 61.05 to the beginning of a curve to the right having a radius of 3956.50 feet; thence Southerly along said curve through a central angle of 5° 20' 07" an arc length of 368.42 feet to the beginning of a curve to the right having a radius of 40.00 feet; thence Southerly and Southeasterly along said curve through a central angle of 77° 34' 19", an arc length of 54.16 feet to the beginning of a reverse curve having a radius of 1850.00 feet; thence Southwesterly along said curve through a central angle of 00° 25' 44" an arc length of 13.85 feet to the beginning of a non-tangent curve to the left having a radius of 3100.00 feet, and to which point a radial line bears North 13° 19' 05" West; thence Southwesterly along said curve through a central angle of 00° 18' 08" an arc length of 16.35 feet; thence South 72° 21' 18" West 169.63 feet; thence South 64° 30' 12" West 41.46 feet to the point of commencement.

Lots 9 through 16 as shown on the subdivision map entitled "Final Map of Napa Valley Gateway Unit Two Phase Two" filed for record in Napa County, California, on September 27, 1991, in Book 18 of Maps at pages 78 through 81.

NAPA VALLEY
GATEWAY
 MASTER PLAN
 A Development of **PACIFIC UNION**



A 264 Acre Master-Planned
 Major Planned
 Development



Sales Office
 Highway 12 and 29
 at Kelly Road
 NAPA VALLEY, CA
 (707) 253-8533

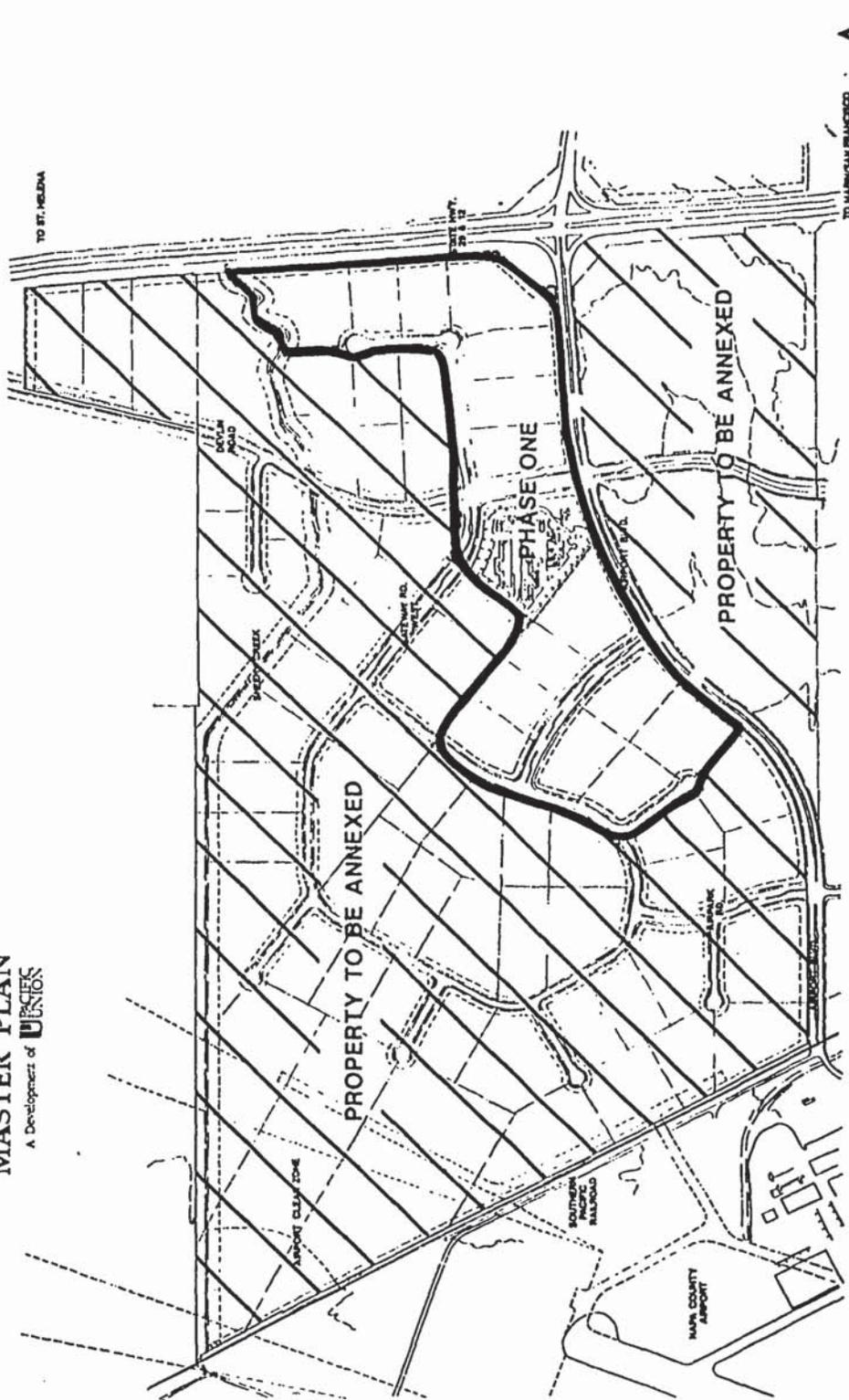


EXHIBIT "C"

PROPERTY TO BE ANNEXED

EXHIBIT D

PROHIBITED USES

Trailer Courts or Recreational Vehicle Campgrounds

Labor Camps

Junk, Auto Wrecking, Salvage, or Recycling Yards or Facilities

Distillation of Bones

Drilling for and Removing Oil, Gas, Other Hydrocarbon Substances or Any Minerals

Refining of Petroleum or Any of Its Products

Commercial Petroleum Storage Yards

Dumping, Disposal, Incineration or Reduction of Garbage, Sewage, Dead Animals, and Refuse

Saw or Planing Mills

Manufacture or Production of Cement, Lime, Asphalt, Gypsum, Fireworks, Wood Pulp, or Similar Products

Processing of Sugar Beets

Production of Fish Products, Sauerkraut, Vinegar, or Similar Products

Fat Rendering

Stockyard or Slaughter of Animals

Smelting of Iron, Tin, Zinc or Any Other Ore

Cemeteries

Jail, Penal, Detention or Correction Farm

Disposal or Storage of Toxic Substances

Public Parking Lots Except Lots Incidental to Permitted Uses

Agricultural Uses (Other Than Vineyard Cultivation within the Landscape and Vineyard Area), Including Animal Husbandry

Carnivals, Rodeos, and Similar Activities Except with the Prior Written Approval of Declarant

Hospitals or Clinics for Animals

Truck Farms

END OF DOCUMENT

EXHIBIT E

VOTE AND ASSESSMENT ALLOCATION

<u>Lot #</u>	<u>Number of Votes</u> ^[1]	<u>Assessment Allocation</u> ^[1]
1	189	8.3%
2	93	4.1%
3	97	4.3%
4	173	7.6%
5	122	5.4%
6	126	5.6%
7	144	6.4%
8	297	13.1%
9	172	7.6%
10	93	4.1%
11	91	4.0%
12	104	4.6%
13	153	6.8%
14	127	5.6%
15	159	7.0%
16	<u>124</u>	<u>5.5%</u>
	<u>2,265</u>	<u>100.0%</u>

¹The assessment allocation shall be readjusted as each subsequent phase is annexed into the Development pursuant to the procedures described in Section 6.8. In addition, the total number of votes shall increase as described in Section 5.4. On the annexation of each additional phase, Declarant shall amend the Declaration by recording a new Exhibit E that describes the readjusted assessment allocations and votes.