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Pardee Construction Company
10880 Wilshire Blvd., Suite 1900
Los Angeles, California 90024
Attn.: Barbara Bail



1998-0132383

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

N.C.W. NEIGHBORHOOD 3 RESUBDIVISION OF UNIT NO. 9

This Declaration of Covenants, Conditions and Restrictions, made this 9th day of March, 1998, by PARDEE CONSTRUCTION COMPANY, a California corporation, hereinafter referred to as "Subdivider", owner in fee simple of the land situated in the County of San Diego, State of California, described as follows, to wit:

Lots One (1) through Nineteen (19) inclusive of N.C.W. Neighborhood 3 Resubdivision of Unit No. 9 in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 13534, filed in the Office of the County Recorder of San Diego County on February 25, 19 98 (hereinafter referred to as the "Property" or the "Lots").

WHEREAS, it is the desire and intention of Subdivider to sell the Lots and to impose on them mutual, beneficial covenants, conditions and restrictions under a general plan or scheme of improvement for the benefit of all the Lots and the "Benefitted Property" described below and the owners (hereinafter referred to as "Owners") of the Lots and Subdivider, so long as Subdivider is an Owner or owns any of the Benefitted Property.

NOW THEREFORE, Subdivider hereby declares that all of Lots are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions and restrictions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and sale of the Lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of said Lots and every part thereof. All of such covenants, conditions and restrictions shall run with the land and shall be binding on the Subdivider if, and only for so long as it is, an owner of one or more said Lots, and on all of its heirs, successors and assigns and on all other parties having or occupying any right, title or interest in the Lots or any part thereof, and on all of their heirs, successors and assigns.

1. Each Lot shall be used for private, one-family residence purposes exclusively; however, Lots owned by Subdivider may be used by Subdivider or its designees as models, sales offices and construction offices for the purpose of developing, improving and selling Lots within the Property. Subdivider shall have the right to construct one or two-story residential dwellings on Lots it owns. Except as provided in the preceding sentence, no structure whatsoever, other than a one-family, private residence may be erected or maintained on any Lot at any

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time and no building, structure or other improvement of any kind shall be erected, constructed, altered or maintained on any Lot in excess of one story; provided, however, for those Lots upon which a two-story residential dwelling has previously been erected by Subdivider, a two-story residential dwelling may be erected, constructed, altered or maintained thereon.

2. All lavatories and toilets on the Lots shall be built indoors and connected with sewer systems.

3. No antennae or other device for the transmission or reception of television signals or any other form of electromagnetic radiation, including, but not limited to, a dish or other device capable of transmitting or receiving signals for cable, satellite or pay-television systems, shall be erected, used or maintained outdoors above ground on any Lot, except as provided below:

(a) An Owner may install a satellite dish for the reception of television signals on his or her Lot if such Owner can demonstrate to the satisfaction of the Architectural Review Committee (the "Committee") that the satellite dish will not be observable: (i) from any street or alley; and (ii) from any other Lot, or if observable from any other Lot, the Owner has obtained the written consent of all Owners of the Lots from which the satellite dish can be seen.

(b) Prior to the installation of the satellite dish, the Owner shall submit to the Committee detailed plans showing the dimensions and proposed location of the dish and any landscaping or other screening to be installed to shield the dish from view ("Plans") and any necessary written consents establishing that the requirements of subparagraph (a) above have been fully satisfied. The submission shall be made in accordance with the provisions of Paragraph 18 hereof. The Committee shall have sixty (60) days from receipt of the Plans to approve or disapprove them. If the Committee fails to approve the Plans in writing within said sixty (60) day period, the Plans shall be deemed disapproved. If the Committee disapproves the Plans, upon the Owner's written request, the Committee shall advise the Owner in writing of the reasons for its disapproval and the Owner shall have the right to submit revised Plans to the Committee within thirty (30) days after receipt of notice of disapproval; the Committee shall have forty-five (45) days from receipt of the revised Plans to approve or disapprove them in writing. If the Committee fails to approve the revised Plans in writing within said forty-five (45) day period, the revised Plans shall be deemed disapproved. In the event of disapproval after such resubmission, it shall be conclusively presumed that the Owner could not comply with the requirements of subparagraph (a) hereof and the Owner shall have no further right to install a satellite dish on his or her Lot. The Committee's decision concerning the Plans for the satellite dish shall be final and not subject to judicial, administrative, or any other form of review.

(c) If the Plans are approved by the Committee, the satellite dish shall be installed in strict compliance with the Plans and any deviation from such Plans shall require the prior written approval of the Committee. Each Owner hereby grants the Committee the right to inspect such Owner's Lot to determine that the satellite dish has been installed in strict compliance with the Plans. If the Committee determines that the installation of the satellite dish is not in strict compliance with the Plans, it shall notify the Owner and the Owner shall immediately take such action as may be necessary to bring the satellite dish into compliance with the Plans or shall remove the satellite dish from the Lot.

4. No tools or equipment and no derrick or other structure designed for use in boring for oil, gas, or other kindred substances, or designed for use in boring for water, or designed for use in any mining operation or exploration shall hereafter be erected or placed upon any Lot; and no Owner of any Lot shall ever use or consent to the use of the surface of the Lot, or any portion of the subsurface thereof, by any lessee or occupant of any Lot for the purpose of exploration, mining, or operating for oil, gas or other hydrocarbon substances or water and the taking, storing, removing and disposition of same.

5. If Subdivider has not provided a lawn for a particular Lot, then the Owner of said Lot shall install thereon, within four (4) months from the date of conveyance of title to said Lot to said Owner or the date of occupancy thereof, whichever occurs first, a lawn or a ground cover in the front yard of the Lot approved by Subdivider or the Committee. Should any Owner fail to install a lawn or ground cover in the front yard of the Lot approved by Subdivider or the Architectural Review Committee within said four (4) month period; Subdivider may, at any time thereafter (i) initiate legal proceedings to enforce compliance with this paragraph 5 or (ii) upon thirty (30) days written notice to the Owner of its intention to do so, enter upon said Lot and install a lawn or ground cover and recover the cost thereof from said Owner. Subdivider shall notify the Owner of the Lot in writing of the costs incurred, which shall constitute a personal obligation of the Owner of the Lot. In the event such Owner fails to pay Subdivider the amount due within ten (10) days after receipt of such written notice, Subdivider may enforce such obligation in the same manner provided by law with respect to any other contractual obligation.

6. No rubbish, brush, weeds, undergrowth or debris of any kind or character shall ever be placed or permitted to accumulate upon any Lot so as to render said Lot a fire hazard, unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity or the occupants thereof. The Owner of each Lot agrees to care for, cultivate, prune and maintain in good condition any and all trees, lawns, shrubs and ground cover on said Lot and should any Owner fail to do so, or fail to keep said Lot free from rubbish, brush, weeds, undergrowth or debris of any character, any Owner, including Subdivider, or its successors in interest, or the Architectural Review Committee may, at any time, (i) initiate legal proceedings to enforce compliance with this paragraph 6 or (ii) upon thirty (30) days written notice to the Owner of its intention to do so, enter upon said Lot and remove such rubbish, brush, weeds, undergrowth or debris and recover the cost thereof from said Owner. The party seeking to recover such amount shall notify the Owner of the Lot in violation of this Declaration in writing of the costs incurred which shall constitute a personal obligation of the Owner. In the event such Owner fails to pay the amount due within ten (10) days after receipt of such written notice, the party may enforce such obligation in the same manner provided by law with respect to any other contractual obligation.

7. No odors shall be permitted to arise from any Lot so as to render such Lot unsanitary, unsightly, offensive or detrimental to any other Lot or other property; and no nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other Lot or to the occupants thereof; and without limiting the generality of any of the foregoing provisions, no horns, whistles, bells, other sound devices, except devices used exclusively for security purposes and which are approved by Subdivider or the Architectural Review Committee, or bright lights which may disturb occupants of the neighborhood, shall be located, used or placed upon any Lot. Any violation of this provision may be enforced by the same parties and in the same manner provided in paragraph 6 above.

8. No structure (including but not limited to dwelling units, garages, carports, walls and fences) shall be permitted to fall into disrepair and all structures shall at all times be kept in good condition and repair and adequately painted or otherwise finished. Any and all repairs, redecoration, modifications or additions, interior or exterior, shall fully comply with all applicable building code requirements, rules and restrictions and any exterior repairs, redecoration, modifications or additions shall require the prior written approval of the Committee. Roof ventilators, if any, shall be painted within three (3) months of installation to match the color of the roof to which they are or will be attached. Any violation of this provision may be enforced by the same parties and in the same manner as provided in paragraph 6 above.

9. No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

10. Every single-family dwelling erected on a Lot shall contain not less than 600 square feet of floor space exclusive of porches, patios, garages and carports.

11. No billboards, signs or advertising of any kind, excepting a conventional "for sale" or "for rent" sign and not more than two (2) conventional security company signs shall be erected or maintained upon any of said Lots without the written consent of Subdivider, except that this restriction shall not apply to Subdivider or to any entity owned or controlled by Subdivider. Furthermore, Subdivider or its sales agents may, during the sale campaign of Lots in said Property, and/or in the general vicinity thereof, maintain on any Lot owned by it, or on any other Lot if permitted by the Owner thereof, parking facilities, lights, decorative entrance wall lot areas, and such signs, flags and sales aids as it may desire to promote such sales. No permitted sign shall exceed two (2) feet in height or width.

12. No animals, birds or fowl, other than household pets, shall be kept or maintained on any Lot or any portion thereof. At any one time the total number of household pets shall not exceed four (4) and the total number of any one species shall not exceed two (2).

13. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

14. No fence, wall, hedge, construction, or obstruction shall be installed or constructed upon any Lot except the residence, garage, or other outbuilding permitted to be erected under the provisions of this Declaration, unless such fence, hedge, wall, construction, structure or obstruction is first approved in writing by the Committee and is designed so as to be provided with one opening for every three (3) feet of length at ground level and so as to permit free drainage of waters falling upon said Lot or flowing across the said portion of the Lot from adjoining property.

15. Each Owner agrees that he will not in any way interfere with the natural or established drainage of water over his Lot from adjoining or other Lots or other property, including run off from the roof of a dwelling on an adjoining Lot, and that he will make adequate provisions for proper drainage in the event it is necessary to change the natural or established flow of water drainage over his Lot. For the purposes hereof "natural" drainage is defined as the drainage which would naturally occur at the time the overall approved grading plan of the Property has been completed by Subdivider. For the purposes hereof, "established" drainage is defined as the drainage which occurred or which would occur at the time the overall grading of the Property, including the finish grading of each Lot, was completed by Subdivider. At any time after the recordation of this Declaration (whether or not Subdivider then is subject to or has the right to enforce the provisions of this Declaration), Subdivider shall have the right, but not the obligation, to enter upon any Lot for the purpose of inspecting same to determine whether the Owner of such Lot has complied with the provisions of this Paragraph 15. Subdivider shall give the Owner whose Lot Subdivider intends to enter, at least five (5) days written notice of its intent to enter, except in cases of emergency in which Subdivider may enter immediately after giving oral notice to the affected Owner(s).

16. No building shall be erected, placed or altered on any Lot until the construction plans and specifications, and a plan showing the location of the structure have been approved by Subdivider or the Architectural Review Committee as to compliance with this Declaration, quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevations. No building shall be painted or repainted other than in its original colors until the new color has been approved by Subdivider or the Architectural Review Committee. Approval shall be obtained as provided in Paragraphs 17 and 18 hereof.

17. The Architectural Review Committee (the "Committee") shall contain three (3) members. The initial members of the Committee shall be Vance T. Meyer, David E. Landon and Hal Struck. Notices to said initial members shall be directed in care of Subdivider at 10880 Wilshire Boulevard, Suite 1900, Los Angeles, California 90024, or such other address as the then record Owners (including Subdivider) of a majority of the Lots

shall designate in a duly recorded written instrument. Subdivider or a majority of the members of the Committee may designate a representative to act for the Committee. The representative may be any person, corporation, partnership, limited liability company, homeowners association or group of persons, including, but not limited to the Board of Directors of the Del Mar Highlands Unit No. 2 Neighborhood Homeowners Association. Any designation by Subdivider or the Committee of a representative shall be revocable by the designor at any time upon written notice to the designee. Any member shall have the right to resign at any time. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed under this covenant. At any time, the then record Owners (including Subdivider) of a majority of the Lots shall have the power through a duly recorded written instrument to change the membership of the Committee; in any event, the term of office of the three (3) initial members of the Committee shall expire ten (10) years from the date of recordation hereof, or when Subdivider no longer has any interest in the Property, whichever occurs earlier. At such time as the term of the initial members of the Committee expires, and upon the expiration of the term of subsequent members, a meeting shall be called by any Owner upon not less than sixty (60) days and no more than ninety (90) days prior written notice to all Owners; which may include Subdivider. The meeting shall be held within ten (10) miles of the Property. A quorum at the meeting shall consist of at least fifty percent (50%) of the total votes then entitled to vote in accordance with the provisions of Paragraph 35 hereof, such fifty percent (50%) to be present at the meeting in person or by proxy. In the event such meeting cannot be held because a quorum is not present, those Owners present, either in person or by proxy, shall adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time of the original meeting date, at which meeting there shall be no quorum requirement. At least two (2) days written notice of such adjourned meeting shall be given to all Owners. At the meeting, all candidates for election to the Committee shall be elected on one ballot and each Owner shall be entitled to cast three (3) votes for each vote determined in accordance with the provisions of Paragraph 35 hereof, which he or she may distribute among as many candidates as he or she may choose. The three (3) candidates receiving the highest number of votes shall be elected to the Committee to serve for a term of one (1) year or such later date until their successors are elected in accordance with the provisions of this Declaration.

In the absence of action by the Owners in accordance with the provisions of this Paragraph, and in the event of death or resignation of any member of the Committee during his or her term the remaining members shall have authority to designate a successor to fill such vacancy until the term expires.

18. The Committee's approval or disapproval as required in this Declaration shall be in writing. Except as provided in paragraph 3 hereof, in the event that the Architectural Review Committee fails to approve or disapprove any plan, specification, design or plot plan within sixty (60) days after the same shall have been submitted to it, then the plan, specification, design or plot plan, as the case may be shall be deemed to have been disapproved by said Committee. The method of submission shall be by the mailing of a first class United States Mail Certified Receipt Requested letter to any current member of the Committee. The sixty (60) day period shall begin to run on the date of receipt of said letter by the Committee member.

19. Neither Subdivider nor any member of the Committee shall be liable for damages to anyone submitting plans and specifications to it for approval or to any Owner, occupant or guest, by reason of a mistake in judgment, negligence or nonfeasance arising in connection with the approval or disapproval of any plans and specification. Anyone who submits plans and specifications to the Committee shall be deemed to have agreed by submission of such plans and specifications, and every Owner and occupant of any Lot, by acquiring title and/or possessory rights thereto, agrees that he or she will not bring any action or suit against Subdivider, or any member of the Committee for the recovery of damages or other monetary, equitable or other relief by reason of any such approval or disapproval.

20. No tree, shrub, hedge, plant, vegetation, foliage or landscaping which exceeds the height of the residence or which could eventually grow to a height exceeding the height of the residence shall be planted,

installed or maintained upon any Lot unless prior to the planting or installation thereof, a complete description of the species, actual and potential height and shape thereof, and proposed location within the Lot have been submitted to and approved in writing by the Committee, as to species, height, shape, appearance and as to the effect on the view or visibility from or afforded by other Lots or property. In the event the Committee fails to approve or disapprove such description and the contents thereof within sixty (60) days after the submission thereof to it, then such approval will not be required, provided that any such tree, shrub, hedge, plant, vegetation, foliage or landscaping so planted, installed or maintained, conforms to all of the conditions and restrictions herein contained, to the description submitted to the Committee and does not adversely affect the view or visibility from or afforded by other Lots or property.

21. No clotheslines shall be placed nor shall any clothes be hung in any manner whatsoever on any Lot in a location visible from a public street.

22. "Commercial Vehicles" and "Recreation Vehicles" (as those terms are defined below) shall be subject to the following prohibitions and restrictions:

(a) As used herein the term "Commercial Vehicle" shall be defined as: (i) any vehicle with a sign displayed on any part thereof advertising any kind of business or other venture; or (ii) any vehicle on which racks, materials, ladders and/or tools are visible; or (iii) any vehicle with a body type normally employed as a business vehicle whether or not a sign is displayed on any part thereof; or (iv) a truck of greater than one (1) ton capacity; (v) a van other than one used solely as a family passenger van; or (vi) a bus. A vehicle may be a "Commercial Vehicle" even if such vehicle does not have a commercial license plate.

(b) As used herein, the term "Recreational Vehicle" shall include, without limitation, motorhomes, buses, trailer coaches, trailers, boats or other watercraft, aircraft or campers.

(c) No Commercial Vehicle or Recreational Vehicle may be parked on any Lot (unless the entire vehicle is located within a garage) or on any street or alley at any time, except as permitted below:

(i) A Commercial Vehicle not owned or operated by an Owner or an occupant of a Lot may be parked temporarily on said Lot or on the street in front of said Lot during such time as the operator of such Commercial Vehicle is delivering goods or providing services to the Owner or occupant of said Lot.

(ii) Recreational Vehicles owned by an Owner or occupant of a Lot may be parked on said Lot or in the street in front of said Lot while said Recreational Vehicle is being loaded or unloaded for a period not to exceed forty-eight (48) hours;

(iii) Recreational Vehicles owned by persons visiting an Owner or occupant may be parked in front of such Owner's or occupant's Lot while such person is visiting, provided that such Owner or occupant first obtains the written consent of the Committee, but in any event such period shall not exceed seven (7) days.

(iv) On those Lots on which Subdivider has constructed a Recreational Vehicle parking space ("RV space"), a Recreational Vehicle may be parked within such RV space.

In addition, no Commercial or Recreational Vehicle or any automobile, van or truck or equipment, may be dismantled, repaired or serviced on any Lot, street or alley in any area visible from adjoining property or public street.

23. No garage door is to be left open except: (a) at such time as a vehicle is entering or leaving said garage; or (b) when the Owner or occupant of such Lot is working in such garage, not to exceed four (4) hours per day; however, such work shall not include any activity which is prohibited by Section 22 above.

24. These covenants, conditions and restrictions shall run with the land and shall be binding on all Owners of the Lots above described and all other persons in possession of the Lots, including, without limitation all lessees and all other occupants of the Lots. Notwithstanding any provision of this Declaration to the contrary, all obligations set forth herein requiring performance of an action or payment of money by an Owner shall be deemed the personal obligation of each Owner, lessee, and occupant of the Lot at the time such obligation accrued. Each and all of the remaining covenants, conditions and restrictions shall continue for a period of thirty-five (35) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the Owners of a majority of the Lots has been recorded, agreeing to change or revoke or terminate said covenants, conditions and restrictions in whole or in part. Prior to conveying title to his or her Lot, each Owner shall give a copy of this Declaration and all amendments thereto to the buyer(s) or transferee(s) of such Lot.

25. Notwithstanding the provisions of Paragraph 24 hereof, Subdivider shall have the unrestricted right, at any time to effect the modification or termination, in part or in whole, of any of the covenants, conditions or restrictions herein, by the execution of an instrument evidencing the same also executed by the U. S. Department of Veterans Affairs, Federal Housing Administration, Federal National Mortgage Association or other applicable agency of the United States of America, as the case may be, (if any of them shall then insure, guarantee, own or otherwise have an interest in any mortgage or deed of trust which constitutes a lien or charge on any Lot in said tract) and duly recorded in the Office of the Recorder of San Diego County. Except upon a modification of the covenants, conditions or restrictions herein as aforesaid, no covenants, conditions or restrictions recorded subsequent to the date of the recording of this Declaration and relating to any Lot shall be valid or enforceable unless the same shall on its face evidence the approval of the Subdivider herein.

26. Each Owner of a Lot agrees for himself, his heirs, assigns, or successors in interest that he or she will permit free access by Owners of adjacent or adjoining Lots to slopes or drainageways located on his or her Lot which affect said adjacent or adjoining Lots, when such access is necessary for the maintenance of permanent stabilization on said slopes, maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slope or drainageway is located, or the maintenance or repair of walls or fences located along the boundary line of such Lots.

27. Subdivider or its designee shall have the right but not the obligation to enter upon each Lot for the purpose of planting and maintaining the slope banks as required.

28. There are certain "Slope-Control Areas" on the Property which is the subject of this Declaration. "Slope-Control Areas" shall mean those Lots within which lie areas which are constituted as sloped, banked or hillside and which extend three (3) feet or more in vertical height. The following Lots are so designated, viz.:

NONE

Each Owner of such Lots severally agrees for himself, his heirs, assigns and successors in interest with respect to his Lot as follows:

(a) No structures, planting or other material shall be placed or permitted to remain along, under or upon, nor shall any act be committed or omitted with respect to Slope-Control Areas which may damage or interfere with established slope ratios, create erosion or slide problems, or which may damage, obstruct, alter or

retard the direction of the established drainage of water along, under, upon or within Slope-Control Areas or the flow of water through drainage channels located along, under, upon or within Slope-Control Areas.

(b) Each Owner of any such Lot shall continuously maintain and preserve the Slope-Control Area which lies within such Lot at his or her own expense, including but not limited to, adequately watering, fertilizing, replacing, trimming vegetation and improvements thereon, all in conformity to generally accepted horticultural and slope preservation standards.

(c) In the event any such Lot Owner shall fail or refuse to perform any of the aforesaid obligations, Subdivider or its authorized agents, the Committee, or their successors in interest, or the Owner of any other Lot shall upon twenty-four (24) hours notice have the right to enter upon such Lot for the purpose of performing said obligations, and shall not be liable to the Owner of such Lot for so doing.

(d) In addition to any other right or remedy provided in this Declaration, such Owner shall be obligated to pay the reasonable cost to Subdivider or other Owner of performing such obligations, together with interest thereon at ten percent (10%) per annum from the date such obligations are performed and all costs of collection which may be paid or incurred by Subdivider or other Owner in connection therewith, including reasonable attorneys' fees, which may be enforced by Subdivider, Owner or the Committee in the same manner provided by law with respect to any other contractual obligation.

29. No violation of this Declaration, nor any of the rights created hereunder upon any Lot shall defeat or render invalid the lien of any holder of any indebtedness, or the renewal, extension or refinancing thereof, made in good faith and for value, and secured by any recorded deed of trust upon such Lot in favor of or for the benefit of any agency or officer of the United States of America, any agency or officer of the State of California, any institutional lender (meaning any bank, insurance company, savings and loan association or building and loan association), Subdivider, any wholly-owned corporate subsidiary of Subdivider, or any corporation of which Subdivider is a wholly-owned subsidiary, and the rights and remedies created hereby upon any such Lot shall be subject and subordinate thereto; provided that, immediately after any power of sale or court foreclosure of any such deed of trust by sale of such Lot, this Declaration shall be binding upon and effective against any Owner (including Subdivider) whose title is derived through such a sale, and the same rights and remedies shall attach and automatically be created on such Lot under the applicable provisions hereof, without further act.

30. There are block walls and/or fences on the Property which were constructed by Subdivider. The Owner of each Lot upon which a portion of these walls and/or fences is located agrees to maintain and repair said walls and/or fences on his Lot as originally constructed and further agrees no changes or alterations shall be made in said walls and/or fences without approval by the Committee. Approval shall be obtained as provided in Paragraphs 18 and 19 hereof.

31. No solar equipment, including but not limited to solar collectors and solar panels, shall be installed until approval of the Committee has been obtained, as provided in Paragraphs 18 and 19 hereof, as to (i) type of solar equipment to be installed and (ii) location thereof.

32. Each of the provisions of these covenants, conditions and restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

33. Any Owner, the Committee, or Subdivider, provided, Subdivider is an Owner of one or more Lot or has any other interest in the Property, or owns any portion of the real property described below as the "Benefitted Property", shall have the right to enforce any or all of the provisions of this Declaration. In order to enforce said provision or provisions, any appropriate judicial proceeding in law or in equity may be initiated and

prosecuted by Subdivider or any Owner or Owners against any other Owners or other responsible parties. Subdivider shall be deemed to have an interest in the Property if Subdivider is a beneficiary of a deed of trust or mortgagee of a mortgage encumbering any portion of the Property, or if Subdivider owns any interest in the Property or any improvement thereon. Failure by any Owner (including Subdivider) to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Subdivider hereby declares that the provisions of this Declaration are expressly intended to benefit the following real property (the "Benefitted Property"): Lots 40, 41 and 42 of Resubdivision of N.C.W. Neighborhood 7 Unit 6C according to Map No. 13458 recorded on January 31, 1997, as adjusted from time to time. Without limiting Subdivider's rights, Subdivider shall have the right, but not the obligation, to enforce the provisions of this Declaration until it no longer owns any of the Benefitted Property or the Property. Subdivider shall have no liability to any person for failure to enforce the provisions of this Declaration. The remedies specifically set forth in this Declaration are not intended to be exclusive and shall be cumulative with any other remedy provided by law or in equity.

34. In any legal or equitable proceeding or arbitration for the enforcement of or to restrain the violation of this Declaration or any provision thereof, the losing party or parties shall pay attorneys' fees and costs of the prevailing party or parties, in such amount as may be fixed by the court or arbitration in such proceeding.

35. In all cases where the Owners are empowered to or may elect to vote on any matter covered by this Declaration including, by way of example and not by way of limitation, election to terminate this Declaration, as provided in Paragraph 24 hereof there shall be one vote allocated to each Lot. When more than one person is an Owner of any Lot, the vote or votes for such Lot shall be exercised as the Owners thereof determine, but the vote attributable to such Lot shall be cast by only one of the Owners of such Lot, who shall be designation by such Owners, and until such designation is made, no vote may be cast on behalf of such Lot.

36. The rights of Subdivider in this Declaration may be assigned by Subdivider to any successor to all or any part of Subdivider's interest in the Property and/or the Benefitted Property, as developer, by an express assignment that transfers any such interest to a successor or to a mortgagee or beneficiary under a deed of trust acquiring Subdivider's interest in the Property by foreclosure or by deed in lieu of foreclosure.

37. Nothing in this Declaration shall limit the right of Subdivider to complete the construction of dwellings and other improvements to Lots and by Subdivider or to alter them or to construct additional improvements as Subdivider deems appropriate.

38. (a) All claims, causes of action, counterclaims, cross complaints or defenses brought by any Owner, Subdivider or any third parties, or their successors-in-interest or any person representing any Owner, Subdivider or their successors-in-interest (including class actions) on any matter whatsoever arising out of, or in any way relating to this Declaration (except for actions by an Owner or Subdivider solely for injunctive relief to compel compliance with or restrain violation of this Declaration), the Property, the sale of any Lot or home to any Owner, the construction of the Property or any home or other improvements on the Property, including but not limited to claims relating to construction defects, misrepresentation or failure to disclose material facts (hereinafter collectively "Claims") shall be decided by neutral, binding arbitration and not by court action, except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. Any arbitration shall be conducted by a single arbitrator, who shall be a retired judge of the Superior Court of the State of California. The parties to an arbitration may mutually agree in writing to use different rules and/or a different arbitrator. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. The arbitrator shall have the power to grant all legal and equitable remedies and award compensatory damages, but

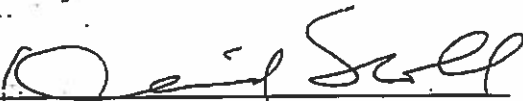
shall not have the power to award punitive damages. All Owners and their successors-in-interest shall be deemed to have expressly agreed to arbitration of all Claims and waived their right to punitive damages by taking title to a Lot or other real property subject to this Declaration. Any dispute concerning the validity or interpretation of this arbitration provision shall be decided by a court of competent jurisdiction without a jury.

(b) In the event the foregoing arbitration provision is held invalid, void or unenforceable by any court of competent jurisdiction for any reason, all "Claims" (as defined above) shall be tried before a judge in a court of competent jurisdiction without a jury. The judge in such court of competent jurisdiction shall have the power to grant all legal and equitable remedies and award compensatory damages, but shall not have the power to award punitive damages. All Owners and their successors-in-interest shall be deemed to have expressly waived their constitutional right to trial by jury and their right to punitive damages on any of the Claims by taking title to a Lot or other real property subject to this Declaration.

(c) Each paragraph, provision, subparagraph, sentence, clause, phrase and word of this paragraph 38 shall be deemed severable; and in the event that any of the same shall for any reason be held invalid by any court or arbitrator, such decision shall not affect the validity of the remaining part or portion of this paragraph 38.

IN WITNESS WHEREOF, said Subdivider, PARDEE CONSTRUCTION COMPANY, a California corporation, has hereunto affixed its signature the day and year first hereinabove written.

PARDEE CONSTRUCTION COMPANY,
a California corporation

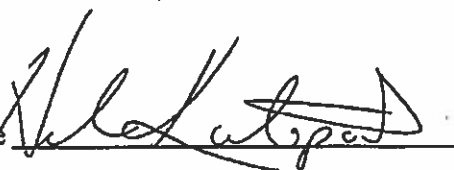
By 
David Scoll, Senior Vice President

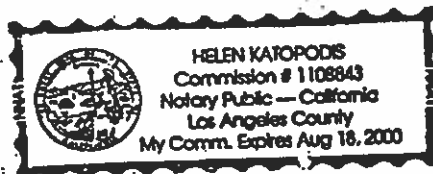
By 
Barbara Bail, Assistant Secretary

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

On March 9, 19 98 before me, Helen Katopodis a Notary Public in and for said County and State, personally appeared David Scoll as Senior Vice President and Barbara Bail as Assistant Secretary 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 



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