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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
Rancho San Joaquin Homeowners Association**

**TABLE OF CONTENTS
FOR
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
Rancho San Joaquin Homeowners Association**

DESCRIPTION	PAGE
ARTICLE I – DEFINITIONS AND INTERPRETATION	2
1.1. Definitions.....	2
1.2. Interpretation.....	8
1.3. Airport Influence Area Notice.....	8
ARTICLE II – RESIDENCE AND USE RESTRICTIONS.....	9
2.1. Residence Uses.....	9
2.2. Business or Commercial Activity.....	10
2.3. Nuisances.....	11
2.4. Signs.....	12
2.5. Vehicle Restrictions.....	12
2.6. Animal Regulations.....	14
2.7. Antennae.....	15
2.8. Trash.....	16
2.9. Installations.....	16
2.10. Further Subdivision.....	16
2.11. Drainage.....	17
2.12. Water Supply System.....	17
2.13. View Obstructions.....	17
2.14. Water Damage and Mold.....	17
2.15. Rights of Disabled.....	17
ARTICLE III – THE ASSOCIATION	18
3.1. General Powers and Duties.....	18
3.2. Specific Powers and Duties.....	18
3.3. Standing to Resolve Disputes.....	21
3.4. Standard of Care, Nonliability.....	21
3.5. Membership.....	23
3.6. Joint Ownership.....	24
3.7. Repair and Maintenance.....	24
ARTICLE IV – ARCHITECTURAL COMMITTEE	26
4.1. Members of Committee.....	26
4.2. Powers and Duties.....	26
4.3. Review of Plans and Specifications.....	27
4.4. Meetings and Actions of the Committee.....	29

DESCRIPTION	PAGE
4.5. No Waiver of Future Approvals.....	29
4.6. Compensation of Members.....	29
4.7. Inspection of Work.....	29
4.8. Certificate of Completion.....	30
4.9. Variances.....	30
4.10. Pre-Approvals.....	30
4.11. Appeals.....	30
4.12. Nonliability.....	30
ARTICLE V – PROPERTY EASEMENTS AND RIGHTS.....	30
5.1. Easements.....	30
5.2. Delegation of Use.....	31
5.3. Right of Entry.....	31
ARTICLE VI – ASSESSMENTS AND ASSOCIATION MAINTENANCE FUNDS.....	32
6.1. Personal Obligation to Pay Assessments.....	32
6.2. Association Maintenance Funds.....	32
6.3. Purposes of Assessments and Association Maintenance Funds.....	32
6.4. Waiver of Use.....	33
6.5. Limits on Regular Assessment Increases.....	33
6.6. Collection of Regular Assessments.....	34
6.7. Capital Improvement and Reconstruction Assessments.....	34
6.8. Special Assessments.....	35
ARTICLE VII – INSURANCE.....	35
7.1. Duty to Obtain Insurance; Types.....	35
7.2. Waiver of Claim Against Association.....	36
7.3. Right and Duty of Owners and Tenants to Insure.....	37
7.4. Owner Responsibility for Association Deductible.....	37
7.5. Notice of Expiration Requirements.....	37
7.6. Insurance Premiums.....	37
7.7. Trustee for Policies.....	37
7.8. Actions as Trustee.....	38
7.9. Annual Insurance Review.....	38
7.10. Required Waiver.....	38
ARTICLE VIII – DESTRUCTION OF IMPROVEMENTS.....	39
8.1. Restoration of the Community.....	39
8.2. Sale of Community and Right to Partition.....	39
8.3. Interior Damage.....	40
8.4. Notice to Owners and Listed Mortgagees.....	40
ARTICLE IX – EMINENT DOMAIN.....	40
9.1. Property Condemnation.....	41
9.2. Condemnation of Common Property.....	41
9.3. Condemnation of Exclusive Use Common Area.....	41
9.4. Condemnation of Condominiums.....	41

DESCRIPTION

PAGE

9.5. Condemnation of Portions of Units. 41

9.6. Portions of Awards in Condemnation not Compensatory for Value of Real Property..... 43

9.7. Notice to Owners and Mortgagees. 43

ARTICLE X – RIGHTS OF MORTGAGEES 43

10.1. General Protections. 43

10.2. Rights Reserved in Original Declaration. 43

10.3. Subordination of Assessment Liens..... 43

10.4. Contracts. 44

ARTICLE XI – ENFORCEMENT 44

11.1. Enforcement of Restrictions..... 44

11.2. Nonpayment of Assessments. 45

11.3. Limits on Collection of Delinquent Assessments Through Foreclosure; Right of Redemption..... 49

ARTICLE XII – DURATION AND AMENDMENT 51

12.1. Duration. 51

12.2. Termination and Amendment..... 51

ARTICLE XIII – GENERAL PROVISIONS..... 51

13.1. Mergers or Consolidations..... 51

13.2. No Public Right or Dedication..... 52

13.3. Notices..... 52

13.4. Constructive Notice and Acceptance..... 52

EXHIBIT A – Legal Description of the Community

EXHIBIT A1 – List of Phases, Units, Undivided Interests and Condominium Plans

EXHIBIT B – Recording Information for Original Declarations

EXHIBIT C – Maintenance Obligations Chart

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
Rancho San Joaquin Homeowners Association**

THIS DECLARATION is made by Rancho San Joaquin Homeowners Association, a California nonprofit corporation (the "**Association**"). The capitalized terms used in this Declaration are defined in ARTICLE I.

P R E A M B L E:

A. The Association is the homeowners association formed to manage the common interest development (the "**Community**") located on the real property in the City of Irvine, Orange County, California, described in **Exhibit A** and **A1**.

B. The Association manages and governs the Community pursuant to multiple Declarations of Covenants, Conditions and Restrictions for Rancho San Joaquin Homeowners Association recorded in Official Records of the Orange County Recorder's Office, California, and listed on **Exhibit B** (individually and collectively, the "**Original Declaration**").

C. The Association wishes to update the Original Declaration and bring it into compliance with current law and prudent common interest development management practices.

D. Article XV, Section 5 of each Original Declaration authorizes the Association to amend the Original Declaration so long as the amendment is approved by (1) at least 66 2/3% percent of the Association's voting power; and a majority of the voting power in each "Development" as defined in each Original Declaration. Civil Code Section 5100(a) requires that such vote shall be taken using the secret ballot procedure established by the CID Act. This Declaration has been approved as required by the Original Declaration and the CID Act.

E. Article XV, Section 5 of the Original Declaration requires that the consent of First Mortgagees be obtained to amend specific provisions of the Original Declaration. Such consent has not been obtained so those Sections are incorporated in this Declaration in their original form.

F. Easements were reserved in the Original Declaration. The Association does not intent to eliminate these easements. Nothing in this Declaration shall be construed to terminate any of the easements created.

G. As described above, the Association now desires to amend and restate the Original Declaration and replace it in its entirety with this Declaration. Upon Recordation of this Declaration, the Community shall be subject to the covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges in this Declaration.

ARTICLE I– DEFINITIONS AND INTERPRETATION

1.1. Definitions.

Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings.

1.1.1. **Architectural Committee or Committee.**

Architectural Committee or Committee means the Architectural Committee created pursuant to ARTICLE IV.

1.1.2. **Architectural Guidelines.**

Architectural Guidelines means the rules or guidelines setting forth procedures and standards for submission of plans for Architectural Committee approval.

1.1.3. **Articles.**

Articles means the Articles of Incorporation of the Association as currently in effect.

1.1.4. **Assessment.**

Assessment means any Regular Assessment, Capital Improvement Assessment, Reconstruction Assessment or Special Assessment.

1.1.5. **Association.**

Association means Rancho San Joaquin Homeowners Association, a California nonprofit corporation, and its successors in interest. The Association is an “association” as defined in Section 4080 of the California Civil Code.

1.1.6. **Association Maintenance Funds.**

Association Maintenance Funds means the accounts created for Association receipts and disbursements pursuant to ARTICLE VI.

1.1.7. **Association Rules.**

Association Rules means the current rules and regulations for the Community. The Association Rules include “**operating rules**” as defined in Section 4340(a) of the California Civil Code.

1.1.8. **Board or Board of Directors.**

Board or Board of Directors means the Association’s Board of Directors.

1.1.9. **Budget.**

Budget means a written, itemized estimate of the Association’s income and Common Expenses prepared pursuant to the Bylaws.

1.1.10. **Bylaws.**

Bylaws means the Bylaws of the Association as currently in effect.

1.1.11. **Capital Improvement Assessment.**

Capital Improvement Assessment means a charge levied against the Owners and their Condominiums representing their share of the Association's cost for installing or constructing capital Improvements on the Common Property. Capital Improvement Assessments shall be levied in the same proportions as Regular Assessments.

1.1.12. **CID Act.**

CID Act means the CID Act, which is codified as Part 5 to Division 4 of the California Civil Code, commencing with Section 4000, and any successor statute.

1.1.13. **City.**

City means the City of Irvine, California, and its various departments, divisions, employees and representatives.

1.1.14. **Common Area.**

Common Area means the real property designated as Common Area on the Condominium Plans, including all gas, water and waste pipes, sewers, ducts, chutes, conduits, wires and other utility installations of the structures, wherever located (except the outlets located in the Units), the land upon which the structures are located, the air space above these structures, all bearing walls, columns, floors, the roof, the slab foundation, common stairways, window glass and the like. The Common Area is "common area" as defined in Section 4095(a) of the California Civil Code.

1.1.15. **Common Expenses.**

Common Expenses means those expenses for which the Association is responsible under this Declaration and includes the actual and estimated costs of and reserves for all of the following:

- Maintaining, managing and operating the Association Property.
- Unpaid Assessments.
- Performing all other obligations that this Declaration requires the Association to perform.
- All other expenses incurred by the Association for the Community, for the common benefit of the Owners.

1.1.16. **Common Property.**

Common Property means the Common Area and the Development Common Area.

1.1.17. **Community.**

Community means the Units, Common Area and Development Common Area on the real property described on **Exhibit A**. The Community is a "condominium project" as defined in Section 4125 of the California Civil Code. The Community is a "common interest development" as defined in Section 4100 of the California Civil Code.

1.1.18. **Condominium.**

Condominium means an estate in real property as defined in Section 4125(b) of the California Civil Code. A Condominium consists of an undivided fee simple ownership interest in Common Area together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. Subject to the provisions of ARTICLE IX, the undivided fee simple interest in the Common Area is appurtenant to each Unit. The Units and their undivided interests are listed on **Exhibit A1**.

1.1.19. **Condominium Plan.**

Condominium Plan means the Recorded plans, as currently in effect, for the Community listed on **Exhibit A1** that identify the Units and Common Area.

1.1.20. **County.**

County means Orange County, California, and its various departments, divisions, employees and representatives.

1.1.21. **Declaration.**

Declaration means this instrument as currently in effect.

1.1.22. **Development Common Area.**

Development Common Area means the real property together with all structures and other appurtenances constructed thereon which are owned or acquired by the Association.

1.1.23. **Exclusive Use Common Area.**

Exclusive Use Common Area means the Common Area over which exclusive easements are reserved for the benefit of specified Condominiums, including for carport purposes as shown and assigned on the Condominium Plans and for internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of such Unit in accordance with Section 4145(c) of the California Civil Code.

1.1.24. **Family.**

Family means natural individuals, related or not, who live as a single household in a Residence.

1.1.25. **FHA.**

FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and its successors.

1.1.26. **FHLMC.**

FHLMC means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970 and its successors.

1.1.27. **Fiscal Year.**

Fiscal Year means the fiscal accounting and reporting period of the Association selected by the Board.

1.1.28. **FNMA.**

FNMA means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968 and its successors.

1.1.29. **GNMA.**

GNMA means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development and its successors.

1.1.30. **Governing Documents.**

Governing Documents means this Declaration, the Articles, the Bylaws, the Association Rules, and the Architectural Guidelines.

1.1.31. **Improvement.**

Improvement means any structure and any appurtenance thereto, including a building, walkway, irrigation system, garage, recreational facility, street, driveway, parking area, fence, any type of wall, awning, balcony, patio, stairs, any type of landscaping and planting, antenna, windbreak, the exterior surface of any visible structure and the paint on such surface, pole, sign, exterior air conditioning and water softener fixture or equipment. The Architectural Committee may identify additional items that are Improvements.

1.1.32. **Include and Including.**

Whether capitalized or not, include means "include without limitation," and including means "including without limitation."

1.1.33. **Maintain and Maintenance.**

Whether capitalized or not, maintain means maintain, repair and replace, and maintenance means maintenance, repair and replacement.

1.1.34. **Manager.**

Manager means the Person retained by the Association to perform management functions of the Association as limited by the Governing Documents and the terms of the agreement between the Association and such Person.

1.1.35. **Meet and Confer Program.**

Meet and Confer Program means the Association's internal dispute resolution program intended to comply with the CID Act.

1.1.36. **Membership.**

Membership means the voting and other rights, privileges and duties established in the Governing Documents for members of the Association.

1.1.37. **Mortgage.**

Mortgage means any Recorded document, including a deed of trust, by which a Condominium or other portion of the Community is hypothecated to secure the performance of an obligation.

1.1.38. **Mortgagee.**

Mortgagee means a Person to whom a Mortgage is made or the assignee of the Mortgagee's rights under the Mortgage by a Recorded instrument. Mortgagee includes a beneficiary under a deed of trust.

1.1.39. **Mortgagor.**

Mortgagor means a Person who Mortgages such Person's property to another. Mortgagor includes a trustor under a deed of trust.

1.1.40. **Notice and Hearing.**

Notice and Hearing means written notice and a hearing before the Board, as provided in the Bylaws.

1.1.41. **Official Records.**

Official Records means the Official Records of the County Recorder.

1.1.42. **Owner.**

Owner means the Person or Persons holding fee simple interest to a Condominium. Each Owner has a Membership in the Association. "**Owner**" includes sellers under executory contracts of sale but excludes Mortgagees.

1.1.43. **Person.**

Person means a natural individual or any entity recognized under California law. When the word "person" is not capitalized, the word refers only to natural persons.

1.1.44. **Reconstruction Assessment.**

Reconstruction Assessment means a charge levied against the Owners and their Condominiums, representing their share of the Association's cost to reconstruct any of the Improvements on the Common Property. Such charge shall be levied among all Owners and their Condominiums in the same proportions as Regular Assessments.

1.1.45. **Record or File.**

Record or File means, with respect to any document, the entry of such document in the Official Records.

1.1.46. **Regular Assessment.**

Regular Assessment means a charge levied against the Owners and their Condominiums representing their share of Common Expenses.

1.1.47. **Residence.**

Residence means the Unit and all Exclusive Use Common Areas appurtenant to such Unit.

1.1.48. **Special Assessment.**

Special Assessment means a charge against an Owner and such Owner's Condominium representing a reasonable fine or penalty, including attorneys fees and reimbursement costs, as provided for in this Declaration.

1.1.49. **Unit.**

Unit means a separate interest in space as defined in Section 4125(b) of the California Civil Code. Each Unit is a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan. Each Unit is composed of a residential element and one or more of a patio element, a garage element, or a balcony element. The residential element of the Unit is identified on the Condominium Plan by the Unit number only. The patio, garage and balcony elements of a Unit, if any, shall be identified by the Unit number together with the designations "P", "G" or "B" as applicable.

The residential element of the Unit consists of the interior surfaces of the perimeter walls, floors, ceilings, windows and doors of each residential element and the space encompassed thereby, including the outlets of all utility installations therein and also including the interior surfaces of the firebox of each fireplace extending from the floor to the top of each fireplace, if any, and the space encompassed thereby, which adjoins any residential element. The residential element of each Unit also includes the area identified on the Condominium Plan as "under-floor area."

In interpreting deeds, declarations and plans, the existing physical boundaries of the Unit constructed or reconstructed in substantial accordance with the Condominium Plan shall be conclusively presumed to be the boundaries of the Unit, rather than the description expressed in the deed, this Declaration or the Condominium Plan, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries, as shown on the Condominium Plan or defined in the deed and this Declaration, and the boundaries of a building as constructed or reconstructed.

1.1.50. **Utility Facilities.**

Utility Facilities means all utility facilities, including intake and exhaust systems, storm and sanitary sewer systems, drainage systems, ducting systems for ventilation and utility services, domestic water systems, natural gas systems, heating and air conditioning systems, electrical systems, fire protection water and sprinkler systems, water systems, sump pumps, pool equipment, central utility services and all other utility systems and facilities reasonably necessary to service any Improvement in the Community.

1.1.51. **VA.**

VA means the Department of Veterans Affairs of the United States of America and any department or agency of the United States government that succeeds to VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

1.2. **Interpretation.**

1.2.1. **General Rules.**

This Declaration shall be construed liberally to effectuate its purpose of creating a uniform plan for creating and operating a residential condominium development and maintaining the Common Property. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

1.2.1. **Relation to Original Declaration.**

Upon Recordation of this Declaration, the Original Declaration is amended and restated as provided herein.

1.2.2. **Articles, Sections and Exhibits.**

The Article and Section headings have been inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. The Exhibits attached to this Declaration are incorporated in this Declaration by this reference.

1.2.3. **Priorities and Inconsistencies.**

If there are conflicts or inconsistencies between this Declaration and the Articles, the Bylaws, the Association Rules, the Architectural Guidelines or the Condominium Plan, then this Declaration shall prevail.

1.2.4. **Severability.**

The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provision of this Declaration.

1.2.5. **Statutory References.**

All references made to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

1.3. **Airport Influence Area Notice.**

The following notice applies to all of the Community:

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the

annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

An "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission. The Community is in the airport influence area of John Wayne airport.

ARTICLE II – RESIDENCE AND USE RESTRICTIONS

The Community shall be held, used and enjoyed subject to the following restrictions.

2.1. Residence Uses.

2.1.1. General Restrictions on Use of the Residence.

The Residence shall be used as a dwelling for a single Family and for no other purpose. The number of persons residing in any Residence shall not exceed two (2) per bedroom plus one.

2.1.2. Short Term Rentals.

No Owner shall lease or rent such Owner's Condominium for transient purposes (less than thirty days), hotel purposes or for any purposes inconsistent with the Restrictions. Any lease or rental agreement that is either for a period of fewer than thirty (30) days or pursuant to which the Owner or another Person provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes. Owners are prohibited from advertising Condominiums for lease on terms that violate this Section 2.1. The Board has the power to adopt an Association rule setting a longer minimum lease term.

2.1.3. Additional Limits on Leasing.

An Owner may rent the Owner's Residence to a single Family, provided that the Residence is rented pursuant to a lease or rental agreement that is (a) in writing and (b) subject to this Declaration. At the request of the Association, the Owner of any Residence subject to a lease or rental agreement must provide the Association with the names of the tenants of such Residence and such Owner's current mailing address. Any Owner who rents or leases such Owner's Residence is responsible for assuring that the tenants and occupants of such Owner's Condominium comply with the Governing Documents. A lessee or tenant shall have no obligation to the Association to pay Assessments, nor shall any lessee or tenant have any voting rights. A copy of the Restrictions shall be made available to each tenant or lessee by the Owner of the leased or rented Condominium.

Any failure by a tenant or subtenant to comply with the Governing Documents is a default under the lease or rental agreement.

2.1.4. **Sound Attenuation.**

Any fixture or equipment that will cause vibrations or noise or unreasonable annoyance to the residents of the other Condominiums must not be attached to the walls or ceilings of any Residence. The Board may establish Community Guidelines restricting the hours of operation of items that produce noise. No alteration, repair or replacement of installations in Condominiums that may diminish the effectiveness of the sound attenuation between the Units may be made. Without limiting the generality of the foregoing, no alteration, repair or replacement of wall, ceiling or floor coverings or materials, or sound insulation around the outlets in Condominiums that may diminish the effectiveness of the sound control engineering in the buildings in the Community may be made unless authorized by the Association. The Board may adopt Association Rules identifying modifications that are allowed and that are prohibited.

2.1.5. **Hard Surface Interior Flooring.**

All modifications to flooring installed in a Unit must be approved in writing by the Architectural Committee. Generally, floor covering for all Units shall be restricted to carpet or similar soft surface flooring materials. No hard surface floor coverings such as wood, laminates, ceramic tile or stone may be installed in the Units over another Unit unless first approved by the Architectural Committee. If any Owner fails to comply with these flooring restrictions, then the Association has the right, but not the obligation, to seek to have the unauthorized flooring removed and to bill the cost for the Association's actions to such Owner as an Assessment.

2.1.6. **Exterior Areas.**

Furniture, plants, barbecues and other personal property may be kept in the patios and balconies, as authorized in the Association Rules. The Association has the authority to limit or prohibit use of exterior sports apparatus such as portable basketball standards outside of the residential element of the Units. The patios and balconies must not be used for storage purposes. All plants kept outside of any Unit shall be kept in pots or planters that do not allow water to drain outside of such pots or planters. No vegetation shall be permitted to extend beyond the railings, walls or any other boundary of any patio or balcony, except as approved by the Association. Items must not be attached to the railings or fence surrounding the patios and balconies. No fires are permitted, except in fire places, barbecue grills and other receptacles designed and used in such a manner so as not to create a fire hazard. No clothing, fabrics or unsightly articles may be hung, dried or aired outside of the residential element of the Units. Articles that are unsightly may be defined in the Association Rules.

2.2. **Business or Commercial Activity.**

Residences may be used for business or commercial activities so long as the following requirements are met:

- The activities are conducted in conformance with all applicable laws and governmental ordinances;
- The patrons or clientele do not overburden the streets or parking areas in the Community, considering the streets and parking areas are a part of a residential community, not a commercial development;
- The existence or operation of such activities does not produce sounds, odors or materials outside the boundaries of the Condominium that are excessive or inappropriate for a residential community;
- The activity does not increase any of the Association's insurance obligations or premiums;
- The activities are consistent with the character of the Community and conform to this Declaration.

Except as authorized in this Section, no part of the Community may be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including any activity for which the provider is compensated or receives any consideration, regardless of whether the activity is engaged in full or part time, generates or does not generate a profit, or requires or does not require a license.

2.3. Nuisances.

Noxious or offensive activities are prohibited in the Community. All horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residence or a vehicle and its contents, are also prohibited. Noisy, unsightly or smoky vehicles, large power equipment and large power tools (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance), off-road motor vehicles or items which may unreasonably interfere with television or radio reception to any Condominium, animals and objects which emit loud noises, such as outdoor speakers, or noxious odors may not be located or used in the Community, or exposed to the view of other Owners unless either (a) the use is authorized in the Association Rules; or, (b) the Board's provides written approval. The Board is entitled to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner may permit or cause anything to be done or kept on the Community which may increase the rate of insurance in the Community, or result in cancellation of such insurance. Each Owner shall comply with all laws regarding occupancy and use of a Condominium.

2.4. Signs.

2.4.1. Definitions.

(a) A **“Sign”** is any balloon, banner, billboard, flag, poster, sign and other display defined as a **“Sign”** in the Architectural Guidelines.

(b) An **“Authorized Sign”** is any of the following:

- (i) A Sign authorized by law to be displayed;
- (ii) a name and address identification Sign for a Condominium;
- (iii) a Sign advising of the existence of security services protecting a Condominium; and
- (iv) a Sign defined as an Authorized Sign by the Association.

(c) A **“Prohibited Sign”** is any Sign that is **not** (1) an Authorized Sign, or (2) described as exempt in Section 2.4.3.

2.4.2. Restrictions.

Prohibited Signs cannot be displayed anywhere in the Community or on any public street in or abutting the Community. Authorized Signs may be installed and maintained in a Condominium by the Owner or occupant of such Condominium so long as they (a) comply with law and the Architectural Guidelines and (b) do not pose a threat to public health or safety.

2.4.3. Exemption.

All Signs that are (a) entry monuments, Community identification Signs, notices required by law to be posted or traffic or parking control Signs and/or (b) installed or maintained by the Association are exempt from the restrictions in this Section 2.4.

2.4.4. Additional Regulation.

In the Architectural Guidelines, the Association may interpret this Section 2.4, clarify any portion of this Section 2.4 and provide examples of Signs that are Authorized Signs and Prohibited Signs. The Board is authorized to establish additional restrictions on display of Signs in the Rules and Regulations.

2.5. Vehicle Restrictions.

2.5.1. Statement of Intent.

Parking in the Community is limited. To ensure that there are sufficient spaces available for guests, this provision requires that residents park their personal vehicles in the garage or carport of the Residence. The Association has the power to designate some or all

Common Property parking as guest parking and not resident parking. Residents who have more vehicles than the number allowed to be parked at their Residence must make arrangements to park the vehicles outside of the Community. The Board is authorized to adopt Association Rules as are necessary to allow the Association to enforce the parking restrictions in accordance with this statement of intent.

2.5.2. **Definitions.**

(a) **“Parking Area”** means the garages of those Units that have garage elements, Exclusive Use Common Area carports, driveways any other area in the Community designated by the Association as a parking area and any other area on the public street adjacent to the Community that is used for parking vehicles.

(b) **“Passenger Vehicles”** means standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles and pick-up trucks having a manufacturer’s rating or payload capacity of one (1) ton or less that do not have commercial advertising visible from the exterior of the vehicle.

(c) **“Prohibited Vehicles”** means all vehicles that are not Passenger Vehicles, including recreational vehicles such as motor homes, travel trailers, camper vans and boats, commercial-type vehicles (such as stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks and limousines), vehicles designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, inoperable vehicles or parts of vehicles and any other vehicle not classified as a Passenger Vehicle. Prohibited Vehicles also include any vehicles with commercial advertising such as web site information, phone numbers and logos visible from the exterior of the vehicle.

2.5.3. **Resident Vehicle Restrictions.**

Passenger Vehicles kept by residents may be parked in the garages or carports of the Residences or on the driveways, but only if the driveway is long enough to allow a vehicle to be parked there without blocking passage on the sidewalk or street. Prohibited Vehicles kept by residents may be parked in an Owner’s fully enclosed garage with the door closed so long as their presence in the Community does not otherwise violate this Declaration. If residents of a Residence have more vehicles than can be parked in the garage, carport and driveway of their Residence, they must park the vehicles outside of the Community, in compliance with City parking ordinances.

2.5.4. **Additional Restrictions.**

Prohibited Vehicles must not be parked, stored or kept on any street or driveway in the Community except for brief periods for loading, unloading, making deliveries or emergency repairs. No Owner may park any vehicle in a manner which the Association determines either restricts the passage of pedestrians or vehicles over driveways, streets or sidewalks, or extends beyond the limits of the space where the vehicle is parked. Even though a vehicle may fit the definition of Passenger Vehicle, if it does not fit in a garage, the vehicle must not be parked in the garage. The Board may establish a permit program,

giving residents the right to park vehicles in open parking spaces, subject to such rules as the Board may establish. Garages and carports must be maintained so that they can hold the number of Passenger Vehicles that they were originally designed to house. No maintenance or restoration of any vehicle may be conducted in the Community except in an enclosed garage when the garage door is closed, provided such activity is not undertaken as a business, and provided that such activity may be prohibited entirely by the Board if the Board determines that it constitutes a nuisance.

2.5.5. **Enforcement.**

The Board has the authority to regulate use of the parking areas in the Community. The Association has the power to remove violating vehicles from the Community pursuant to Section 22658 of the California Vehicle Code or other applicable law. If the Association fails to enforce any of the parking or vehicle use regulations, the City has the right but not the obligation to enforce such regulations.

2.5.6. **Persons with Disabilities.**

Subject to applicable law, the Board has the power to reserve open parking spaces within the Community for short-term or long-term use by residents with disabilities as a reasonable accommodation to such persons.

2.6. **Animal Regulations.**

The only animals that may be raised, bred or kept in any Residence are dogs, cats, fish, birds, reptiles and other usual household pets, provided that they are not kept, bred or raised for commercial purposes, in unreasonable quantities or sizes or in violation of the Governing Documents. As used in this Declaration, **“unreasonable quantities”** ordinarily means more than three (3) pets per Residence, with no more than two (2) being dogs; provided, however, that the Association may determine that a reasonable number in any instance may be more or less. The Association may limit the size and weight of pets and may prohibit the maintenance of any animal that, in the Association’s opinion, constitutes a nuisance. Animals must be kept either in an enclosed area or on a leash held by a person capable of controlling the animal. Animals and animal-related items and personal property (including cages, litter boxes and food and/or water containers, bowls and dispensers) may not be kept or stored for any amount of time on any balcony or patio anywhere else outside of any Unit. Each Person is liable for any unreasonable noise and for damage to person or property caused by any animal brought or kept in the Community by such Person. Each Person shall clean up after such Person’s animals. Persons must not sweep or wash animal waste onto the Common Property or into another Unit. Any Person who keeps any animal, insect or reptile in the Community shall indemnify, defend and hold harmless the Association and its officers, directors, contractors, agents and employees from any claim brought by any Person against the Association or its officers, directors, agents or employees for personal injuries or property damage caused by such animal, insect or reptile.

2.7. Antennae.

2.7.1. ***“Authorized Antenna” Defined.***

“Authorized Antenna” means (a) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one (1) meter or less in diameter, (b) an antenna designed to receive video programming service, including multichannel multipoint distribution service, instructional television fixed service and local multipoint distribution service, and is one (1) meter or less in diameter or diagonal measurement, (c) an antenna designed to receive television broadcast signals and (d) a mast supporting an antenna described in items (a), (b) and (c) above.

2.7.2. ***Authorized Antenna Requirements.***

Owners are prohibited from installing any antenna on the exterior of a Residence except for an Authorized Antenna. Each Owner may install one (1) Authorized Antenna on the exterior of a Residence if the Architectural Committee determines that the Authorized Antenna, in the proposed location, is minimally conspicuous when viewed from other Residences or the Common Property. The Architectural Committee may require that an Authorized Antenna be moved so long as moving the Authorized Antenna does not (a) unreasonably delay or prevent installation, maintenance or use of the Authorized Antenna, (b) unreasonably increase the cost of installation, maintenance or use of the Authorized Antenna or (c) preclude acceptable quality reception.

2.7.3. ***Additional Restrictions.***

The Association may adopt additional restrictions on installation or use of Authorized Antennae as a part of the Association’s Association Rules so long as such restrictions do not (a) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (b) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna or (c) preclude acceptable quality reception. The Association may prohibit the installation of an Authorized Antenna if the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of Managers, agents or employees of the Association and other Owners or for any other safety-related reason established by the Association. The Association also may (1) prohibit an Owner from installing an Authorized Antenna on property that such Owner does not own or is not entitled to exclusively use or control under the Governing Documents, such as the roof of a building or Common Property that is not the Owner’s Exclusive Use Area, or (2) allow an Owner to install an antenna other than an Authorized Antenna subject to the architectural standards and review by the Architectural Committee.

2.7.4. ***Restatement of Legal Authority.***

This Section 2.7 is intended to be a restatement of the authority granted to the Association under the law. The Board is authorized to adopt Association Rules that modify this Section 2.7 to comply with amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of antennae.

2.8. **Trash.**

Trash bins are provided by the Association in various locations on the Common Property. Residents are allowed to deposit trash in the bins, subject to regulation by the Association. Residents must not deposit oversized items in the trash bins. The cost of regular trash collection and removal from the trash bins and trash bin rentals is a Common Expense.

Some Condominiums also have individual trash collection service. Residents' trash containers must be stored in appropriate areas screened from view. Such containers may be exposed to the view of neighboring Condominiums only when set out at a location approved by the Association for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours).

Storage of building materials, refuse or other materials of any kind in the Community is prohibited, except that building materials may be kept in areas designated by the Architectural Committee temporarily during construction that has been approved by the Association.

2.9. **Installations.**

2.9.1. **Generally.**

No Owner may cause or permit any mechanic's lien to be filed against the Community for labor or materials alleged to have been furnished or delivered to the Community or any Condominium for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to such Owner from the Board. If any Owner fails to remove such mechanic's lien, then the Board may discharge such mechanic's lien and charge such Owner for the cost of discharge.

2.9.2. **Inside Installations in General.**

Nothing may be done in any Condominium or in, on or to the Common Property that may impair or alter the structural integrity of any building in the Community, or alters the Utility Facilities serving other Units, without prior approval of the Architectural Committee.

2.9.3. **Window Coverings.**

Temporary window coverings ("**Temporary Window Coverings**") in a design and color that does not conflict with the surrounding Improvements (but excluding aluminum foil, sheets, newspapers or any other similar material) will be permitted for a maximum period of sixty (60) days from the date on which a Condominium is conveyed to an Owner. All other window coverings that are visible from outside of the Unit must be authorized by the Architectural Committee.

2.10. **Further Subdivision.**

Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide a Condominium in any manner, including dividing such Owner's Condominium into time-share estates or time-share uses. This provision does not limit the right of an Owner to (a) rent or lease all such Owner's Condominium by a written lease or rental agreement subject to this Declaration, (b) sell such Owner's Condominium or (c) transfer

or sell any Condominium to more than one (1) Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. Any failure by the tenant of the Condominium to comply with the Governing Documents constitutes a default under the lease or rental agreement. Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of this Declaration No Condominium in the Community may be partitioned or subdivided without the written approval of the Mortgagee of any first Mortgage on such Condominium.

2.11. Drainage.

No one may interfere with or alter the established drainage pattern over the Community unless an adequate alternative provision is made for proper drainage with the Board's written approval. Owners must maintain Improvements so that water does not pond near the buildings and cement Improvements in the Community or on any balcony or patio. Landscape irrigation systems should be operated to prevent excessive saturation of soils. Water must drain away from footings, and other Improvements and obstructions such as walls should not be constructed across swales unless adequate replacement drainage Improvements have been installed or created. Planters should be lined with an impervious surface and should contain outlets to drain excess water.

2.12. Water Supply System.

No individual water supply, sewage disposal or water softener system is permitted in any Condominium unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water district having jurisdiction, the City, the Architectural Committee and all other governmental authorities with jurisdiction.

2.13. View Obstructions.

Each Owner acknowledges that any construction or installation by the Association may impair the view of such Owner and consents to such impairment. Each Owner acknowledges that there are no guaranteed views within the Community, and no Condominium is assured the existence or unobstructed continuation of any particular view.

2.14. Water Damage and Mold.

Each Owner, and not the Association, is responsible for water damage and mold damage to Units and the Common Area caused by (a) occupants of such Owner's Unit or (b) plumbing and plumbing-related fixtures that such Owner is responsible for maintaining. Each Owner shall regularly inspect such Owner's Residence for plumbing leaks, improper water accumulation, water intrusion through windows, doors and roofs and signs of mold. Each Owner must periodically replace hoses serving the washing machine, dishwasher and water heater in such Owner's Residence and pans under such washing machine, dishwasher and water heater.

2.15. Rights of Disabled.

Each Owner may modify such Owner's Residence and the route over the Common Property leading to the front door of such Owner's Residence, at such Owner's sole

expense, to facilitate access to such Owner's Residence by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions that could be hazardous to such persons in accordance with Section 4760(a)(2) of the California Civil Code or any other applicable law.

ARTICLE III – THE ASSOCIATION

3.1. General Powers and Duties.

The Association has the powers and duties listed in the Governing Documents and also has the general and implied powers of a nonprofit mutual benefit corporation generally to do all things that a corporation organized under the laws of the State of California may lawfully do that are necessary or proper in operating for the peace, health, comfort, safety and general welfare of the Owners, subject only to the limits on the exercise of such powers listed in the Governing Documents. Unless otherwise indicated in the Articles, the Bylaws or this Declaration, the powers of the Association may be exercised by the Board.

3.2. Specific Powers and Duties.

In addition to its general powers and duties, the Association has the following specific powers and duties.

3.2.1. Common Property Maintenance and Management.

The power and duty to maintain and manage the Common Property in accordance with the Governing Documents. The Association may install or remove capital Improvements on the Common Property. The Association may reconstruct, replace or refinish any Improvement on the Common Property. The Association may restrict access to portions of the Common Property not reserved as Exclusive Use Common Areas to protect sensitive landscaping, to allow the Association to make and complete repairs or for safety reasons.

3.2.2. Granting Rights in and Establishing Responsibility for Common Property.

The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in the Common Property. This power includes the right to create and convey Exclusive Use Common Areas. The Association may deannex any portion of the Community from the encumbrance of this Declaration in connection with any lawful lot line adjustment. The Board has the power to grant exclusive use of any portion of the Common Property as allowed by Civil Code Section 4600. If Civil Code Section 4600 requires the affirmative vote of the Owners, then the affirmative vote of a majority of a quorum of the Owners is required to approve the grant of exclusive use. The Board is authorized to adopt Rules and Regulations authorizing Owners to take over maintenance responsibility for portions of the Common Property and establishing standards and procedures for reviewing such requests from Owners.

3.2.3. **Utilities and Trash Collection.**

The power and duty to obtain, for the benefit of the Community, any commonly metered utility services; the power to install and maintain separate meters measuring usage by individual Units; the power to establish a billing and collection program for any separately sub-metered services; and the power and duty to provide for trash collection bins for use by residents and trash collection service for the Common Property.

3.2.4. **Employ Personnel.**

The power to employ Persons necessary for the effective operation and maintenance of the Common Property, including legal, management and accounting services.

3.2.5. **Insurance.**

The power and duty to maintain insurance for the Common Property in accordance with this Declaration.

3.2.6. **Sewers and Storm Drains.**

The power and duty to maintain all private sewer systems, private storm drains and private drainage facilities within the Common Property.

3.2.7. **Association Rules.**

The power to adopt, amend, restate, delete and create exceptions to (1) Association Rules that establish election rules and procedures required by Section 5105(a) of the California Civil Code and (2) additional Association Rules that the Board determines are appropriate, necessary or required by law. The Association Rules are enforceable only to the extent that they are consistent with the other Governing Documents.

(a) **Areas of Regulation.** The Association Rules shall establish election rules and procedures required by Section 5105(a) of the California Civil Code. The Association Rules also may concern the use of the Community, signs, parking restrictions, minimum standards of property maintenance and any other matter under the Association's jurisdiction. The Association Rules may include (i) prohibitions on Improvements that are not consistent with the Community and (ii) prohibitions on keeping certain types of personal property in view from the Common Property.

(b) **Limits on Regulation.** The Association Rules must apply uniformly to all Owners. The rights of Owners to display religious, holiday and political signs, symbols and decorations inside their Residences of the kinds normally displayed in single family residential neighborhoods shall not be abridged, except that the Association may adopt time, place and manner restrictions for such displays if they are visible outside of the Residences. No modification to the Association Rules may require an Owner to dispose of personal property that was allowed within the Community before the adoption of such modification if such personal property was in compliance with all rules previously in force; however, this exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to (i) subsequent Owners who take title to the Unit after the modification is adopted or (ii) clarifications to the Association Rules.

(c) **Use of Facilities.** The Association Rules may (i) specify a maximum number of guests that an Owner, tenant or other Person may admit to the Common Property recreational facilities at one time, (ii) establish rules for allowing Owners, tenants or other Persons to use Common Property facilities for private functions or (iii) establish admission fees, deposit requirements and other fees for the use of any of the facilities on Common Property.

3.2.8. ***Borrowings.***

The power, but not the duty, to borrow money for purposes authorized by the Articles, the Bylaws or this Declaration and to use the Common Property, Assessments, accounts receivable and other personal property of the Association as security for the borrowing.

3.2.9. ***Contracts.***

The power, but not the duty, to enter into contracts, including contracts with Owners or other Persons to provide services or to maintain Improvements in the Community.

3.2.10. ***Indemnification.***

(a) **For Association Representatives.** To the fullest extent authorized by law, the Association has the power and duty to indemnify Directors, Association officers, Architectural Committee members and all other Association committee members for all damages, pay all expenses incurred and satisfy any judgment or fine levied as a result of any action or threatened action brought because of performance of an act or omission within what such Person reasonably believed to be within the scope of such Person's Association duties ("**Official Act**"). Directors, Association officers, Architectural Committee members and all other Association committee members are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any Person entitled to such indemnification.

(b) **For Other Agents of the Association.** To the fullest extent authorized by law, the Association has the power, but not the duty, to indemnify any other Person acting as an agent of the Association for damages incurred, pay expenses incurred and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act.

(c) **Provided by Contract.** The Association also has the power, but not the duty, to contract with any Person to provide indemnification in addition to any indemnification authorized by law on such terms and subject to such conditions as the Association may impose.

3.2.11. ***Annexing Additional Property.***

The power, but not the duty, to annex additional property to the Community.

3.2.12. **Vehicle Restrictions.**

The power granted in Section 2.5 to identify Passenger Vehicles or Prohibited Vehicles and to modify the restrictions on vehicles.

3.3. **Standing to Resolve Disputes.**

The Association shall have standing to institute, defend, settle or intervene in litigation, alternative dispute resolution or administrative proceedings (each, an **“Action”**) in its own name as the real party in interest and without joining the Owners in matters pertaining to (a) enforcement of the Governing Documents, (b) damage to the Common Property, (c) damage to portions of the Condominiums that the Association is obligated to maintain or repair and (d) damage to portions of the Condominiums that arises out of, or is integrally related to, damage to the Common Property or portions of the Condominiums that the Association is obligated to maintain or repair (each, a **“Claim”**).

Upon commencement of an Action by the Association pertaining to any Claim described in subparts (a), (b), (c) or (d) above, the Association’s standing shall be exclusive, and during the pendency of such Action, the Owners shall be barred from commencing a new Action or maintaining a pending Action on the same Claim. The Association’s exercise of exclusive standing as to an Action on a particular Claim shall not be deemed to give rise to any affirmative obligation on the part of the Association to maintain, settle or dismiss such Action, except in the Association’s sole discretion.

3.4. **Standard of Care, Nonliability.**

3.4.1. **Scope of Powers and Standard of Care.**

(a) **General Scope of Powers.** Rights and powers conferred on the Board, the Architectural Committee or other committees or representatives of the Association by the Governing Documents are not duties, obligations or disabilities charged upon those Persons unless the rights and powers are explicitly identified as including duties or obligations in the Governing Documents or law. Unless a duty to act is imposed on the Board, the Architectural Committee or other committees or representatives of the Association by the Governing Documents or law, the Board, the Architectural Committee and the other committees have the right to decide to act or not to act. Any decision not to act is not a waiver of the right to act in the future.

(b) **Business Affairs.** This Section 3.4.1(b) applies to Director actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances and to Architectural Committee member actions. Each Director shall perform the duties of a Director in good faith, in a manner that such Director believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing a Director’s duties, a Director is entitled to rely on information, opinions, reports or statements, including financial data prepared or presented by:

(i) One (1) or more officers or employees of the Association whom the Director believes to be reliable and competent in the matters presented;

(ii) Counsel, independent accountants or other Persons as to matters that the Director believes to be within such Person's professional or expert competence; or

(iii) A committee of the Board on which the Director does not serve, as to matters within its designated authority, which committee the Director believes to merit confidence, so long as, in any such case, the Director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

This Section 3.4.1(b) is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this Section 3.4.1(b).

(c) **Association Governance**. This Section 3.4.1(c) applies to Board actions and Architectural Committee decisions in connection with the interpretation and enforcement of the Governing Documents, architectural and landscaping control, regulation of uses within the Community, rule making and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

3.4.2. ***Nonliability.***

(a) **General Rule**. No Person is liable to any other Person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. No Person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct. The Association is not liable for damage to property in the Community unless caused by the negligence of the Association, the Board, the Association's officers, the Manager or the Manager's staff.

(b) **Nonliability of Volunteer Directors and Officers**. A volunteer Director or volunteer Association officer shall not be personally liable to any Person who suffers injury, including bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of such volunteer Director or volunteer Association officer if all applicable conditions specified in Section 5800(a) of the California Civil Code are satisfied.

(c) **Nonliability of Owners**. Pursuant to Section 5805 of the California Civil Code, no Owner shall be liable for any cause of action in tort that can be

brought against such Owner solely because of such Owner's undivided interest in the Common Property so long as the Association keeps one (1) or more policies of insurance that include coverage for general liability of the Association in the amount required by Section 5805(b) of the California Civil Code, and such insurance is in effect for the cause of action being brought.

3.5. **Membership.**

3.5.1. **Generally.**

Every Owner shall automatically acquire a Membership in the Association and retain such Membership until such Owner's Condominium ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Condominium is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Condominium is transferred, and every Membership is appurtenant to and may not be separated from the fee ownership of such Condominium. The rights, duties, privileges and obligations of all Owners are as provided in the Governing Documents.

3.5.2. **Transfer.**

The Membership of any Owner may not be transferred, pledged or alienated in any way, except upon the transfer or encumbrance of such Owner's Condominium and then only to the transferee or Mortgagee of such Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold a Condominium to a contract purchaser under an agreement to purchase may delegate such Owner's Membership rights to such contract purchaser. Such delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all charges and Assessments attributable to such contract seller's Condominium that accrue before title to the Condominium is transferred. If an Owner fails or refuses to transfer such Owner's Membership to the purchaser of such Owner's Condominium upon transfer of title thereto, then the Association may record the transfer in the Association's records. Until satisfactory evidence of such transfer is presented to the Association, the purchaser will not be entitled to vote at Association meetings. The Association may levy a reasonable transfer fee against a new Owner and such new Owner's Condominium (which fee shall be paid through escrow or added to the Regular Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to such new Owner on the Association's records. Such fee may not exceed the Association's actual cost involved in changing its records.

3.5.3. **Classes of Membership.**

The Association has one class of Membership. Members of the Association are all Owners. Members are entitled to one (1) vote for each Condominium owned that is subject to Assessment. The vote for each Condominium shall be exercised in accordance with the Governing Documents, but no more than one vote may be cast for any Condominium.

3.6. **Joint Ownership.**

When more than one (1) Person holds an interest in any Condominium (“**co-owners**”), each co-owner may attend any Association meeting, but only one (1) such co-owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed, and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if any such designation is revoked, the vote for the Condominium shall be exercised as the co-owners owning the majority interests in the Condominium agree. Unless the Association receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with all other co-owners’ consent. No vote may be cast for any Condominium if the co-owners present in person or by proxy owning the majority interests in such Condominium fail to agree to the vote or other action. The non-voting co-owner or co-owners are jointly and severally responsible for all obligations imposed on the jointly-owned Condominium and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Governing Documents are binding on all Owners and their successors in interest.

3.7. **Repair and Maintenance.**

3.7.1. ***Maintenance Standards.***

The Association shall maintain everything that the Association is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with the level of maintenance reflected in the most current Budget. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Property and Improvements thereon. Each Owner shall maintain everything that such Owner is obligated to maintain in a clean, sanitary and attractive condition.

3.7.2. ***Specific Maintenance Obligations.***

The specific items listed in ***Exhibit C*** shall be maintained by either the Association or the Owners, as indicated. If an item is not listed in ***Exhibit C***, then it shall be maintained in accordance with the general rules established in Section 3.7.3. The maintenance obligations imposed in ***Exhibit C*** can be varied as provided in Section 3.7.4.

3.7.3. ***General Maintenance Obligations.***

Unless ***Exhibit C*** provides otherwise or the maintenance obligation is changed pursuant to Section 3.7.4, the Association shall maintain the Common Property (excluding the Exclusive Use Common Areas), and the Owners shall maintain the Units and the Exclusive Use Common Areas. Each Owner shall immediately notify the Association of any dangerous, defective or other condition that could cause injury to person or property in such Owner’s Unit or Exclusive Use Common Area. Unless other arrangements are approved by the Board, all Improvements that an Owner installs in any area of the Community must be maintained by such Owner and successive Owners of such Owner’s Condominium. If an Owner fails to maintain Improvements that such Owner is obligated to maintain, and the Board determines that such Improvements significantly interfere with

the Association's ability to fulfill the Association's obligations, then the Association may remove such Improvements.

3.7.4. ***Variations in Maintenance Obligations.***

The specific and general maintenance obligations established in Section 3.7.2, Section 3.7.3 and ***Exhibit C*** may be varied as described in this Section.

(a) In the event that any Owner permits any Improvement the maintenance of which is the responsibility of such Owner to fall into disrepair or not to be so maintained, so as to create a dangerous, obstructed, unsafe, unsightly or unattractive condition or otherwise to violate this Declaration, the Board of Directors shall have the right either (i) to seek any remedy that it may have or (ii) to make the necessary repairs or perform the required maintenance and charge the cost of the work to the Owner.

(b) The Board has the power, but not the duty, to have the Association contract to fulfill any maintenance obligation of multiple Owners and then charge such Owners for such expense.

(c) If any portion of a Condominium that an Owner is obligated to maintain is (i) damaged as a result of the Association's gross negligence or willful misconduct and (ii) has not been upgraded from the original Improvements installed in such Condominium, then the Association is responsible for repairing the damage; otherwise, the Owner is responsible for repairing the damage. If anything that an Owner (the "***Responsible Owner***") is obligated to maintain causes damage to any other Owner's Condominium or the Common Property, then the Responsible Owner is responsible for paying the cost of repairs; however, neither the Association nor any Owner is responsible for paying for any damage beyond the cost of repairs.

3.7.5. ***Ambiguities in Assignment of Maintenance Obligations.***

If Owners have different opinions regarding who is responsible for maintaining an Improvement or if an Owner and the Association have different opinions regarding who is responsible for maintaining an Improvement, then the Board has the power, but not the duty, to resolve the ambiguity by determining who is responsible for such maintenance obligation. Any determination by the Board resolving an ambiguity pursuant to this Section shall be binding on the Association and all Owners.

3.7.6. ***Termite Eradication.***

If the Association adopts an inspection and preventive program for the mitigation and eradication of infestation by wood destroying pests and organisms, then the Association, on not less than fifteen (15) nor more than thirty (30) days' notice, may require each Owner and any occupant of such Owner's Condominium to vacate such Condominium to accommodate Association efforts to eradicate such infestation. Such notice must state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage caused to a Condominium by such entry by the Association or by any Person authorized by the Association shall be repaired by the Association as a Common Expense. All costs

involved in operating the inspection and preventive program as well as repairing and replacing the Common Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of wood destroying pests or organisms are a Common Expense. The Association is not responsible for paying for any inspection, eradication effort or repair that must be performed in connection with the transfer of any Condominium in the Community or that is ordered by any individual Owner. These costs are the Condominium Owner's responsibility even if these costs involve repairs to Common Property that are not otherwise the responsibility of such Owner.

3.7.7. *Damage by Owners.*

Each Owner is liable to the Association for any damage to the Common Property if such damage is sustained due to the act of such Owner, such Owner's guests, tenants or invitees or any other Person deriving the right to use the Common Property from such Owner or such Owner's respective Family, tenants and guests. The Association may, after Notice and Hearing, (a) determine whether any claim shall be made on the Association's insurance and (b) levy an Assessment equal to the cost of repairing the damage or any deductible paid and the increase, if any, in insurance premiums directly attributable to the damage caused by such Owner or the Person for whom such Owner may be liable as described in this Declaration. If a Condominium is jointly owned, then the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with the joint Owners to the contrary. After Notice and Hearing, the cost of correcting the damage shall be an Assessment against such Owner.

ARTICLE IV – ARCHITECTURAL COMMITTEE

4.1. *Members of Committee.*

The Architectural Committee shall be composed of three (3) members, all appointed and removed by the Board. Directors may serve as Committee members.

4.2. *Powers and Duties.*

4.2.1. *General Powers and Duties.*

The Committee shall consider and act on all plans and specifications submitted to the Committee, including inspection of work in progress to assure conformance with approved plans, and shall perform such other duties as the Board assigns to the Committee.

4.2.2. *Issuance of Standards.*

The Committee shall issue and update the Architectural Guidelines. The Architectural Guidelines may require a fee to accompany each application for approval and may identify additional factors that the Committee will consider in reviewing submissions. The Committee may provide that fees that the Committee imposes be uniform or that fees be determined in any other reasonable manner. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or

samples of exterior materials and colors. The Committee may prohibit the installation of types of Improvements that the Committee determines are not compatible with the Community.

4.2.3. ***Retaining Consultants/Delegation of Decision Making.***

The Board has the power, but not the duty, to retain Persons to advise the Association in connection with decisions and to delegate Architectural Committee decision-making power to a licensed architect selected by the Board.

4.3. **Review of Plans and Specifications.**

4.3.1. ***Improvements Requiring Approval.***

No construction, installation or alteration of an Improvement, including landscaping, in the Community may be commenced until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the Association; however, any Improvement may be repainted without Committee approval so long as such Improvement is repainted the identical color that it was painted originally or was painted last with Committee approval under this Section 4.3.1. Except as otherwise provided in Section 2.9.3, window coverings that are visible from outside the Unit must be approved in writing by the Association. Without limiting the generality of the foregoing, the provisions of this ARTICLE IV apply to the construction, installation and alteration of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of Section 714 of the California Civil Code, the City Building Code, zoning regulations and other laws.

4.3.2. ***Application Procedure.***

Until changed by the Board, the address for the submission of such plans and specifications is the Association's principal office. The form of application may include spaces allowing Adjacent Owners to sign or initial the application confirming that they have been notified of the application. The Association shall establish a definition of "**Adjacent Owners**" in the Architectural Guidelines. Applications will be complete and may be approved or disapproved even if all of the Adjacent Owners do not initial the applications so long as the Owner submitting the plans and specifications (the "**Applicant**") certifies that the Applicant has asked the Adjacent Owners to sign the applications. If the Committee receives plans and specifications that the Committee determines are not complete, then the Committee may reject the application for approval. After the Committee reviews an application, it shall forward the application and the Committee's recommendation to the Board. The Association shall transmit its decision and the reasons therefor to the Applicant at the address listed in the application for approval within forty-five (45) days after the Committee receives all required materials. Any application submitted pursuant to this Section shall be deemed approved unless the Association transmits written disapproval or a request for additional information or materials to the Applicant within forty-five (45) days after the date the Committee receives all required materials.

4.3.3. **Standard for Approval.**

The Association shall act in good faith, in accordance with law and not arbitrarily or capriciously. The Association shall approve plans and specifications submitted for its approval only if it determines that (a) installation, construction or alteration of the Improvements in the locations proposed will not be detrimental to the appearance of the surrounding area of the Community as a whole, (b) the appearance of any structure affected by the proposed Improvements will be in harmony with the surrounding structures, (c) installation, construction or alteration of the proposed Improvements will not detract from the beauty, wholesomeness and attractiveness of the Community or the enjoyment thereof by the Owners, (d) maintenance of the proposed Improvements will not become a burden on the Association, and (e) the proposed Improvements are consistent with this Declaration.

The Association may condition its approval of proposals or plans and specifications for any Improvement on any or all of the following: (i) the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance that may be Recorded against the Community as a result of such work, (ii) such changes therein as the Association considers appropriate, (iii) the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (iv) the Applicant's agreement to install (at the Applicant's sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (v) the Applicant's agreement to reimburse the Association for the cost of such maintenance or (vi) the Applicant's agreement to complete the proposed work within a stated period of time, and the Association may require submission of additional plans and specifications or other information before approving or disapproving material submitted. The Applicant shall satisfy all review or permit requirements of the **City** before making any construction, installation or alteration permitted under this Declaration.

If the Association disapproves plans, then along with the disapproval the Association must send to the Applicant both an explanation of why the proposed change is disapproved and a description of the process for appealing the decision.

A decision on a proposed change may not violate any governing provision of law, including the Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the California Government Code) or a building code or other applicable law governing land use or public safety. Except as limited by the preceding sentence, the Association's approval or disapproval shall be based solely on the considerations listed in this ARTICLE IV. The Association is not responsible for reviewing, nor may its approval of any plan or design be deemed the Association's approval of, any plan or design from the standpoint of engineering design, structural safety, conformance with building or other codes, compliance with the requirements of any utility company, compliance with any Recorded restriction or property right or compliance with the Governing Documents.

4.4. **Meetings and Actions of the Committee.**

The Committee shall meet as necessary to perform its duties. The vote or written consent of a majority of the Committee constitutes an act of the Committee. All recommendations issued by the Committee and approvals issued by the Association must be in writing. Verbal approvals issued by the Committee or any individual Committee member or any other representative of the Association are not valid, are not binding on the Association and may not be relied on by any Person. If within six (6) months of the issuance of any approval an Owner does not either commence work pursuant to approved plans or obtain an extension of time to complete work, then such approval is automatically revoked, and a new approval must be obtained before work can be commenced.

4.5. **No Waiver of Future Approvals.**

Approval of proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring approval does not waive any right to withhold approval of similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

4.6. **Compensation of Members.**

The Committee's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

4.7. **Inspection of Work.**

The Association or its duly authorized representative may inspect any work for which approval of plans is required under this ARTICLE IV ("**Work**"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy any noncompliance with approved plans for the Work or with the requirements of this Declaration ("**Noncompliance**").

4.7.1. **Time Limit.**

The Association's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the Work is completed and the Association receives written notice on a form provided by the Association from such Owner that the Work is completed. If the Association fails to send a notice of Noncompliance to an Owner before this time limit expires, then the Work shall be deemed to comply with the approved plans.

4.7.2. **Remedy.**

An Owner has sixty (60) days after the date of notice of Noncompliance to remedy any Noncompliance. After Notice and Hearing, the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the Noncompliance. If a Noncompliance exists, then the Owner shall remedy or remove the Noncompliance within a period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period of time, then the Association may correct the Noncompliance and charge such Owner for the Association's costs and commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

4.7.3. Remedy for Failure to Complete Work.

If an Owner fails to complete Work within one (1) year from the date the approval for the Work is issued, then a Noncompliance is deemed to exist, and the Association can pursue the remedies listed in Section 4.7.2.

4.8. Certificate of Completion.

Upon the request of an Owner, or pursuant to procedures established in the Architectural Guidelines, after the Association determines that Work has been completed in accordance with approved plans, the Association shall execute and deliver to such Owner a certificate confirming that the Work was completed in accordance with approved plans.

4.9. Variances.

The Association may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions on height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration require. Such variances must be evidenced in writing and become effective upon Recordation. The Board must approve a variance before any such variance becomes effective. If variances are granted, then no violation of the covenants, conditions and restrictions in this Declaration shall be deemed to have occurred with respect to the matter for which the variances were granted. The granting of a variance does not waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision of this Declaration covered by the variance, nor does it affect the Owner's obligation to comply with all laws affecting the use of such Owner's Residence.

4.10. Pre-Approvals.

The Association may authorize pre-approval of certain specified types of construction activities and Improvements.

4.11. Appeals.

The Board shall adopt policies and procedures for the appeal of Committee decisions to the Board, as required by the CID Act.

4.12. Nonliability.

The Association is not responsible for any damage that results from Improvements constructed or modified by an Owner. Improvements should not be installed, constructed or modified without the assistance of qualified consultants.

ARTICLE V – PROPERTY EASEMENTS AND RIGHTS

5.1. Easements.

The easements reserved to the Association, the Owners, the City and any others in the Original Declarations are ratified and affirmed. This Declaration does not terminate or modify any of those easements.

5.1.1. **Owners' Easements in Common Property.**

Association confirms that every Owner and such Owner's Family, tenants and guests, has a nonexclusive easement for use of and vehicular and pedestrian access over the Common Property in connection with use and enjoyment of each Condominium in the Community. This easement is appurtenant to and passes with title to every Condominium in the Community. This easement is subject to the restrictions, rights and other easements in the Governing Documents.

5.1.2. **Exclusive Use Common Area.**

Association confirms, for the benefit of specified Condominiums, exclusive easements over the Community for use as Exclusive Use Common Areas for carport purposes described in the Original Declarations as "Restricted Common Area" and shown and assigned on the Condominium Plans.

5.2. **Delegation of Use.**

Any Owner may delegate such Owner's right to use the Common Property in writing to such Owner's tenants, contract purchasers or subtenants who reside in such Owner's Condominium, subject to regulation by the Board. An Owner who has delegated such Owner's rights may not use the recreational facilities on the Common Property so long as such delegation remains in effect.

5.3. **Right of Entry.**

5.3.1. **Association.**

The Association has the right to enter the Units and the Exclusive Use Common Areas to inspect the Community, to confirm compliance with the Association's Governing Documents or perform maintenance and may take whatever enforcement or corrective action the Association determines to be necessary or proper. Entry into any Unit and/or Exclusive Use Common Area under this Section 5.3.1 may be made after at least three (3) days' advance written notice to the Owner, except for emergency situations, which shall not require notice. The right of entry under this Section includes the right to enter and inspect the carports and garages in the Community to confirm that residents are not using the parking spaces for storage or other unauthorized purposes. Any damage caused by the Association shall be repaired by the Association; however, any damage caused by the Association's entry in an emergency or because an Owner did not give the Association access must be repaired by such Owner.

5.3.2. **Owners.**

Each Owner shall permit other Owners and their representatives to enter such Owner's Unit and/or the Exclusive Use Common Area to perform installations, alterations or repairs to the wiring, plumbing, ducts and other equipment serving a Unit if (a) the request for entry is made in advance, (b) entry is made at a time reasonably convenient to the Owner whose Unit is to be entered, and (c) the entered Unit and/or Exclusive Use Common Area is left in substantially the same condition as existed immediately before such entry. Any damage caused by entry under this Section 5.3.2 shall be repaired by the entering Owner.

ARTICLE VI – ASSESSMENTS AND ASSOCIATION MAINTENANCE FUNDS

6.1. Personal Obligation to Pay Assessments.

Each Owner covenants to pay to the Association Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the amount necessary for the purpose for which it is levied. Each Assessment, together with late payment penalties, interest, costs and reasonable attorneys' fees for the collection thereof, is a charge and a continuing lien on the Condominium against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs and reasonable attorneys' fees, also is the personal obligation of the Person who was the Owner of the Condominium when the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any new Owner (the "**Purchaser**") unless expressly assumed by the Purchaser or unless the Purchaser has actual or constructive knowledge of such delinquent Assessments, whether by virtue of the Recordation of a Notice of Delinquent Assessment or receipt from the Association of a certificate pursuant to Section 5675 of the California Civil Code.

6.2. Association Maintenance Funds.

The Association shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all money paid to the Association and from which disbursements shall be made, as provided in this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (a) an operating fund for current Common Expenses (the "**Operating Fund**"), (b) an adequate reserve fund (the "**Reserve Fund**") for the portion of Common Expenses allocated to (i) reserves for the maintenance of Improvements that the Board does not expect to perform on an annual or more frequent basis and (ii) payment of deductible amounts for insurance policies that the Association obtains and (c) all other funds that the Association may establish.

6.3. Purposes of Assessments and Association Maintenance Funds.

The Assessments shall be used exclusively to (a) promote the Owners' recreation and welfare, (b) operate, improve and maintain the Common Property and (c) discharge all other Association obligations under this Declaration. All amounts deposited into the Association Maintenance Funds must be used solely for the common benefit of all Owners for purposes authorized by this Declaration. Disbursements from the Operating Fund shall be made by the Association for such purposes as are necessary for the discharge of the Association's obligations under this Declaration for the common benefit of all Owners, other than those purposes for which disbursements from the Reserve Fund are to be used.

Disbursements from the Reserve Fund shall be made by the Association only for the purposes specified in this ARTICLE VI and in Section 5510(b) of the California Civil Code; provided, however, that the Board may authorize the temporary transfer of moneys from the Reserve Fund to the Operating Fund to meet short-term cash flow requirements or other expenses pursuant to Section 5515 of the California Civil Code.

6.4. **Waiver of Use.**

No Owner may exempt such Owner from personal liability for Assessments duly levied by the Association or release such Owner's Condominium from the liens and charges thereof by waiving use and enjoyment of the Common Property or by abandoning such Owner's Condominium.

6.5. **Limits on Regular Assessment Increases.**

6.5.1. **Maximum Authorized Regular Assessment.**

The Board may levy Regular Assessments that exceed the Regular Assessments for the immediately-preceding Fiscal Year only as follows:

(a) If the increase in Regular Assessments is less than or equal to twenty percent (20%) of the Regular Assessments for the immediately-preceding Fiscal Year, then the Board must either (i) have complied with paragraphs (1), (2), (4), (5), (6), (7), and (8) of subdivision (b) of Section 5300 of the California Civil Code for the fiscal year or (ii) obtain the approval of Owners casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Condominiums are represented ("**Increase Election**");

(b) If the increase in Regular Assessments is greater than twenty percent (20%) of the Regular Assessments for the immediately-preceding Fiscal Year, then the Board must obtain the approval of Owners casting a majority of votes in an Increase Election.

This Section does not limit Regular Assessment increases necessary for addressing an Emergency Situation (as defined in Section 6.5.3).

6.5.2. **Supplemental Regular Assessments.**

If the Board determines that the Association's essential functions may be funded properly by a Regular Assessment in an amount less than the maximum authorized Regular Assessment described above, then the Board may levy such lesser Regular Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, then the Board shall immediately determine the approximate amount of such inadequacy and levy a supplemental Regular Assessment reflecting a revision of the total charges to be assessed against each Condominium.

6.5.3. **Emergency Situations.**

An "**Emergency Situation**" is any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible where a threat to personal safety in the Community is discovered; and

(c) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Before imposing or collecting an Assessment pursuant to this subparagraph (c), the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense involved and why such expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Owners with the notice of the Assessment.

6.6. Collection of Regular Assessments.

Regular Assessments shall be assessed uniformly and equally against the Owners and their Condominiums based on the number of Condominiums owned by each Owner. The Board shall fix the amount of the Regular Assessment against each Condominium at least thirty (30) days in advance of each Regular Assessment period. Written notice of any change in the amount of any Regular Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days before the increased Assessment becomes due.

The Board has the power to require that funds in the Operating Fund at the end of the Fiscal Year be retained and used to reduce the following Fiscal Year's Regular Assessments. Upon dissolution of the Association incident to the abandonment or termination of the Community as a condominium project, all amounts remaining in any of the Association Maintenance Funds shall be distributed to or for the benefit of the Owners in the same proportions as such money was collected from the Owners.

Each Owner shall pay Regular Assessments in installments at such frequency and in such amounts and by such methods as are established by the Board. If the Association incurs additional expenses because of a payment method selected by an Owner, then the Association may charge such additional expenses to such Owner. The Association does not have to apportion such additional expenses among all Owners as a part of Regular Assessments. Each installment of Regular Assessments may be paid to the Association in one check or in separate checks as payments attributable to specified Association Maintenance Funds. If any payment of a Regular Assessment installment (1) is less than the amount assessed and (2) does not specify the Association Maintenance Fund or Association Maintenance Funds into which such payment should be deposited, then the amount received shall be credited in order of priority first to the Operating Fund, until that portion of the Regular Assessment has been satisfied, and second to the Reserve Fund.

6.7. Capital Improvement and Reconstruction Assessments.

The Board may levy, in any Fiscal Year, a Capital Improvement Assessment or Reconstruction Assessment applicable to such Fiscal Year only to defray, in whole or in part, the cost of any construction, repair or replacement of a capital Improvement or other such addition to the Common Property. No Capital Improvement Assessments in any Fiscal Year that, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceed five percent (5%) of the Association's Budgeted gross expenses

for such Fiscal Year may be levied without the vote or written consent of Owners casting a majority of votes at an Increase Election. The Board may levy, in any Fiscal Year, a Capital Improvement Assessment applicable to such Fiscal Year that exceeds five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 6.5.3.

6.8. Special Assessments.

The Board may levy an Special Assessment for any of the following reasons: (a) against any Owner who causes damage to any areas which the Association is obligated to maintain; or (b) for bringing an Owner or the Owner's Condominium into compliance with the Governing Documents; or (c) if the Association provides materials or services which benefit individual Owners; or (d) for any other reason designated as a basis for an Special Assessment in the Governing Documents. The Board is authorized to adopt a reasonable schedule of Special Assessments for violations of the Governing Documents. If, after Notice and Hearing as required by the Governing Documents and which satisfies Section 7341 of the California Corporations Code and the CID Act, the Owner fails to cure or continues such violation, the Association may impose an additional fine each time the violation is repeated, and may assess such Owner and enforce the Special Assessment. Special Assessments are Assessments but they may not become a lien against the Owner's Condominium that is enforceable by a power of sale under California Civil Code Sections 2924, 2924b and 2924c. This restriction on enforcement is not applicable to late payment charges for delinquent Assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees, for delinquent Assessments.

ARTICLE VII – INSURANCE

7.1. Duty to Obtain Insurance; Types.

The Association shall obtain and keep in effect at all times the following insurance coverages:

7.1.1. Public Liability.

Adequate public liability insurance (including coverage for medical payments), with limits acceptable to FNMA and as required by the CID Act, insuring against liability for bodily injury, death and property damage arising from the activities of the Association and the Owners with respect to the Common Property.

7.1.2. Fire and Casualty Insurance.

Fire and casualty insurance with extended coverage, special form, without deduction for depreciation, in an amount as near as possible to the full replacement value of all insurable Improvements on the Common Property, all building service equipment and supplies and personal property belonging to the Association, and those portions of the Units consisting of all fixtures (plumbing and lighting), installations or additions comprising a part of the residential building containing the Units, drywall, and all built in or set in appliances, cabinets and initial basic floor coverings in the amount designated by

Declarant as the original replacement cost thereof based on the standard package of appliances, cabinets, and floor coverings offered to all Owners before the Close of Escrow (excluding upgrades). Alternatively, if approved by the Board, a master policy or policies of casualty and fire insurance, with an extended coverage endorsement in an amount equal to as near as possible one hundred percent (100%) of the current replacement cost (without deduction for depreciation or co-insurance of the Common Property together with all Improvements located therein (except Improvements made by an Owner), but specifically excluding interior Unit coverage (including interior walls and floor coverings). In the event the Board elects to obtain such master policy(ies), each Owner shall procure and maintain, at the Owner's sole cost and expense, an insurance policy of casualty and fire insurance covering the interior of the Owner's Unit, including replacement of interior Improvements and betterment coverage to insure Improvements that the Owner may have made to the interior of the Unit (e.g., a "walls-in" or HO-6 policy). The casualty insurance shall not include earthquake coverage unless the Board is directed to obtain earthquake coverage by a majority of the Association's voting power.

7.1.3. Fidelity Insurance.

Fidelity insurance coverage for any Person handling funds of the Association, whether or not such Person is compensated for such Person's services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of such Person during the term of the insurance. The aggregate amount of the fidelity insurance coverage may not be less than the sum equal to one-fourth (1/4) of the Regular Assessments on all Condominiums in the Community plus reserve funds.

7.1.4. Insurance Required by FNMA, GNMA and FHLMC.

Casualty, flood, liability and fidelity insurance meeting the insurance requirements for condominium projects established by FNMA, GNMA and FHLMC, so long as any of these entities is a Mortgagee or Owner of a Condominium in the Community, except to the extent that such coverage is not reasonably available or has been waived in writing by the entity requiring the insurance coverage.

7.1.5. Other Insurance.

Such other insurance insuring other risks customarily insured by associations managing condominium projects similar to the Community in construction, location and use.

7.1.6. Beneficiaries.

The Association's insurance shall be kept for the benefit of the Association, the Owners and the Mortgagees, as their interests may appear as named insureds, subject, however, to loss payment requirements established in this Declaration.

7.2. Waiver of Claim Against Association.

As to all policies of insurance kept by or for the benefit of the Association and the Owners, the Association and the Owners waive and release all claims against one another and the Board, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of such Persons.

7.3. Right and Duty of Owners and Tenants to Insure.

Each Owner is responsible for insuring such Owner's personal property and all other property and Improvements in such Owner's Condominium for which the Association has not purchased insurance in accordance with Section 7.1. Each Owner is responsible for ensuring that any tenant insure such tenant's personal property. Nothing in this Declaration precludes any Owner from carrying any public liability insurance as such Owner considers desirable; however, Owners' insurance policies may not adversely affect or diminish any coverage under any of the Association's insurance policies. Duplicate copies of Owners' insurance policies shall be deposited with the Association upon request. If any loss intended to be covered by the Association's insurance occurs and the proceeds payable are reduced due to insurance carried by any Owner, then such Owner shall assign the proceeds of such Owner's insurance to the Association, to the extent of such reduction, for application to the same purposes as the reduced proceeds are to be applied.

7.4. Owner Responsibility for Association Deductible.

In the event that the Association determines that an Owner is responsible for a loss caused by action or inaction of the Owner or the residents of the Owner's Condominium, the Association may charge the portion of the insurance deductible allocable to the Owner's Condominium to the Owner as a Special Assessment.

7.5. Notice of Expiration Requirements.

If available, each of the Association's insurance policies must contain a provision that the policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without at least ten (10) days' prior written notice to the Board and to each Owner and Mortgagee, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity insurance shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to any insurance trustee named pursuant to Section 7.7 and to each FNMA servicer who has filed a written request with the carrier for such notice.

7.6. Insurance Premiums.

Premiums for insurance policies obtained by the Association are Common Expenses.

7.7. Trustee for Policies.

The Association is trustee of the interests of all named insureds under the Association's insurance policies. Unless an insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made. All insurance proceeds under any of such insurance policies provided for in Section 7.1 must be paid to the Board as trustees. The Board has the authority to negotiate loss settlements with insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 8.4. Any two (2) officers of the Association may sign a loss claim form and release form in connection with

the settlement of a loss claim, and such signatures are binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement and any successor to such trustee, who shall have exclusive authority to negotiate losses under any insurance policy and to perform such other functions necessary to accomplish this purpose. The Board is authorized to make a settlement with any insurer for less than full insurance coverage for any damage so long as the Board acts in accordance with the standard of care established in Section 4.4.1(b).

7.8. Actions as Trustee.

Except as otherwise specifically provided in this Declaration, the Board has the exclusive right to bind the Association and the Owners with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim and the surrender, cancellation and modification of all such insurance. Duplicate originals or certificates of all policies of fire and casualty insurance kept by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who requested them in writing.

7.9. Annual Insurance Review.

The Board shall review the Association's insurance policies at least annually to determine the amount of the casualty and fire insurance referred to in Section 7.1. Before each such annual review, if economically feasible, the Board shall obtain from a qualified independent insurance appraiser a current appraisal of the full replacement value of the Improvements on the Community, without deduction for depreciation. In the Board's discretion, such insurance may exclude coverage for footings and foundations.

7.10. Required Waiver.

All of the Association's insurance policies insuring against physical damage must provide, if reasonably possible, for waiver of:

7.10.1. Subrogation of claims against the Owners and tenants of the Owners;

7.10.2. Any defense based on coinsurance;

7.10.3. Any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association;

7.10.4. Any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured;

7.10.5. Any right of the insurer to repair, rebuild or replace and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;

7.10.6. Notice of the assignment of any Owner of such Owner's interest in the insurance by virtue of a conveyance of any Condominium;

7.10.7. Any right to require any assignment of any Mortgage to the insurer;

7.10.8. Any denial of an Owner's claim because of negligent acts by the Association or other Owners; and

7.10.9. Prejudice of the insurance by acts or omissions of Owners that are not under the Association's control.

ARTICLE VIII – DESTRUCTION OF IMPROVEMENTS

8.1. Restoration of the Community.

Except as otherwise authorized by the Owners, if any portion of the Community that the Association is responsible for maintaining is destroyed, then the Association shall restore such destroyed portion of the Community to its former condition as promptly as practical. The Association shall use the proceeds of its insurance for reconstruction or repair of the Community unless otherwise authorized in this Declaration. The Board shall prepare or obtain the documents necessary for commencing such reconstruction as promptly as practical. The Community shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Architectural Committee have been approved by at least sixty-seven percent (67%) of the Owners. If the insurance proceeds amount to at least ninety-five percent (95%) of the estimated cost of restoration and repair, then the Board shall levy a Reconstruction Assessment to provide the additional funds necessary for such reconstruction. If the insurance proceeds amount to less than ninety-five percent (95%) of the estimated cost of restoration and repair, then the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("**Conditions to Reconstruction**") have been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Community is approved by the Owners; and (b) within one (1) year after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("**Reconstruction Certificate**"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than ninety-five percent (95%) of the estimated cost of restoration and repair, then the Board shall proceed as provided in Section 8.2.

8.2. Sale of Community and Right to Partition.

No Owner shall have the right to partition such Owner's interest in the Condominium, and there shall be no judicial partition of the Community, or any part thereof, except as provided in Section 4610 of the California Civil Code. For purposes of Subsection 4 of Section 4610, partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 8.1 have failed to occur; (b) within six (6) months after the date on which destruction occurred, restoration

or repair has not actually commenced; and (c) the Owners of at least sixty-seven percent (67%) of the Condominiums in the Community approve the partition. In such event, the Association shall prepare, execute and Record, as promptly as practical, the certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Community for the benefit of the Owners and execute such other documents and instruments as may be necessary for the Association to consummate the sale of the Community at the highest and best price obtainable, either in its damaged condition or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately before such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Community. The Board is authorized to hire one (1) or more appraisers for such purpose, and the cost of such appraisals shall be a Common Expense. However, the balance then due on any valid Mortgage of Record shall be paid first in order of priority before the distribution of proceeds to an Owner whose Condominium is so encumbered. Nothing in this Declaration prevents the partition of a cotenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise or operation of law, for their own benefit and for the Condominiums and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Community and covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

8.3. Interior Damage.

With the exception of any casualty or damage covered by insurance kept by the Association, restoration and repair of any damage to the interior of any individual Residence, including all fixtures, cabinets and Improvements therein, together with the restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Residence so damaged. If a determination to rebuild the Community after partial or total destruction is made, as provided in this ARTICLE VIII, then such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Committee as provided in this Declaration.

8.4. Notice to Owners and Listed Mortgagees.

The Board, immediately upon having knowledge of any damage or destruction affecting a Unit or a material portion of the Common Property, shall promptly notify all Owners and Mortgagees, insurers and guarantors of first Mortgages on Condominiums in the Community who have filed a written request for such notice with the Board.

ARTICLE IX – EMINENT DOMAIN

The term **“taking”** as used in this ARTICLE IX means condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of

eminent domain. The Board shall represent the Owners in all proceedings, negotiations, settlements or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Owners and their Mortgagees and shall be distributed to such Owners and Mortgagees as provided in this ARTICLE IX.

9.1. Property Condemnation.

If (a) there is a taking of an interest in all or part of the Community such that the ownership, operation and use of the Community in accordance with this Declaration are substantially and adversely affected, and (b) within one hundred twenty (120) days after the effective date of such taking the Owners of Units (i) not taken or (ii) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition before such taking (collectively, the ***“Remaining Units”***) do not by affirmative vote of at least one-third (1/3) of their voting power approve the continuation of the Community and the repair, restoration and replacement to the extent feasible of the Common Property and the Remaining Units, then the Board shall proceed with the sale of that portion of the Community that was not taken and distribute the net proceeds of such sale after deducting all incidental fees and expenses, in the same proportion and manner as provided in Section 8.2.

9.2. Condemnation of Common Property.

If there is a taking of (a) the Common Area or any interest therein (other than the taking of an undivided interest therein taken as a result of the taking of a Condominium or an Exclusive Use Common Area) or (b) the Development Common Area or any interest therein, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

9.3. Condemnation of Exclusive Use Common Area.

If there is a taking of all or any portion of an Exclusive Use Common Area, then the award in condemnation shall be paid to the Owner of the Condominium to which the taken Exclusive Use Common Area was appurtenant; however, such award shall be applied first to the balance then due on all Mortgages encumbering such Owner's Condominium, in order of priority.

9.4. Condemnation of Condominiums.

If there is a taking of a Condominium, then the award in condemnation shall be paid to the Owner of such Condominium; however, such award shall be applied first to the balance then due on Mortgages encumbering such Owner's Condominium, in order of priority.

9.5. Condemnation of Portions of Units.

9.5.1. Minor Takings Within Limits.

If (a) there is a taking of a portion of one (1) or more Units that does not substantially and adversely affect the Units' ability to serve as residences, and (b) restoration of such Units can be accomplished at a cost less than or equal to the sum of (i) the amount of the condemnation awards for such takings plus (ii) all amounts that the Owners of the taken

Units desire to contribute to restoration plus (iii) an amount less than or equal to five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year (collectively, the **“Allowable Cost”**), then the Board shall contract for such restoration and levy a Reconstruction Assessment in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners’ contributions, and the condemnation awards, Owners’ contributions and Reconstruction Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards that exceeds the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decreases in the fair market values of their Condominiums; however, such awards shall be applied first to the balance then due on Mortgages encumbering such Owners’ Condominiums, in order of priority.

9.5.2. Minor Takings Exceeding Limits.

If (a) there is a taking of a portion of one (1) or more Units that does not substantially and adversely affect the Units’ ability to serve as residences, and (b) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a Special Meeting of the Owners. If more than fifty percent (50%) of the voting power of the Association is represented at such Special Meeting, either in person or by proxy, and a majority of the votes cast at such Special Meeting are in favor of levying a Reconstruction Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units desire to contribute to such restoration, then the Board shall contract for such restoration and levy a Reconstruction Assessment, and the condemnation awards, Owners’ contributions and Reconstruction Assessment shall be applied to such restoration.

9.5.3. Major Takings.

If neither Section 9.5.1 nor 9.5.2 applies to a taking of a Unit or Units, then the award in condemnation shall be paid to the Owners of the taken Units; however, such award shall be applied first to the balance then due on Mortgages encumbering such Owners’ Condominiums, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units and appurtenant Exclusive Use Common Areas shall become part of the Common Area, and the Owners of such taken Units, by acceptance of the award allotted to them in taking proceedings, relinquish (a) to the other Owners, on the basis of their relative ownership of the Common Area therein, such Owners’ undivided interest in the Common Area, and (b) to the Association, the remaining portions of the Units and the appurtenant Exclusive Use Common Areas. Each Owner relinquishing such Owner’s interest in the Common Area pursuant to this Section shall, at the Board’s request and at the Association’s expense, execute and acknowledge such deeds and other instruments that the Board considers necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit or Residence is not liable for Assessments under this Declaration that accrue on or after the date on which such Owner accepts such Owner’s condemnation award.

9.6. Portions of Awards in Condemnation not Compensatory for Value of Real Property.

Those portions of awards in condemnation that do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken or whose relocation is intended to be facilitated.

9.7. Notice to Owners and Mortgagees.

The Board, upon learning of any condemnation proceeding affecting a Unit or a material portion of the Community, or any threat thereof, shall promptly notify all Owners and those Mortgagees, insurers and guarantors of Mortgages on Condominiums in the Community who have filed a written request for such notice with the Association.

ARTICLE X – RIGHTS OF MORTGAGEES

10.1. General Protections.

For purposes of this Declaration, **“first Mortgage”** means a Mortgage with first priority over other Mortgages or Deeds of Trust on a Condominium, and **“first Mortgagee”** means the Mortgagee of a first Mortgage. For purposes of any provision of the Governing Documents that requires the vote or approval of a specified percentage of first Mortgagees, such vote or approval is determined based on one (1) vote for each Condominium encumbered by each such first Mortgage.

10.2. Rights Reserved in Original Declaration.

Original Declaration Article XV, Section 6, has not been amended, is incorporated in this Declaration and reads as follows: “No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee’s sale, or otherwise, with respect to a Condominium.”

10.3. Subordination of Assessment Liens.

Original Declaration Article IV, Section 6, has not been amended, is incorporated in this Declaration and reads as follows: “If any Condominium subject to a monetary lien created by any provision hereof shall be subject to the lien of a Deed of Trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Deed of Trust; and (2) the foreclosure of the lien of Deed of Trust, the acceptance of a deed in lieu of foreclosure of the Deed of Trust or sale under a power of sale included in such Deed of Trust (such events being hereinafter referred to as “Events of Foreclosure”) shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure shall take title free of the lien hereof for all said charges that have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to any of the Events of Foreclosure. Nothing in this Section shall be

constructed to release any Owner from his obligation to pay for any Assessment levied pursuant to this Declaration.”

In addition, the Association may take such action as is necessary to make any Assessment lien subordinate to the interests of the Department of Veterans Affairs of the State of California under its Cal-Vet loan contracts as if the Cal-Vet loan contracts were first Mortgages of Record.

10.4. **Contracts.**

The Board may enter into such contracts or agreements on behalf of the Association as are required to satisfy the guidelines of VA, FHA, FHLMC, FNMA or GNMA or any similar entity, so as to allow for the purchase, guarantee or insurance, as the case may be, by such entities of first Mortgages encumbering Condominiums. Each Owner agrees that it will benefit the Association and the Owners, as a class of potential Mortgage borrowers and potential sellers of their residential Condominiums, if such agencies approve the Community as a qualifying subdivision under their respective policies, rules and regulations. Each Owner authorizes such Owner’s Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Condominium.

ARTICLE XI – ENFORCEMENT

11.1. **Enforcement of Restrictions.**

All disputes arising under the Governing Documents and alleged violations of the Governing Documents shall be resolved in accordance with the procedures established in the Bylaws and this Declaration.

11.1.1. ***Violations Identified by the Association.***

If the violation involves nonpayment of any Assessment, then the Board may collect the delinquent Assessment pursuant to the procedures established in Section 11.2 and Section 11.3. For all other alleged violations brought to the attention of the Board, the Board shall (a) follow the violation investigation and correction procedure established in ARTICLE VII of the Bylaws, and (b) if the violation is not resolved, then proceed as described in Section 11.1.3.

11.1.2. ***Violations Identified by an Owner.***

If an Owner alleges that another Person is violating the Governing Documents, then the complaining Owner first must file a complaint with the Board in accordance with Section 7.1 of the Bylaws. If the Board fails to resolve the alleged violation, then the complaining Owner may resort to alternative dispute resolution authorized by the CID Act, if applicable, and then litigation, as authorized by Section 11.1.3.

11.1.3. ***Legal Proceedings.***

Failure to comply with any of the terms of the Governing Documents by any Person is grounds for relief that may include an action to recover damages, injunctive relief, foreclosure of any lien or any combination thereof.

11.1.4. **No Waiver.**

Failure to enforce any provision of this Declaration does not waive the right to enforce such provision or any other provision of this Declaration.

11.1.5. **Right to Enforce.**

The Board and any Owner may enforce the Governing Documents as described in this ARTICLE XI, subject to the CID Act. Each Owner has a right of action against the Association for the Association's failure to comply with the Governing Documents. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

11.2. **Nonpayment of Assessments.**

11.2.1. **Delinquency.**

Assessments are delinquent if not paid within fifteen (15) days after the due date established by the Association. The Association may require the delinquent Owner to pay a late charge in accordance with Section 5650(b)(2) of the California Civil Code. Assessments not paid within thirty (30) days after the due date, plus all reasonable fees and costs of collection (including reasonable attorneys' fees) and late charges, bear interest at the maximum rate permitted by law commencing thirty (30) days after the due date until paid. All Assessments, late charges, reasonable fees and costs of collection, reasonable attorneys' fees and interest shall be a debt of the Owner at the time the Assessments or other sums are levied. Payments made by an Owner shall be applied first to the Assessments owed and, only after the Assessments owed are paid in full, shall be applied to accumulated fees and costs of collection, attorneys' fees, late charges or interest. Upon request, the Association shall provide Owners with receipts for payment. Each receipt shall indicate the date of payment and the person who received it. The Association shall provide a mailing address for overnight payment of Assessments.

11.2.2. **Creation and Release of Lien.**

(a) **Priority of Lien.** All liens levied in accordance with this Declaration shall be prior and superior to (i) any declaration of homestead Recorded after the Recordation of this Declaration and (ii) all other liens, except (A) all taxes, bonds, assessments and other levies that, by law, would be superior thereto and (B) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority or seniority over other Mortgages) made in good faith and for value and Recorded before the date on which the Notice of Delinquent Assessment (as defined in this Section) against the assessed Condominium was Recorded.

(b) **Prerequisites to Creating Lien.** Before the Association may place a lien on an Owner's Condominium to collect a past due Assessment or other debt that is past due, the Association shall do all of the following:

(i) At least thirty (30) days before Recording a lien for delinquent Assessments, the Association shall send by certified mail to the delinquent Owner a written notice ("**Notice of Intent to Lien**") that contains all of the information required by California Civil Code Section 5660.

(ii) The Association shall offer such Owner and, if so requested by such Owner, shall participate in dispute resolution pursuant to the Meet and Confer Program.

(c) **Owner's Right to Request Meeting; Payment Plans.** The Association shall provide to the Owners the standards for payment plans. An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt set forth in the Notice of Intent to Lien. The Board shall meet with such Owner in executive session within forty-five (45) days of the postmark of such Owner's written request if such request is mailed within fifteen (15) days of the date of the postmark of the Notice of Intent to Lien, unless there is no regularly-scheduled Board meeting within such period, in which case the Board may designate a committee of one (1) or more members to meet with such Owner. A payment plan may incorporate any and all Assessments that accrue during the payment plan period. A payment plan shall not impede the Association's ability to Record a lien on an Owner's Condominium to secure payment of delinquent Assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent Assessments from the time before entering into the payment plan.

(d) **Notice of Delinquent Assessment.** The lien becomes effective upon Recordation of a Notice of Delinquent Assessment ("**Notice of Delinquent Assessment**") securing the payment of any Assessment or installment thereof levied by the Association against any Owner, as provided in the CID Act. The itemized statement shall be Recorded together with the Notice of Delinquent Assessment. The Notice of Delinquent Assessment must identify (i) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and Recording the Notice of Delinquent Assessment, (ii) the amount of collection costs incurred, including reasonable attorneys' fees, (iii) a sufficient description of the Condominium that has been assessed, (iv) the Association's name and address, (v) the name of the Owner of the Condominium that has been assessed and (vi) if the lien is to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent. A copy of the Recorded Notice of Delinquent Assessment shall be mailed by certified mail to every Person whose name is shown as an Owner of the Condominium in the Association's records no later than ten (10) calendar days after Recordation. The lien relates only to the individual Condominium against which the Assessment was levied and not to the Community as a whole.

(e) **Decision to Record Lien.** The decision to Record a lien for delinquent Assessments shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Directors in an open meeting of the Board. The Board shall record the vote in the minutes of that meeting.

(f) **Exceptions.** Pursuant to Civil Code Section 5725(b), a monetary penalty imposed by the Association as a disciplinary measure for failure to

comply with the Governing Documents, except for the late payments, may not become a lien against an Owner's Condominium enforceable by sale of such Condominium under Sections 2924, 2924b and 2924c of the California Civil Code.

(g) **Release of Lien.** Upon payment of the full amount claimed in the Notice of Delinquent Assessment or other satisfaction thereof, the Board shall cause to be Recorded a Notice of Satisfaction and Release of Lien (the "**Notice of Release**") stating the satisfaction and release of the amount claimed. The Board may require the Owner to pay a reasonable charge for preparing and Recording the Notice of Release. Any purchaser or encumbrancer who has acted in good faith and extended value may rely on the Notice of Release as conclusive evidence of the full satisfaction of the sums identified as owed in the Notice of Delinquent Assessment.

11.2.3. ***Enforcement of Liens.***

The Board shall enforce the collection of amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration. The lien on a Condominium may be enforced by foreclosure and sale of the Condominium after failure of the Owner to pay any Annual, Capital Improvement or Reconstruction Assessment, or installment thereof, as provided in this Declaration. The sale shall be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in Mortgages or in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment or sale by a trustee substituted pursuant to Section 2934a of the California Civil Code. Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b and 2924c of the California Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trusts, and the fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d of the California Civil Code. In addition to the requirements of Section 2924 of the California Civil Code, the Association shall serve a Notice of Delinquent Assessment on the Owner's legal representative in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the California Code of Civil Procedure. The Owner's legal representative shall be the Person whose name is shown as the Owner of such Owner's Condominium in the Association's records, unless another Person has been previously designated by such Owner as such Owner's legal representative in writing and mailed to the Association in a manner that indicates that the Association has received it.

Subject to the provisions of Section 12.3, the Association may sue to foreclose the lien if (i) at least thirty (30) days have elapsed since the date on which the Notice of Delinquent Assessment was Recorded and (ii) at least ten (10) days have elapsed since a copy of the Notice of Delinquent Assessment was mailed by certified mail to every Person whose name is shown in the Association's records as an Owner of the Condominium affected thereby. The Association may bid on the Condominium at foreclosure sale and acquire and hold, lease, mortgage and convey the Condominium. Upon completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Condominium, and the defaulting Owner shall be required to pay the reasonable rental value for the Condominium during any period of continued occupancy by the defaulting Owner or any Person claiming under the defaulting

Owner. A suit to recover a money judgment for unpaid Assessments may be brought without foreclosing or waiving any lien securing the obligation to pay such Assessments, but this provision or any suit to recover a money judgment does not affirm the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court. Alternative Dispute Resolution.

Before initiating a foreclosure for any delinquent Assessment, the Association shall offer the Owner and, if so requested by the Owner, shall participate in dispute resolution pursuant to the Meet and Confer Program or alternative dispute resolution with a neutral third party pursuant to the CID Act. The decision to pursue dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

11.2.4. **Secondary Addresses of Owners.**

Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any and all notices required by this Section 11.2 to the secondary address provided as well as the primary address. The Association shall notify Owners of their right to submit a primary and secondary address to the Association at the time the Association issues the pro forma operating budget. Each Owner's request shall be in writing and shall be mailed to the Association in a manner that shall indicate the Association has received it. Any Owner may identify or change a secondary address at any time; provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request. If an Owner fails to respond to an Association request to confirm or update a secondary address, the Association may choose to only send correspondence to the primary address and not to the secondary address. The Association is authorized to adopt Rules and Regulations regarding use of primary and secondary addresses.

11.2.5. **Receivers.**

In addition to the foreclosure and other remedies granted to the Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Condominium, conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Condominium, subject to the right of the Association to collect and apply such rents, issues and profits to delinquent Assessments owed by such Owner, reserving to such Owner the right, before any default by such Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. Upon any such default, the Association may, upon the expiration of thirty (30) days following delivery to the Owner of the Notice of Delinquent Assessment described in this Declaration, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described in this Declaration, (a) enter in or on and take possession of the Condominium or any part thereof, (b) in the Association's name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses of operation, to any delinquency

of such Owner and in such order as the Association may determine. The entering upon and taking possession of the Condominium, the collection of rents, issues and profits and the application thereof shall not cure or waive any default or notice of default under this Declaration or invalidate any act done pursuant to such notice.

11.3. Limits on Collection of Delinquent Assessments Through Foreclosure; Right of Redemption.

The procedures established in Section 11.2 are supplemented by this Section 11.3. If there is a conflict between Section 11.2 and this Section 11.3, then this Section 11.3 controls.

11.3.1. Assessment Debts Under One Thousand Eight Hundred Dollars.

If the Association seeks to collect a delinquent Assessment of an amount less than One Thousand Eight Hundred Dollars (\$1,800), not including late charges, fees and costs of collection, attorneys' fees or interest, then the Association may not collect that debt through judicial or nonjudicial foreclosure, but the Association may attempt to collect or secure that debt in any of the following ways:

(a) By a civil action in small claims court, pursuant to Chapter 5.5 (commencing with Section 116.110) of Title 1 of the California Code of Civil Procedure. If the Association decides to proceed by an action in small claims court and the Association prevails in such action, then the Association may enforce the judgment as permitted under Article 8 (commencing with Section 116.810) of Title 1 of the California Code of Civil Procedure. The amount that may be recovered in small claims court to collect upon a debt for delinquent Assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:

(i) The amount owed as of the date of filing the complaint in the small claims court proceeding.

(ii) In the discretion of the court, an additional amount to that described in clause (i) immediately above equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid Assessments and reasonable late charges, fees and costs of collection, attorneys' fees and interest, up to the jurisdictional limits of the small claims court.

(b) By Recording a lien on the Owner's Condominium upon which the Association may not foreclose until the amount of the delinquent Assessments secured by the lien, exclusive of late charges, fees and costs of collection, attorneys' fees or interest, equals or exceeds One Thousand Eight Hundred Dollars (\$1,800) or the Assessments are more than twelve (12) months delinquent. If the Association decides to Record a lien under these provisions, before Recording the lien, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Meet and Confer Program.

(c) Any other manner provided by law, except for judicial or nonjudicial foreclosure.

11.3.2. Assessment Debts of One Thousand Eight Hundred Dollars or More.

If the Association seeks to collect a delinquent Assessment of an amount of One Thousand Eight Hundred Dollars (\$1,800) or more, not including late charges, fees and costs of collection, attorneys' fees or interest, or any Assessment that is more than twelve (12) months delinquent, then the Association may use judicial or nonjudicial foreclosure subject to the following conditions:

(a) Before initiating a foreclosure on an Owner's Condominium, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Meet and Confer Program or alternative dispute resolution as required by the CID Act. The decision to pursue dispute resolution pursuant to the Meet and Confer Program or a particular type of alternative dispute resolution as set forth in the CID Act shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(b) The decision to initiate foreclosure of a lien for delinquent Assessments that has been validly Recorded shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Directors in an executive session. The Board shall record the vote in the minutes of the next meeting of the Board open to all Owners. The Board shall maintain the confidentiality of the Owner or Owners of the Condominium by identifying the matter in the minutes by the assessor's parcel number of the property, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days before any public sale.

(c) The Board shall provide notice by personal service in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the California Code of Civil Procedure to an Owner of a Condominium who occupies such Condominium or to such Owner's legal representative, if the Board votes to foreclose upon such Condominium. The Board shall provide written notice to an Owner of a Condominium who does not occupy such Condominium by first-class mail, postage prepaid, at the most current address shown on the books of the Association. In the absence of written notification by the Owner to the Association, the address of such Owner's Condominium may be treated as such Owner's mailing address.

(d) A nonjudicial foreclosure by the Association to collect upon a debt for delinquent Assessments shall be subject to a right of redemption. The redemption period within which the Condominium may be redeemed from a foreclosure sale under this paragraph ends ninety (90) days after the sale. In addition to the requirements of Section 2924f of the California Civil Code, a notice of sale in connection with the Association's foreclosure of a Condominium shall include a statement that the Condominium is being sold subject to such right of redemption.

ARTICLE XII – DURATION AND AMENDMENT

12.1. Duration.

This Declaration shall continue in full force unless a declaration of termination satisfying the requirements of an amendment to this Declaration established in Section 12.2 is Recorded.

12.2. Termination and Amendment.

12.2.1. **Amendment by the Board.** The Board may amend this Declaration without the consent of the Owners or the Mortgagees by Recording a written instrument signed by two (2) officers of the Association certifying that the Board approved the amendment (a) as authorized by law, (b) to conform this Declaration to applicable law, (c) correct typographical errors, (d) to conform to requirements of the FHA, VA, FHLMC or Fannie Mae; and (d) change any exhibit to this Declaration or portion of an exhibit to conform to as-built conditions.

12.2.2. **Owner Approved Amendments.** For amendments not described in Section 12.2.1, to be effective, a proposed amendment must be adopted by the vote, in person or by proxy, or written consent of Owners representing not less than a majority of a quorum of the voting power, subject to the two following exceptions. (1) If a provision identifies a specific percentage of the Association's voting power necessary to take action under the provision, then that provision may only be amended by the affirmative vote of the same percentage of the Association's voting power. (2) If the CID Act specifies a different percentage of the Association's voting power required to approve a matter or a different quorum, then the CID Act's requirements control.

12.2.3. Mortgagee Consent.

Sections 10.2 and 10.3 shall not be amended without the additional consent of the lien holder of any recorded Deed of Trust.

12.2.4. Certificate.

A copy of each amendment must be certified by at least two (2) Association officers. The amendment becomes effective when a Certificate of Amendment is Recorded. The certificate, signed and sworn to by two (2) Association officers that the requisite number of Owners and Mortgagees have approved the amendment, when Recorded, is conclusive evidence of that fact.

ARTICLE XIII – GENERAL PROVISIONS

13.1. Mergers or Consolidations.

In a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, alternatively, the properties, rights and obligations of another

association may, by operation of law, be added to the properties, rights and obligations of the Association, as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community, together with the covenants and restrictions established on any other property, as one (1) plan.

13.2. No Public Right or Dedication.

Nothing in this Declaration is a gift or dedication of all or any part of the Community to the public or for any public use.

13.3. Notices.

Notice to be given to an Owner must be in writing. Delivery of notice to at least one (1) co-Owner of a Residence, or to at least one (1) general partner of a partnership Owner of a Residence, constitutes delivery to all Owners of such Residence. Delivery of notice to any officer or agent for the service of process of a corporation or limited liability company constitutes delivery to the entity. Unless a provision of the Bylaws, this Declaration or applicable law establishes the method for delivery of notice, notice may be delivered by one of the following methods and is complete as follows: (a) personal delivery (complete upon delivery), (b) first-class mail, postage prepaid, addressed to the most recent address on the Association's books (delivery is complete upon deposit in the United States mail), (c) email, facsimile or other electronic means (delivery is complete at the time of transmission). Any notice to be given to the Association may be delivered personally to any member of the Board or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed and circulated to all Owners.

13.4. Constructive Notice and Acceptance.

Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Condominium or other portion of the Community hereby consents and agrees, and shall be conclusively deemed to have consented and agreed, to every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to these restrictions is in the instrument by which such Person acquired an interest in the Community.

[SIGNATURES ON FOLLOWING PAGE]

[SIGNATURE PAGE TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS]

This Declaration is dated for identification purposes _____ . The undersigned certify that they are the _____ and the _____ of the Association and that this Declaration was approved by the requisite percentage of Association voting power in a vote held in accordance with the CID Act.

Rancho San Joaquin Homeowners Association,
a California nonprofit corporation

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

“Association”

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____ } ss:

On _____, before me, _____,
personally appeared _____,
who 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, and that by
his/her/their signature(s) on the instrument the person, or the entity on behalf of which the
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE

EXHIBIT A - Legal Description of the Community

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EXHIBIT A1 – List of Phases, Units, Undivided Interests and Condominium Plans

Phase 1:

Units 1 to 64 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 8095, on April 9, 1975, in Book 11374, Pages 1434 to 1521, of Official Records of Orange County, California, and located on Lot 2 of Tract No. 8487, as shown on a Map recorded in Book 348, at Pages 36 and 37, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

Phase 2:

Units 1 to 74 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 8096, on April 9, 1975, in Book 11374, Pages 1522 to 1617, of Official Records of Orange County, California, located on Lot 1 of Tract No. 8611, as shown on a Map recorded in Book 348, at Pages 38 and 39, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

Phase 3:

Units 1 to 52 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 30132, on May 30, 1975, in Book 11416, Pages 1781 to 1868, of Official Records of Orange County, California, located on Lot 1 of Tract No. 8612, as shown on a Map recorded in Book 356, at Pages 13 and 14, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

Phase 4:

Units 50 to 90 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 13755, on August 14, 1975, in Book 11483, Pages 688 to 761, of Official Records of Orange County, California, located on Lot 1 of Tract No. 8488, as shown on a Map recorded in Book 358, at Pages 32 and 33, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

Phase 5:

Units 1 to 49 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 13756, on August 14, 1975, in Book 11483, Pages 762 to 841, of Official Records of Orange County, California, located on Lot 2 of Tract No. 8488, as shown on a Map recorded in Book 358, at Pages 32 and 33, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

Phase 6:

Units 1 to 16 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 26445, on October 23, 1975, in Book 11547, Pages 1013 to 1083, of Official Records of Orange County, California, located on Lot 1 of Tract No. 8486, as shown on a Map recorded in Book 360, at Pages 11 and 12, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

Phase 7:

Units 1 to 13 and Common Area, as shown on the Condominium Plan, recorded as Instrument No. 30__39 [unreadable], on October 28, 1975, in Book 11550, Pages 1933 to 1986, of Official Records of Orange County, California, located on Lot 1 of Tract No. 8487, as shown on a Map recorded in Book 348, at Pages 36 and 37, of Miscellaneous Maps, in the Office of the Orange County, California, Recorder.

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EXHIBIT A1 –

**List of Phases, Units, Undivided Interests and
Condominium Plans**

Phase	Units	Undivided Interest	Condominium Plan Recording Information
1	Units 1 to 64, Lot 2, Tr. 8487	1/64	Inst. No. 8095 recorded April 9, 1975, Book 11374, Pages 1434 to 1521
2	Units 1 to 74, Lot 1, Tr. 8611	1/74	Inst. No. 8096 recorded April 9, 1975, Book 11374, Pages 1522 to 1617
3	Units 1 to 52, Lot 1, Tr. 8612	1/52	Inst. No. 30132 recorded May 30, 1975, Book 11416, Pages 1781 to 1868
4	Units 50 to 90, Lot 1, Tr. 8488	1/41	Inst. No. 13755 recorded August 14, 1975, Book 11483, Pages 688 to 761
5	Units 1 to 49, Lot 2, Tr. 8488	1/49	Inst. No. 13756 recorded August 14, 1975, Book 11483, Pages 762 to 841
6	Units 1 to 16, Lot 1, Tr. 8486	1/16	Inst. No. 26445 recorded October 23, 1975, Book 11547, Pages 1013 to 1083
7	Units 1 to 13, Lot 1, Tr. 8487	1/13	Inst. No. 30__39 [unreadable] recorded October 28, 1975, Book 11550, Pages 1933 to 1986

EXHIBIT B – Recording Information for Original Declarations

Phase 1:

Recorded on April 24, 1975, as Instrument No. 21241, in Book 11385, at Page 1570, of Official Records of Orange County, California.

Phase 2:

Recorded on April 25, 1975, as Instrument No. 22878, in Book 11387, at Page 225, of Official Records of Orange County, California.

Phase 3:

Recorded on December 8, 1975, as Instrument No. 8664, in Book 11588, at Page 1381, of Official Records of Orange County, California.

Phase 4:

Recorded on August 20, 1975, as Instrument No. 20110, in Book 11488, at Page 1610, of Official Records of Orange County, California.

Phase 5:

Recorded on August 20, 1975, as Instrument No. 20109, in Book 11488, at Page 1567, and rerecorded on August 29, 1975, as Instrument No. 32356, in Book 11499, at Page 576, both of Official Records of Orange County, California.

Phase 6:

Recorded on November 4, 1975, as Instrument No. 2041, in Book 11557, at Page 1510, of Official Records of Orange County, California.

Phase 7:

Recorded on November 11, 1975, as Instrument No. 11840, in Book 11564, at Page 1845, of Official Records of Orange County, California.

EXHIBIT C - Maintenance Obligations Chart

A = Association responsibility

O = Owner responsibility

Responsibilities assigned below are to maintain, repair and replace. As used herein, the term Maintain shall mean “maintain, repair and replace” unless otherwise indicated.

This chart is designed to be a guide and is not intended to be all inclusive of all components and items in the Association. Where components are not identified below, the maintenance obligations as provided in the CC&Rs shall determine the obligations to Maintain the item.

Siding	Association
Trim	Association
	Association Window frames, which are the framework that surrounds and supports the window system – comprised of the head, jamb and sill.
Window flashing/other waterproofing components	Owner
Window glass and casements	Owner
Window gaskets	Owner
Window screens	Owner
Door screens	Owner
Exterior doors (including doorframes)	Owner
Roof system, including roof covering materials (tile, shakes, etc.) and the building components to which they are attached (plywood, framing, etc.)	Association -
Skylights	Owner
Chimneys and/or chimney caps (exterior)	Association
Chimney flues (interior, maintenance includes chimney sweeping)	Owner
Fireplaces/Fireboxes	Owner
Gutters and downspouts	Association
Roof drains	Association

Balcony walking surfaces that have not been modified	Association shall repair and replace, Owner is responsible for daily maintenance such as sweeping and cleaning
All Owner-installed modifications to balcony walking surfaces	Owner
Balcony framing/railing	Association
Ground level deck walking surfaces that have not been modified	Association
All Owner-installed modifications to ground level deck walking surfaces	Owner
Ground level deck framing/railing	Association
Patios	Owner
Exterior Stairs and Walkways	Association
Development perimeter fences	Association
Fences which form boundary between Unit and Common Property	Association is responsible for exterior and structure/Owner is responsible for the interior surface
Courtyard walls that enclose courtyards from common area	Association is responsible for exterior and structure/Owner is responsible for the interior surface
Air conditioning equipment, including duct work	Owner
Heating equipment, including duct work	Owner
Pipes, ducts, chutes, conduits, wires, and other utility installations wherever located, except the outlets thereof when located within a Unit	Association
Water heaters	Owner
Any solar devices	Owner
Any fire sprinklers or smoke alarms in the Units	Owner
Mailbox(es)	Association
Sewer, water, electrical and other utility lines located behind residence walls in Units (i.e. common area)	Association
Carports	Association
Garage exteriors	Association
Garage interiors	Owner

Carport and/or garage roof system	Association
Individual Unit driveways	Owner
Garage door frames	Association
Automatic garage door openers	Owner
Garage doors	Owner
Common area tree roots	Association
Roots from trees in Units	Owner
Landscaping on Common Property	Association
Plants and landscaping in Units	Owner

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