
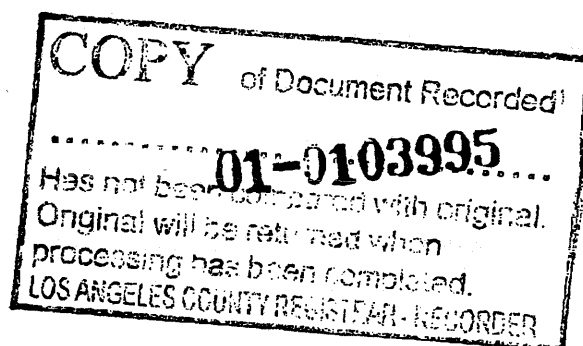



If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.



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**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PALOS VERDES BAY CLUB, INC.**

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PALOS VERDES BAY CLUB, INC.**

Amended and Restated Declaration
of Covenants, Conditions and Restrictions
Palos Verdes Bay Club, Inc.
December 29, 2000/Final

**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PALOS VERDES BAY CLUB, INC.**

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**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PALOS VERDES BAY CLUB, INC.**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PALOS VERDES BAY CLUB, INC., is made on the day and year shown below, by PALOS VERDES BAY CLUB, INC., a California nonprofit mutual benefit corporation ("the Association"), with reference to the following Recitals.

R E C I T A L S

A. The Association is a corporation whose Members are the Owners of all the Condominium Units located within the real property in the City of Rancho Palos Verdes, County of Los Angeles, State of California, as described in Exhibit "A" attached hereto and made a part hereof (hereinafter "Property").

B. The Property was developed as a condominium project, as defined in Section 1351(f) of the California Civil Code, and consists of Units 2 through 241, inclusive, totaling two hundred forty (240) Units, and related Common Areas. The condominium project consists of ten (10) buildings each containing twenty-four (24) Units and a separate recreation building and other Common Area. Each building is a three-story frame, stucco, steel and concrete structure, containing three floors of Units over a subterranean parking garage.

C. Ownership of the Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership recorded on April 2, 1986, as Instrument No. 86-411320, in the Official Records of the County Recorder of Los Angeles County, hereinafter referred to as the "Declaration," unless the context clearly indicates otherwise.

D. The Association now desires to amend and restate the Declaration and replace it in its entirety with this Restated Declaration. The Association further desires that, upon recordation of this Restated Declaration, the Property shall be

subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges contained herein.

E. The Declaration, at Article XIII, Section 1, provides that it may be amended or revoked by the affirmative vote or written consent of the holders of not less than sixty-seven percent (67%) of the voting power of the Owners. The undersigned President and Secretary of the Association certify that, to the best of their knowledge, the affirmative vote or written consent of at least the required percentage of Owners has been obtained.

F. The Association hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Restated Declaration, and as may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Restated Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs, executors, administrators, and assigns of these parties and all subsequent Owners and lessees of all or any part of a Condominium.

ARTICLE I DEFINITIONS

Section 1.1. Articles

means the Certificate of Amendment of Restated Articles of Incorporation of Palos Verdes Bay Club, Inc., filed in the Office of the Secretary of State of the State of California on April 25, 1986, and any duly adopted and filed amendments.

Section 1.2. Association

means Palos Verdes Bay Club, Inc., a California nonprofit mutual benefit corporation created for the purpose of managing the Project.

Section 1.3. Board

means the Board of Directors of the Association.

Section 1.4. Bylaws

means the Amended and Restated Bylaws of the Association and any duly adopted amendments.

Section 1.5. Common Area

means the entire Property except all Units as defined in this Restated Declaration and as shown on the Condominium Plan or Tract Map for the Project. The Common Area shall include, but not be limited to, the private streets, clubhouse and facilities, swimming pools, tennis courts, and landscaping.

Section 1.6. Condominium

means an estate in real property consisting of a separate interest in a Unit, the boundaries of which are shown and described on the Condominium Plan or Tract Map for the Project; a fractional undivided interest as a tenant-in-common in the Common Area; a membership in the Association; and any Restricted Common Exclusive Use Common Area appurtenant to each Unit as shown on the Condominium Plan, Tract Map for the Project, or deed of conveyance.

Section 1.7. Condominium Plan

means the Condominium Plan for the Association, if any, recorded in the Official Records of the County Recorder of Los Angeles County, including any amendments thereto.

Section 1.8. Exclusive Use Common Area

means those portions of the Common Area designated herein for the exclusive use of one (1) or more, but fewer than all, of the Owners and which is appurtenant to a Unit or Units as shown on the Condominium Plan, Tract Map for the Project, or deed of conveyance and pursuant to the provisions herein. The Exclusive Use Common Areas shall consist of parking spaces, storage areas, balconies, exterior doors, door frames, and hardware incident thereto, screens and windows and other fixtures designed to serve a Unit but located outside the boundaries of the Unit."

Section 1.9. Governing Documents

means this Restated Declaration and any other documents such as the Articles, Bylaws, Condominium Plan, Tract Map for the Project, or Rules and Regulations which govern the operation of the Association.

Section 1.10. Improvements

means, without limitation, the construction, installation, addition, alteration or remodeling of any portion of the condominium building, walls, fences, swimming pools, landscaping, jacuzzi, antennas, the installation or repair of television satellite reception dishes, utility lines, sunshades, awnings, and any structural and non-structural improvements that have an impact, visual or otherwise, on the Common Area elements of the Project.

Section 1.11. Member

means every person or entity entitled to membership in the Association as provided in this Restated Declaration.

Section 1.12. Mortgage

means a mortgage or deed of trust encumbering a Condominium or any other portion of the Project. "First Mortgage" means a mortgage that has priority over all other mortgages encumbering the same Condominium or other portions of the Project.

Section 1.13. Mortgagee

means a Person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a mortgage. First Mortgagee means a mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Condominium or other portions of the Project.

Section 1.14. Mortgagor

means a Person who mortgages his, her, or its property to another (i.e., the maker of a mortgage), and shall include the trustor of a deed of trust.

Section 1.15. Owner

means the record holder or holders of record title to a Condominium, including the Association, and any contract sellers under recorded contracts of sale. "Owner" shall not include any persons or entities who hold an interest in a Condominium merely as security for performance of an obligation.

Section 1.16. Person

means a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.17. Project

means the common interest development which is a condominium project as described herein and on the Condominium Plan or Tract Map for the Project, including all Improvements thereon.

Section 1.18. Property

means the real property described in Exhibit "A" attached hereto.

Section 1.19. Restated Declaration

means this Amended and Restated Declaration of Restrictions and any amendments thereto.

Section 1.20. Rules and Regulations

means any Rules and Regulations for the Association regulating the use of the Project adopted by the Board pursuant to Subsection 3.5(b) herein.

Section 1.21. Unit

means that portion of a Condominium that consists of a separate interest. Unit does not include the other elements of the Project. Each Unit shall be a separate freehold estate, as separately shown, numbered, and designated on the Condominium Plan or Tract Map for the Project. Each Unit consists of air space or spaces bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, and doors (including the wall coverings and floor coverings), the boundaries of which are more particularly described on the Condominium Plan or Tract Map for the Project. In the event of a conflict between the Restated Declaration and the Condominium Plan or Tract Map for the Project, such Condominium Plan or Tract Map shall control.

**ARTICLE II
THE PROPERTY**

Section 2.1. Project Subject to Restated Declaration.

The entire Project shall be subject to this Restated Declaration.

Section 2.2. Description of Land and Improvements; Ownership of Common Area.

The Project consists of the real property described in Exhibit "A" and is divided between the Common Area and the Units. Each Unit is owned by the

individual Owners as separate property. The Common Area is owned by Owners of Units as tenants-in-common in equal one – two hundred fortieth (1/240th) fractional interests.

Section 2.3. Equitable Servitudes.

The covenants and restrictions set forth in this Restated Declaration shall be enforceable equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes may be enforced by any Owner or by the Association or by both.

Section 2.4. Prohibition Against Partition.

There shall be no judicial partition of the Project or any part of it, nor shall the Association or any person acquiring an interest in the Project or any part of it seek any judicial partition, except pursuant to Section 1359 of the California Civil Code.

Section 2.5. Presumption Regarding Boundaries of Units.

In interpreting deeds, declarations and plans, the existing physical boundaries of a Unit, including any Unit reconstructed in substantial accordance with the Condominium Plan or Tract Map for the Project, and the original construction plans for the Project, shall be conclusively presumed to be its boundaries, rather than the description in the deed, Condominium Plan, Tract Map for the Project, or this Restated Declaration. This presumption applies regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown on the Condominium Plan, Tract Map for the Project, or described in the deed and those of the building as constructed or reconstructed.

Section 2.6. Prohibition Against Severance of Elements.

Any conveyance, judicial sale, or other transfer of a Unit shall include (1) all interests and appurtenances as shown in the original deed of conveyance and (2) the Owner's membership interest in the Association, as provided in Article III below. Any transfer that attempts to sever those component interests shall be void.

Section 2.7. Utility Rights.

The rights and duties of the Owners with respect to lines for sanitary sewer, storm drains, water, electricity, gas, telephone, and television cables shall be governed by the following:

(a) Whenever sanitary sewer house connections and lines, facilities and/or water house connections and lines, or electricity, gas, telephone lines, or television cables are installed within the Property, which connections, or any portion thereof, lie in or upon portions of the Property owned by others than the Owner of a Unit served by said connections (the "Unit Connections"), the Owner of any Unit served by said connection and the Association shall have the right, and are hereby granted an easement which may be exercised for such Owner by the Association, to enter upon such portions of the Property or to have the utility companies enter thereupon to repair, replace and generally maintain said connection as and when this may be necessary as set forth below.

(b) The Owner of each Unit served by a Unit Connection shall be entitled to the full use and enjoyment of such portion of the Unit Connection as services his Unit.

(c) In the event any portion of the Unit Connection is damaged or destroyed through the negligent act or acts or failure to act, or willful misconduct of one Owner or any of his employees, servants, agents, invitees, tenants, guests or members of his family so as to deprive other Owners of the full use and enjoyment of the Unit Connection, then the Unit Connection shall be repaired and restored by the Association, but the expense shall be assessed against the Unit Owner who commits, or whose employees, servants, agents, invitees, tenants, guests or family members commit, such act or acts, as a Single Benefit Assessment in accordance with Article IV hereof.

(d) In the event any portion of the Unit Connection is damaged or destroyed by some cause other than the negligence or willful misconduct of one of the Owners, his employees, servants, agents, guests, tenants, invitees or members of his family (including ordinary wear and tear and deterioration from lapse of time) then the Unit Connection shall be repaired and restored by the Board, the cost of such repair and restoration to be part of the Association's common expenses.

(e) The exercise of any right or easement provided in this Section shall be subject to the conditions precedent that such exercise shall be reasonable and in good faith, and all damage to a Unit or to the Common Area resulting therefrom shall be repaired at the sole cost and expense of the person exercising such easement.

Section 2.8. Right to Combine Units.

An Owner shall have the right to combine one or more adjoining units subject to the following provisions:

(a) Prior Consent of Association.

Prior to the owner's combination of adjoining units, the Association must give its approval thereto, which approval shall not be unreasonably withheld. In evaluating its consent to a combination of units, the Association shall first receive and separately approve the following:

- (1) Architectural plans of the proposed combination of units;
- (2) A certificate stating that any portion of the Common Area to be affected by the proposed combination is not required for the structural support of any other Unit or any part of the Condominium Project. Said certificate shall be given by a structural engineer licensed in the State of California and approved by the Association;
- (3) A certified bid stating the cost of the proposed combination and the time for its completion. Said bid shall be made by a contractor licensed in the State of California and approved by the Association;
- (4) A bond or bonds assuring the prompt completion of the proposed combination in a workmanlike manner free of mechanic's liens which names the Association as an obligee thereunder. The Association may also require such other security as is necessary to guarantee the foregoing;
- (5) All building and other governmental permits required for the construction of the proposed combination;
- (6) A certificate stating, in detail, the effect of the proposed combination on any common area plumbing and wiring. Said certificate shall be made by electrical and plumbing contractors licensed in the State of California and approved by the Association.

(b) Prohibition Against Combination.

Any proposed combination of the Units which in any way would result in the removal of any structural support for any Units and/or any other portion of the Condominium Project not involved in the proposed combination, or which would in any other way adversely consequences on its Owner:

(1) Undivided Interest in Common Area.

The undivided interest in the Common Area allotted to the combined Units shall be equal to the sum of the undivided interest in the Common Area of each of the combined Units.

(2) Assessments.

With respect to the assessments required of each Unit's Owner, more particularly set forth in Article IV hereto, the assessments due and owing on the combined Units shall be equal to the sum of the assessments levied against each of the respective Units so combined.

(3) Voting Rights.

The Owner of the combined Units shall have the number of votes equal to the number of votes of the Units that were combined. For example, if three prior Units were combined into one, the Owner of the new Unit would retain three votes as a Member of the Association.

(4) Prior Easements.

Any easements existing in, over, across, or through the Common Area, which, subsequent to the combination of the Units, is located within the new perimeter area of the combined Units shall cease to exist, and shall be deemed conveyed to the Owner of the combined Units.

**ARTICLE III
ASSOCIATION**

Section 3.1. Organization of the Association.

The Association is incorporated as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. The Association is created for the purpose of managing the Project and is charged with the duties and granted the powers prescribed by law and set forth in the Governing Documents.

Section 3.2. Membership.

Every Owner, upon becoming an Owner, shall automatically become a Member of the Association. Ownership of a Condominium is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations set forth in the Governing Documents. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Condominium. All memberships shall be appurtenant to the Condominium

conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Condominium shall automatically transfer the appurtenant membership to the transferee.

Section 3.3. Membership Class; Voting Rights.

The Association shall have one class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the governing Documents. Each Member shall be entitled to cast one (1) vote for each Unit owned, subject to the provisions of the Bylaws.

Section 3.4. Membership Meetings.

Meetings of the Members shall be held per Article III of the Bylaws.

Section 3.5. General Powers and Authority.

The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject to any limitations set forth in the Governing Documents. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it. Its powers shall include, but are not limited to, the following:

(a) Assessments.

The power to establish, fix, levy, collect, and enforce the payment of Assessments against the Owners in accordance with the procedures set forth in Article IV, below;

(b) Rules and Regulations.

The power to adopt reasonable rules and regulations governing the use of the Units, the Common Area, any common facilities and Association - owned property. The rules and regulations may include, but are not limited to: reasonable restrictions on use by the Owners and their families, guests, employees, tenants, and invitees; rules of conduct; the setting of reasonable administrative fees, deposits, and use fees for any recreational facilities; and the setting of reasonable hearing procedures and monetary penalties and fines in the event of a violation of any provisions of the Governing Documents. A copy of the current Rules and Regulations, if any, shall be given to each Owner. If any provision of the Rules and Regulations conflicts with any provision of this Restated

Declaration, the Articles, or the Bylaws, the Restated Declaration, Articles, or Bylaws shall control to the extent of the inconsistency;

(c) Claims.

The right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to the following:

- (1) Enforcement of the Governing Documents;
- (2) Damage to the Common Area;
- (3) Damage to any Units that the Association is obligated to maintain or repair;
- (4) Damage to the Units that arises out of, or is integrally related to the to, damage to the Common Area or Units that the Association is obligated to maintain or repair;
- (5) Enforcement of payment of assessments in accordance with the provisions of Section 4.12, below; and
- (6) Any other matter(s) in which the Association is a party, including, but not limited to, contract disputes;

(d) Owner Discipline.

The right to discipline Owners for violation of any of the provisions of the Governing Documents by (i) suspending the Member's membership rights, including the Member's voting rights and the rights and privileges to use the Common Area and facilities, except that no Member shall be denied access to their Unit, and (ii) imposing monetary fines;

(e) Entry Into Units.

The right for its agents and employees to enter any Unit when necessary in connection with (i) any maintenance, landscaping, or construction work for which the Association is responsible; (ii) abating any nuisance, or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Unit, (iv) protecting the property rights and welfare of the other Owners; or (v) for any other purpose reasonably related to the performance by the Association of its responsibilities under the terms of this Restated

Declaration as amended from time to time. This entry shall be made only upon reasonable notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable. Any damage caused by this entry shall be repaired by the Association at its own expense;

(f) Loans.

The power to borrow money as may be needed in connection with the discharge by the Association of its powers and duties, except that any loan in an amount exceeding \$200,000 must be approved beforehand by the vote or written consent of Owners representing not less than fifty percent plus one (1) vote (50% + 1 vote) of the voting power of the Association;

(g) Exclusive Use of Common Area.

Notwithstanding any nonexclusive easements to the Common Area granted herein or by any deed or other conveyance, the Board shall have the right to allow one or more Owners to exclusively use portions of the Common Area, provided that such portions of the Common Area are nominal in area and adjacent to the Owner's Unit, and provided further that such use does not unreasonably interfere with any other Owner's use or enjoyment of the Project; and

(h) Parking Enforcement.

The Board shall have the power to remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations in accordance with the provisions of California Vehicle Code Section 22658.2 and any amendments thereto.

Section 3.6. Duties of the Association.

In addition to the duties of the Association, its agents and employees set forth elsewhere in the Governing Documents, the Association shall be responsible for the following:

(a) Maintenance.

The Association, acting through the Board, shall operate, maintain, repair, and replace those components described in Section 6.4 or contract for the performance of that work, subject to the provisions of the Governing Documents.

(b) Goods and Services.

The Association shall use the maintenance fund described in Article IV to, among other things, acquire and pay for goods and services for the Project, including the following:

(1) Water, sewer, refuse, electrical, telephone, gas, and other necessary utility service for the Common Area and, to the extent not separately metered and charged, for the Units;

(2) The insurance policies described in this Restated Declaration;

(3) Employment of a professional manager and such other employees as it deems necessary, and prescribe their duties, and enter into contracts and agreements all for the purpose of providing for the performance of the business powers, duties and/or obligations of the Board or any portion thereof. Such manager, if any, and all employees shall have the right of ingress and egress over and across to such portions of the Project as may be necessary in order for them to perform their obligations. Under any management agreement entered into by the Board, the Association shall have the right to terminate such agreement without cause and shall not be required to pay any cancellation penalty or give more than thirty (30) days' advance notice of termination; and

(4) Legal and accounting services necessary or proper in the operation of the Common Area and the Association or the enforcement of the Governing Documents.

Section 3.7. Board of Directors.

The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in the Bylaws.

Section 3.8. Inspection of Accounting Books and Records.

The rights of Owners and Directors to obtain and inspect the accounting books and records of the Association shall be in accordance with the Bylaws and California Corporations Code Sections 8333 and 8334, as amended from time to time.

Section 3.9. Limitation of Liability.

Neither the Association nor its Board of Directors, any member thereof, any of its officers, nor any agent of the Association shall be liable for any failure to provide any service or perform any duty, function or responsibility designated or provided in this Declaration or in any other Governing Document to be performed by the same, or for injury or damage to Persons or property caused by fire, explosion, the elements or by another Owner or Person in the Project, unless

caused by the gross negligence or intentional act in bad faith of the Association or its Board or officers or agents.

Section 3.10. Indemnification.

The Association shall and does hereby indemnify the Board of Directors, and each member, the officers of the Association and each of them, and the Association's agents and employees against all expenses and liabilities, including attorney's fees, reasonably incurred by such person or persons in connection with any proceeding to which he may be a party, by reason of his being or having been a director, officer or agent or employee of the Association, except in such cases where he or she is adjudged to have acted in bad faith in the performance of his duties.

**ARTICLE IV
ASSESSMENTS AND COLLECTION PROCEDURES**

Section 4.1. Covenant to Pay.

Each Owner, by acceptance of the deed to the Owner's Condominium, covenants and agrees to pay to the Association regular, special and single benefit assessments, and all other charges levied by the Association pursuant to this Restated Declaration. A regular, special or single benefit assessment and any late charges, reasonable costs of collection, and interest assessed in accordance with the provisions of this Article shall also be a personal debt of the Owner of the Condominium at the time the assessment or other sums are levied. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Area or abandonment of the Owner's Condominium.

Section 4.2. Purpose of Assessments.

Except as provided herein, the Association shall levy regular, special and single benefit assessments sufficient to perform its obligations. The assessments levied by the Association shall be used exclusively to promote the recreation and welfare of the Owners; for the operation, replacement, improvement, and maintenance of the Project; and to discharge any other obligation of the Association under this Restated Declaration. All assessments collected from the Owners shall be put into general operating and reserve funds to be used for the foregoing purposes.

Section 4.3. Regular Assessments.

When preparing its financial documents and annual budget, the Board shall estimate the net charges to be paid during that next fiscal year, including a reasonable provision for contingencies, replacements and reserves, with adjustments made for any expected income and surplus from the prior year's fund. The resulting amount shall constitute the regular assessments for the budgeted year. If a regular assessment is not made as required for a new fiscal year, the regular assessment for the prior fiscal year shall apply and govern each Owner's payments until changed by a new regular assessment. Regular assessments shall be allocated among, assessed against and charged to each Owner according to the ratio of the number of Units owned by the assessed Owner to the total number of Units subject to assessment. Each Unit shall bear an equal share of the total assessment. To the extent permitted by law, failure of the Board to estimate the net charges within the time period stated herein shall not void any assessment imposed by the board. Each Owner is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment. Regular assessments for fractions of any month shall be prorated.

Section 4.4. Special Assessments.

If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year for any reason, the Board shall make a special assessment for the additional amount needed, subject to any limitations imposed by law or the Governing Documents. Special assessments shall be levied and collected in the same manner as regular assessments.

Section 4.5. Single Benefit Assessment.

Whenever the Association (i) performs any service or accomplishes any item of repair or maintenance which is the duty of any Owner to accomplish, but which has not been accomplished by such Owner, (ii) preempts the performance of a specific Owner of a given act of maintenance or repair for which that Owner is responsible, or (iii) incurs any costs which by law or as required by the Governing Documents must be reimbursed by an Owner, the Association shall specifically charge the cost thereof, together with any financing costs and administrative costs incurred by the Association, to the Owner for whom such work was done, and such additional cost shall be levied against the Owner(s) as a single benefit assessment.

A "single benefit assessment" is an assessment levied on one or less than all Owners for the reasons stated above. Regular assessments and special assessments, on the other hand, are levied on all of the Owners.

In the event that the Association obtains income directly related to an item that has been assessed as a single benefit assessment, such income shall be allocated so as to reduce or offset such single benefit assessment.

Section 4.6. Monetary Penalties.

In the event the Board of Directors imposes a monetary penalty (fine) against an Owner, that fine shall be subject to costs of collection, late charges and interest as described in Section 4.11 for delinquent payment, to the extent allowed by law.

Section 4.7. Units Not Subject to Assessment.

Assessments which would normally become due on Units, but which Units are owned by the Association, shall be deemed to be common expenses collectible from all of the remaining Units in the same proportion that each Unit bears to the others less the number of Units owned by the Association.

Section 4.8. Limitations on Assessments.

Except in emergency situations, the Board may not, without the approval of Owners constituting a quorum of the Owners and casting a majority of the votes at a lawfully conducted meeting or election of the Association, impose a regular assessment that is more than twenty percent (20%) greater than the regular assessment for the preceding fiscal year, or levy special assessments that in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. For purposes of this Section, a "quorum" means more than fifty percent (50%) of the Owners of the Association. These limitations shall not apply to assessment increases that are necessary for emergency situations. An emergency situation is an extraordinary expense that is:

- (a) Required by a court order;
- (b) Necessary to repair or maintain the Project or any part of it for which the Association is responsible when a threat to personal safety in the Project is discovered; or
- (c) Necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the

Board in preparing and distributing the pro forma operating budget. Before the Board may impose or collect an assessment in this emergency situation, it shall pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Owners with the notice of assessment.

(d) An extraordinary expense required in making the first payment of the earthquake insurance surcharge pursuant to Section 5003 of the Insurance Code.

Section 4.9. Notice of Assessments.

The Association shall provide notice by first-class mail to the Owners of any increase in the regular assessments or the imposition of a special assessment at least thirty (30) but not more than sixty (60) days prior to the increase in the regular assessment or special assessment becoming due.

Section 4.10. Limitation on Assessment Increases.

No increase in regular assessments shall be imposed unless the Board has distributed a copy of the Association's operating budget for that fiscal year in compliance with California Civil Code Section 1365(a), or has obtained the approval of Owners, constituting a quorum, casting a majority of the votes at a lawfully conducted meeting or election of the Association. For the purposes of this Section, "quorum" means more than fifty percent (50%) of the Owners of the Association.

Section 4.11. Costs, Late Charges and Interest.

An assessment, including any installment payment, is delinquent fifteen (15) days after its due date. Late charges may be levied by the Association against an Owner for the delinquent payment of regular, special and single benefit assessments, and monetary penalties. If any of these charges is delinquent the Association may recover all of the following from the Owner:

(a) Reasonable costs incurred in collecting the delinquent charge, including actual attorneys' fees;

(b) A late charge not exceeding ten percent (10%) of the delinquent assessment or ten dollars (\$10.00), whichever is greater, or the maximum amount allowed by applicable law. Late charges may be imposed on each delinquent payment, but no late charge may be imposed more than once for the delinquency of the same payment; and

(c) Interest on the foregoing sums, at an annual percentage rate of twelve percent (12%), commencing thirty (30) days after the charge becomes due, or the maximum amount allowed by applicable law.

Section 4.12. Enforcement of Assessments and Late Charges.

A delinquent regular or special assessment, single benefit assessment (to the extent permitted by law), monetary penalty (to the extent permitted by law), and any related late charges, reasonable costs of collection (including actual attorneys' fees), and interest shall become a lien upon the Condominium to which such delinquent assessment(s) and other charges are attributable when a Notice of Delinquent Assessment ("Notice" or "assessment lien") is recorded with the Los Angeles County Recorder. The Notice shall describe the amount of the delinquent assessment(s), the related charges authorized by this Declaration, a description of the Condominium, the name of the purported Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice shall be signed by any officer of the Association, or any employee or agent of the Association authorized to do so by the Board. The Notice may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure.

The Notice may not be recorded until the Association has first complied with Civil Code Section 1367(a) or any successor statute concerning delivery of a written demand for payment to the delinquent Owner. If the delinquent assessment or installment and related charges are paid or otherwise satisfied in accordance with the demand for payment, the Association shall not record the Notice.

The Notice is not required to be amended to reflect any partial payments after its recordation, and any such partial payments shall not be construed to invalidate the Notice. If all sums specified in the Notice are paid before the completion of any judicial or non-judicial foreclosure, the Association shall (i) record a notice of satisfaction and release of lien, and (ii) upon receipt of a written request by the Owner, shall also record a notice of rescission of any recorded declaration of default and demand for sale.

Section 4.13. Priority of Assessment Lien.

The Association's assessment lien shall be superior or prior to all other liens recorded subsequent to the Notice of Delinquent Assessment, except (i) all taxes,

bonds and governmental assessments that, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record.

Neither the transfer of a Condominium pursuant to a foreclosure of any Mortgage, nor an election by the Association to proceed against any new Owner for payment, shall serve to cancel the personal obligation of the prior Owner for payment of the delinquent assessments and charges which accrued during such Owner's period of ownership. The personal obligation of any prior Owner for payment of delinquent assessments and charges may only be satisfied and therefore discharged, by payment of the entire amount of the delinquent assessments and charges, whether or not such Owner remains in possession of his or her Unit.

Section 4.14. No Offsets.

All assessments shall be payable in the amount specified and no offset against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

Section 4.15. Statement of Delinquent Assessment.

Upon receipt of a written request from an Owner, the Association shall provide that Owner with the amounts of any delinquent assessments and related late charges, interest, and collection costs, which, as of the date of the statement, are or may be made a lien against the Owner's Condominium.

Section 4.16. Assignment of Rents.

(a) Assignment.

Each Owner who is renting a Unit to a tenant or tenants hereby assigns to the Association:

(1) all the right, title and interest of such Owner in and to any lease(s) or rental agreement(s) (the "Lease"); and

(2) all of the rents and any other income now due or which may become due from the lease or rental of the Unit, including monies for supplying services, materials or installations (the "Rents"), together with any and all rights and remedies which the Owner may have against any tenant under the Lease or others in possession of the Unit for the collection or recovery of monies so assigned.

This assignment is absolute, but is conditioned on the Owner's failure to pay any assessment within thirty (30) days after the due date.

(b) Payment of Rents to Association.

Each Owner irrevocably consents that the tenant under the Lease, upon receiving from the Association notice of the Owner's default and demand for payment, shall pay the Rents to the Association without liability to any tenant for the determination of the actual existence of any default claimed by the Association. The full amount of the Rents received by the Association shall be applied to the Owner's account. Application of the Rents to particular charges within the Owner's account shall be at the Association's discretion to the extent not dictated by California law.

(c) Termination of payment of Rents to Association.

The Association may continue receiving the Rents directly from the tenant until any foreclosure action against the subject Unit is completed or until the amount of money owed to the Association by the Owner, including assessments, late fees, interest and reasonable attorney's fees, is paid in full, whichever occurs first.

(d) Management of Unit.

Until the foreclosure action is completed or Owner's debt to the Association is paid in full, the Association is assigned the right to evict the tenants and to re-lease the Unit to tenants of the Association's choosing; to cancel or modify the Lease; to make repairs as the Association deems appropriate; and to perform such other acts in connection with the management and operation of the Unit as the Association, in its sole discretion, may deem proper.

(e) Association Powers.

The Association may, at any time, upon ten (10) days' written notice to the Owner, either in person, by agent or by a receiver appointed by a court of competent jurisdiction, and regardless of the adequacy of any security for the Owner's indebtedness, enter upon and take possession of all or any part of such Owner's Unit, and/or in its own name sue for or otherwise collect the Rents, including those past due and unpaid. The Association shall apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, in payment of any indebtedness to the Association or in performance of any agreement hereunder.

(f) Association Not a Landlord.

The enforcement and/or exercise of the Association's rights under this Section shall in no way constitute the Association as a "landlord" under any lease or sublease with a tenant in an Owner's Unit. Each Owner hereby acknowledges that the Association shall have no such responsibility and each Owner hereby agrees to indemnify, defend and hold the Association, its officers, directors, agents, representatives, employees and attorneys harmless from any and all claims by an Owner's tenant that the Association acted as the landlord and that tenant has a claim against the Association for failing to fulfill such duties in any manner.

(g) Mortgage Holder Rights.

The assignment of rents and powers described in this Section shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first or senior mortgage on any Condominium to do the same or similar acts.

**ARTICLE V
USE RESTRICTIONS AND COVENANTS**

Section 5.1. General.

The use and enjoyment of the Project by Owners and their tenants, guests, and invitees shall be subject to the Governing Documents. Each such person shall comply with their provisions and be subject to any enforcement actions in the event of violations. Unless otherwise stated in the Governing Documents, the Association, through the Board of Directors, shall be responsible for the enforcement of these provisions.

Section 5.2. Common Area.

(a) Association Easement.

The Association shall have a non-exclusive easement in, to, and throughout the Common Area and its Improvements to perform its duties and exercise its powers.

(b) No Judicial Partition.

Except as provided in this Restated Declaration, there shall be no judicial partition of the Common Area. Neither the Association nor any Person with an interest in all or any part of the Project shall seek any judicial partition.

(c) Owners' Rights of Access.

Subject to this Restated Declaration, each Owner has non-exclusive rights of access and support through the Common Area. These rights shall be appurtenant to any deed of conveyance. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right to use any portion of the Common Area.

(d) Limitations on Owners' Use of Common Area.

The Owners' rights of use and enjoyment in, to and of the Common Area shall be subject to the Governing Documents and the right of the Association, subject to the limitations of any laws or the Governing Documents, to:

(1) Adopt and enforce reasonable Rules and Regulations for the use of the Common Area and the Project;

(2) Reasonably limit the number of persons using the Common Area;

(3) Assign, rent, license or otherwise control the use of any unassigned parking spaces and storage spaces within the Common Area and any recreational facility for private parties at the Association;

(4) Remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations in accordance with the provisions of California Vehicle Code Section 22658.2 and any amendments thereto;

(5) Suspend the voting rights of any Owner, and the rights of any Owner, and the Persons deriving rights from any Owner, to use and enjoy the Common Area for any period during which the Owner is delinquent in the payment of any assessment or monetary penalty, or as otherwise provided in the Governing Documents;

(6) Cause the construction of additional Improvements in the Common Area or the alteration or removal of existing Improvements on the Common Area;

(7) Grant, dedicate, consent to, or join in the grant or conveyance of easements, licenses, or rights-of-way in, on, or over the Common Area,

including a grant or consent to allow one or more Owners to exclusively use portions of the Common Area subject to the Governing Documents;

(8) Reasonably restrict access to roofs, maintenance facilities or areas, landscaped areas, and similar areas of the Project; and

(9) Approve any proposed alteration of or modification to the Common Area or any Unit.

(e) Third Party Easements.

The Association may grant to third parties easements in, on, and over the Common Area for the purpose of constructing, installing, or maintaining necessary utilities and services, or other purposes reasonably related to the operation of the Project. Each Owner, in accepting his or her deed to the Unit, expressly consents to these easements. However, no such easement may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Unit.

(f) Delegation of Owners' Rights.

Notwithstanding the easement rights or other rights contained herein, an Owner not living in his or her Condominium shall be deemed to have delegated his or her rights to use and enjoy the Common Area to the Condominium's occupant(s), subject to reasonable regulation by the Board. The Owner and the Owner's family, guests, employees, and invitees shall not be entitled to use and enjoy the Common Area for so long as this delegation remains effective.

(g) Telephone Wiring.

All telephone wiring designed to serve a single Unit, but located outside the boundaries of the Unit, is allocated exclusively to that Unit. The Owner of the Unit shall be entitled to reasonable access to the Common area for the purpose of maintaining and repairing this wiring, subject to the conditions reasonably imposed by the Association. The Association's consent shall not be unreasonably withheld.

(h) Owner's Exclusive Use.

The Board shall have the right to allow one or more Owners to exclusively use portions of the Common Area, provided that such portions of the Common Area are nominal in area and adjacent to the Owner's Unit, and, provided further, that such use does not unreasonably interfere with any other Owner's use or enjoyment of the Project.

Section 5.3. General Restrictions on Use.

In exercising the right to occupy or use a Unit or the Common Area and its Improvements, the Owner and the Owner's family, guests, employees, tenants, and invitees shall not do any of the following:

(a) Subdivision of Units.

Attempt to further subdivide a Unit without obtaining the prior approval of the Association.

(b) Residential Purposes.

Occupy or use a Unit, or permit all or any part of a Unit to be occupied or used, for any purpose other than as a private residence. Notwithstanding this, the use of any portion of any Unit as a "home office" shall not be considered to be a violation of the restrictions set forth in this Section, provided that:

(1) no products, goods or services are produced, manufactured, stored, marketed or sold from or in the Unit in any manner which is visible from any point not located in the Unit;

(2) all applicable federal, state and local laws, ordinances and rules are complied with by the Owner and his/her tenants, invitees and licensees;

(3) no employees work in the Unit;

(4) no clients, customers, patrons, employees, messengers, delivery personnel, or other individuals regularly visit the Unit or any portion of the Project in relation to any business conducted therefrom in a way which causes a nuisance, unreasonable disturbance, or additional traffic throughout the Property; and

(5) the Owner obtains and maintains appropriate and adequate insurance coverage, including, but not limited to, workers' compensation insurance and comprehensive general liability insurance, in order to insure against any type of injury, such as property damage or personal injury occurring within the Owner's Unit or Common Area, and against any cause of action whatsoever arising or relating to the use of the Unit as a "home office."

(c) Common Area Obstructions.

Permit anything to obstruct the Common Area or store anything on the Common Area, including placing plants or other decorative items in, on or

upon the Common Area, without the prior written consent of the Board, except as otherwise provided in the Governing Documents.

(d) Rate of Insurance.

Perform any act or keep anything on or in any Unit or in the Common Area that will increase the rate of insurance on the Common Area without the Board's prior written consent. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Area that would result in the cancellation of insurance on any Unit or on any part of the Common Area or that would violate any law.

(e) Storage.

Store gasoline, kerosene, cleaning solvents, or other flammable liquids or substances, or any toxic or hazardous materials on the Common Area or in any Unit; provided, however, that reasonable amounts of these liquids, substances or materials may be placed in appropriate containers and properly stored.

(f) Signs.

Erect or display any sign on or from any Unit, except as allowed by Sections 712 and 713 of the California Civil Code. No signs may be erected or displayed on the Common Area except those signs allowed by this provision or with the prior written approval of the Board.

(g) Antennas.

Install or maintain any mast, antenna or satellite dish of any size on the Common Area (excluding Exclusive Use Common Area) without prior written approval of the Board. Owners may not install or maintain any radio or television antenna or external apparatus designed solely for transmitting, any mast exceeding twelve feet (12') in height, or any satellite dish of more than one meter in size in or upon any Unit, or in, on or upon any Exclusive Use Common Area without the prior written approval of the Board. Installation and maintenance of receiving antennas and satellite dishes of one meter or less in or upon any Unit or in or upon Exclusive Use Common Area shall be subject to any reasonable rules and regulations adopted by the Board.

(h) Electrical Equipment.

Install, attach or hang or cause to be installed, attached or hung any equipment or wiring for electrical installation, machines or other like equipment or wiring in or on any portion of the Common Area or that protrudes from any Unit or balcony or through any Common Area wall, floor, ceiling, window or

door, except as approved by the Association. The Board's approval shall not be unreasonably withheld, and may include its approval of telephone wiring upon the exterior of the Common Area and other conditions as the Board of Directors determines.

All radio, television, or other electrical equipment or appliances of any kind or nature or wiring therefor installed or used in a Unit shall fully comply with all rules, regulations and requirements of all state and local public authorities having jurisdiction over same, and the Owner alone shall be liable for any damage or injury caused by any such equipment or appliance installed or used in his or her Unit.

(i) Pets.

No animals, livestock, reptiles, poultry or large exotic birds shall be kept in any Unit, except for one (1) indoor cat, not more than two (2) small hook-billed birds kept in inside cages, and fish may be kept as household pets. As a balcony is not part of a Unit, no pet shall be maintained on any balcony. The Association, acting through the Board, shall have the right to prohibit the maintenance of any pet which, in the opinion of the Board, constitutes a nuisance to any other Owner.

Pets belonging to Owners, occupants, or tenants within the Project must be kept within the confines of the Unit or carried - when on any portion of the Common Area. If any pet residing in a Unit is found unattended outside of the Unit, the pet may be removed by the local animal shelter. However, if the Owner of the pet can be readily identified, a reasonable attempt must be made to notify the owner prior to the pet being removed from the Project's premises. Every Owner shall be liable as to each and all remaining Owners, their family members, guests and invitees, for any unreasonable noise, injury to person or damage to property caused by any pet brought or kept within the Project, by any Owner, member of his family or guests. It shall be the responsibility and duty of each owner to clean up after his pet which has soiled any portion of the Common Area.

Any dog or cat that was permanently residing in a Unit and grandfathered prior to May 13, 2000, may continue to reside in the Unit until the Unit's occupants move away from the Project or the animal dies, provided such animal is kept inside the Unit and not on the Owner's balcony and is otherwise compliant with this Section. However, the Unit's occupants may not acquire or keep any other animals after May 13, 2000, except as provided for in this Article

V, Section 5.3(i). Visiting dogs, except those required for a disability, are not allowed within the Project. The Board of Directors may adopt such rules and regulations as may be necessary to enforce the provisions of this Section.

(j) Nuisance.

Engage in any nuisance or any illegal, noxious, or offensive activity in any part of the Project, or do any act which unreasonably threatens the health, safety and welfare of other residents of the Project, or which is or may become a nuisance or cause unreasonable embarrassment, disturbance or annoyance to other Owners in the use and enjoyment of their Units or of the Common Area or in the use and enjoyment of their property. Each owner shall comply with all applicable ordinances and statutes and with requirements of local and/or state Boards of Health with respect to the occupancy and use of his unit.

(k) Common Area Alterations.

Alter, attach, construct, or remove anything on or from the Common Area, except upon the written consent of the Board.

(l) Parking.

Park any automobile or other motor vehicle in the Common Area or in any parking space, except in a space designated for the Owner by the Board, by a deed of conveyance, or the Governing Documents. All parking spaces shall be used for the parking of motor vehicles only. No trailer, camper, boat, recreational vehicle, or similar vehicle or inoperative automobile shall be permitted to park in a parking space. Storing of other personal property shall also be prohibited. The Board, in its discretion, may adopt reasonable rules governing the operation, maintenance, storage and parking of any vehicle, including trucks, campers, trailers, boats or commercial vehicles on the Common Area. Any vehicles violating the rules may be removed as provided in Section 3.5(h).

(m) Storage on Balcony.

Keep or maintain any fixture, personal property or other object upon any balcony which interferes with the enjoyment by other Owners of their Unit or balcony, or which may violate any Rule adopted by the Board.

(n) Occupancy Limits.

The number of Persons residing in a Unit shall not exceed the number of Persons permitted to reside in a Unit under local ordinance.

(o) Power Tools.

No power tools, welding equipment, or carpentry or car repair shops shall be maintained or used within the Project without the consent of the Board.

(p) Exterior Fires; Barbecues.

There shall be no exterior fires whatsoever within the Project except for barbecue fires in confined receptacles located on balconies which are adequately designed for such purposes and approved by the Board.

(q) Trash.

No unconcealed trash or rubbish container or similar items visible from public or private streets, other Units, balconies, or recreational areas shall be kept or maintained within the Project. No trash or refuse cans or other articles shall be placed in the Common Area halls, lobbies, stairwells or staircases, nor shall any cloth, curtains, rugs or mops, dust, dirt or other articles or substances be hung, shaken, swept or thrown from, on or into any Common Area hallway, staircase, stairwell, door, window, or balcony. However, nothing contained in this Section shall prohibit the placing of normal deliveries for an Owner of articles such as packages or newspapers in the Common Area, provided, however, that an Owner shall not permit such items to accumulate in the Common Areas in unreasonable numbers or for an unreasonable time.

(r) Roof.

Owners, the members of their families and their tenants, guests, employees, servants agents and invitees shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of any building without the prior written approval of the Board.

(s) Lease Restrictions.

Subject to Section 5.3(n) above, an Owner may rent his Unit, provided that the Unit is rented pursuant to a lease or rental agreement that is:

(1) in writing,

(2) for a term of at least one (1) year, and

(3) subject in all respects to the Governing Documents and states that any failure by the lessee to comply with the Governing Documents shall constitute a default under the lease. Following is a sample paragraph that may be used for this purpose:

"In accepting this lease, lessee acknowledges that he/she has received, read, understood and approved of the covenants, conditions and restrictions set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Palos Verdes Bay Club, Inc., together with the Articles of Incorporation, Amended and Restated Bylaws and Rules and Regulations of the Association. Lessee agrees to comply with the terms of those documents. Lessee also agrees and understands that any failure by Lessee to comply with the terms of those documents shall constitute a default under the lease."

A copy of the written lease must be provided to the Association prior to the lessee's move-in date.

Owners shall be responsible for providing copies of the Governing Documents to, and assuring compliance by, their lessees with the Governing Documents, and the Association shall hold the Owners, not the lessees, responsible if there is a violation.

If any lessee violates the Governing Documents, the Association may bring an action in its own name and/or in the name of the Owner to have the lessee evicted and/or to recover damages. If the court finds that the lessee is violating, or has violated the Governing Documents, the court may find the lessee guilty of unlawful detainer notwithstanding the fact that the Owner is not the plaintiff in the action and/or the lessee is not otherwise in violation of the lease. For purposes of granting an unlawful detainer against the lessee, the court may assume that the Owner or person in whose name the lease was made was acting for the benefit of the Association. The remedy provided by this Section is not exclusive and is in addition to any other remedy or remedies that the Association has. If permitted by present or future law, the Association may recover all of its costs, including court costs and reasonable attorney's fees incurred in prosecuting the unlawful detainer action.

(u) Common Area Trees.

No Owner shall cut, trim, prune, remove, replace, or otherwise alter or affect the appearance or location of any living tree, plant, or other vegetation located in any portion of the Common Area without the prior written consent or direction of the Board. Should any Owner fail to comply with the restriction imposed by this provision, the Board may recover from such Owner the cost of restoring or replacing any such vegetation.

Section 5.4. Unit Modification.

Subject to other applicable restrictions contained in the Governing Documents, Owners may modify their Units subject to the following:

(a) Modifications or alterations of the exterior of any Unit must have the prior written consent of the Board or duly appointed Architectural Committee, including any modifications to facilitate handicapped access as provided by Section 1360 of the California Civil Code. Any approval of such handicapped access modification may be conditioned on the modification's removal, by the Owner at his or her sole expense, once the handicapped access is no longer necessary for the Unit.

(b) In order to ensure better sound attenuation within the condominium building, carpeting and padding are required in all areas of a Unit located above the first floor, with the exception of the entry area, kitchen, hallways, and bath areas, which are permitted to have flooring materials made of other than carpeting. The alternative materials must be underlain with a sound attenuating material that, if installed pursuant to manufacturer's recommendations, will minimize impact noise. An Owner desiring to install such alternative materials shall obtain the prior written approval of the Board of Directors.

(c) No Owner may install any shutter, screen, blind, curtain, drape or other appurtenance in or on any window or door except those items that are in conformance with standards established by the Board. Foil, cardboard, or other similar materials not designed as a window accessory shall be prohibited. All window treatments visible from the exterior of the Unit shall be white or off-white in color, or as approved by the Architectural Committee.

(d) No Owner may enclose his or her Unit's balcony without the prior written consent of the Board.

(e) Except as provided by the Governing Documents, Owners shall not have the right to paint, decorate, remodel or alter any Exclusive Use Common Area or the Common Area without the prior written consent of the Board.

(1) Whenever an Owner desires to replace the Owner's exterior door, such Owner shall obtain the Board of Director's prior written consent to replace such door. Except for exterior doors that require replacement due to severe damage for which the Owner is determined to be not responsible or excessive wear and tear, the cost of replacement shall be borne by the responsible Owner.

Section 5.5. Move-In Fee.

Within thirty (30) days of an occupant of a Unit taking possession of the Unit, as evidenced by the movement of furniture, equipment and other personal possessions, the Owner of the Unit shall pay to the Association a "move-in" fee equal to the current monthly regular assessment for that Unit less the amounts attributable to the reserve account of the Association and the cable television fee. Such move-in fee shall reimburse the Association for its administrative and labor expenses incurred to make arrangements for the occupant's move-in, update the resident directory and change the mailbox tags, among other things. Such move-in fee shall be levied on the Owner in the form of a single benefit assessment. Failure by the Owner to pay the move-in fee shall result in the Association pursuing the remedies available at law and under Article IV hereof.

Within five (5) business days after the Association has received notice that the move has been completed, the Association shall determine whether any portion of the Common Area has been damaged during the course of the move.

If the Association finds that the Common Areas have suffered damage during the course of the move, the Association shall immediately notify the occupant of the damage. The Association shall, as soon as is practicable, effect the necessary repairs to said Common Area damage and pay for such repairs. The Association shall charge the account of the Owner of the Unit at the time of the move for the cost of repairs in the form of a single benefit assessment in accordance with Article IV of this Restated Declaration.

Whether the occupant of a Unit is the Owner of the Unit or not, it is the Owner of the Unit who is responsible for compliance with this Section and any and all remedies available to the Association for noncompliance with this Section.

Section 5.6. Damage Liability.

Each Owner shall be liable to the Association for any damage to the Common Area or to Association-owned property if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installment or maintenance of any Improvement by the Owner or the Owner's family, guests, lessees, contract purchasers, or invitees. In the case of joint ownership of a Condominium, the liability of the co-Owners shall be joint and several, unless the co-Owners and the Association have agreed in writing to an alternative allocation of liability.

ARTICLE VI REPAIR AND MAINTENANCE

Section 6.1. General.

For purposes of this Article, maintenance shall include, without limitation, cleaning, in order to keep a clean, safe and sanitary condition necessary to preserve the attractive appearance of each Condominium and the Project and to protect their values. The Board shall have the power to determine the maintenance standards.

Section 6.2. Failure to Maintain.

If an Owner fails to maintain the areas described in this Article according to the standards set by the Board, the Board may notify the Owner of the work required and request that it be done within a reasonable time. If the Owner fails to carry out such maintenance within that time period, the Board may, after notice and a hearing, cause such work to be done and shall levy the charge to the Owner as a single benefit assessment, with the full authority to lien on such amount in the event of non-payment.

Section 6.3. Maintenance by Owners.

(a) Maintenance of Units.

Each Owner shall be responsible for the maintenance, repair and replacement of items within the Unit in a clean manner, consistent with the surrounding properties, and to insure that such area does not pose a threat to the health, safety or welfare of other Owners. Such areas include, but are not limited to, the following items, provided they are used or operated exclusively by such Owner and not in common:

- (1) The interior areas and surfaces of such Owner's Unit, including interior doors (excluding the side of the door facing the hallway), and interior finished surfaces of the walls, floors and ceilings;
- (2) All floor, ceiling and wall coverings and decorations, whether installed by such Owner or otherwise, including paint, wallpaper, carpets, linoleum, tile, hardwood and insulation;
- (3) All glass doors and windows;

(4) All appliances whether "built-in" or "free-standing" within the Unit, and any cabinets, drawers, shelves and closets, and their respective tracks, stays, stoops, doors and fixtures;

(5) All utility service facilities and connections, including any water, sewer and plumbing pipes, electrical wires and cables, and any heating systems, wherever located, provided that an Owner's responsibility shall end where such facility connects to a common line;

(6) The television and telephone cable equipment, wires and connections, and all related appliances, equipment and fixtures exclusively servicing such Owner's Unit; and

(7) The lighting fixtures, including light bulbs, located within such Unit, and replacement of the light bulbs in any Exclusive Use Common Areas, and any other areas, including the light bulbs in any lighting fixtures attached to the exterior of any Unit, provided such fixtures are not used in common with other Owners, in which case the Association shall be responsible for replacement of the light bulbs.

(b) Maintenance of Exclusive Use Common Areas.

Each Owner shall be responsible for the maintenance of the following items in a clean manner, consistent with the surrounding properties, and to insure that such area does not pose a threat to the health, safety or welfare of other Owners. Such areas include, but are not limited to, the following items, provided they are used or operated exclusively by such Owner and not in common:

(1) All appurtenant Exclusive Use Common Areas, including parking spaces and the Owner's balcony; and

(2) The Owner's exterior door, sliding glass door and window hardware, including any screens, sashes, frames, tracks, fittings, glazes, stoops, gaskets, knobs and other fixtures attached thereto.

"Maintenance" of an exterior door shall include maintaining the exterior surface of the exterior door appurtenant to the Owner's Unit in a clean, attractive and sanitary condition and the interior surface thereof in a clean, sanitary, workable and attractive condition. The Association shall be responsible for repairing and replacing all exterior doors that are appurtenant to Units, including the painting of the exterior surface of such doors on a periodic basis or when an exterior door requires replacement due to severe damage for which an

Owner is not responsible. However, whenever an Owner desires to replace the Owner's exterior door outside the Association's regularly scheduled repair or replacement responsibilities, the Owner shall replace the door at the Owner's sole cost and expense upon obtaining the Board of Director's prior written consent to replace such door.

Section 6.4. Maintenance by Association.

The Association shall be responsible for the maintenance, repair and replacement of those items for which the maintenance, repair and replacement are not allocated to the Owners and which are not used exclusively by one Owner, including the following components of the Common Area:

(a) All Improvements in the Common Area, including any swimming pools, jacuzzi and recreation building(s), all building roofs, walls, elevators and foundations, laundry rooms, lobbies and lounges, the structural components forming the Owners' balcony, the private streets and private driveways;

(b) All Common Area utility fixtures, including lighting fixtures, water heaters, hose bibs and other utility fixtures not used exclusively by one Owner;

(c) All Common Area landscaping, both "soft-scape" and "hard-scape", including trees, shrubs, lawns, drainage facilities, sprinkler systems, fountains and other items, if any;

(d) All furnishings, equipment and property that is owned by, or may be, acquired by the Association;

(e) All Common Area walls, railings and fences, including the interior surfaces of any Exclusive Use Common Area walls, railings or fences, except the interior surfaces of the Owner's storage area and the interior surface of the Unit doors;

(f) All common utility service facilities, including common water, sewers and gas pipes and plumbing, common electrical and telephone lines and cables, and common heating systems not otherwise maintained by a utility company;

(g) All Common Area pavement and walkways, whether concrete, asphalt or otherwise, and all parking spaces and parking structures; and

(h) The doors leading to a Unit that are visible from the Common Area as well as the doors of storage areas, including the painting of the exterior surface of such doors.

Section 6.5. Termite Control.

The responsibility for control of wood destroying pests or organisms shall be as follows:

(a) Each Owner shall be responsible for the maintenance and repair of their personal property and their Unit as required to control the presence of or damage caused by wood-destroying pests or organisms.

(b) The Association shall be responsible for the maintenance and repair of the Common Area, as required to control the presence of or damage caused by wood destroying pests or organisms in accordance with California Civil Code Section 1364.

(c) The Association shall have the power to temporarily remove any resident of a Unit, as needed for prompt, effective treatment of such pests or organisms. The costs of any temporary relocation during such maintenance or repair shall be paid by the Unit Owner affected. The Association shall give notice of the need to temporarily vacate a Unit to the record Owners and occupants not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation. The notice shall state the reason for the 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 all necessary accommodations during the relocation.

(d) Neither the Association, the Board, officers, agents or employees shall have any liability, absent willful or wanton negligence, to any Owner, family member, guest, invitee or lessee for any damage caused by the treatment.

(e) Notwithstanding anything else herein, in the event that an Owner wishes to obtain a termite clearance certificate for any purpose, the Owner shall be solely responsible for any and all costs associated with obtaining the certificate, including, without limitation, the costs of maintenance and repair of the Unit, Exclusive Use Common Area, or Common Area which may be necessary to obtain the termite clearance certificate.

Section 6.6. Damage Caused by Owner or Item Under Control of Owner.

Should any damage to the Common Area or any Unit result from the willful or negligent act or neglect of any Owner, or such Owner's tenants, guests, invitees, pets or other person or entity deriving any interest through such Owner, or from any item the maintenance, repair or replacement of which an Owner is responsible, the cost of all repairs shall be borne solely by the responsible Owner.

The Association shall be responsible for performing the repair of any damage to the Common Area or items over which the Association has control at the responsible Owner's expense. The Association may charge the cost of such repair to the Owner as a single benefit assessment, with the full authority to lien on such amount in the event of non-payment. If the damage is such as may be covered by any insurance carried by the Association, the Board may, in its sole discretion, elect to submit the claim for the cost of repairs to its insurance carrier. Provided the submitted claim is covered by the Association's insurance, the responsible Owner shall be responsible for the cost of any deductible applicable to the covered claim. If the submitted claim is not covered by the Association's insurance, the Owner shall be responsible for the total cost of repair.

The responsible Owner shall be responsible for performing the repair of any damage to his or her Unit for which such Owner has control. The Owner of any other Unit which sustained damage shall be responsible for performing the repair of any such damage, and may charge the cost thereof to the responsible Owner.

All repairs performed to correct any damage shall be sufficient to return the damaged property only to its condition prior to the damage, with upgrades to conform with any applicable building codes in effect at the time the damage is repaired as may be required.

Section 6.7. Mechanic's Liens.

No labor performed or materials furnished for use in connection with any Unit shall create any right to file a statement of mechanic's lien against the Unit or any other Unit not expressly consenting to or requesting such labor or materials or against any interest in the Common Area except the undivided Percentage Interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Unit of the Owner, or any part thereof, for labor performed or for materials furnished in work on such Owner's Unit.

ARTICLE VII ARCHITECTURAL AND DESIGN CONTROL

Section 7.1. Improvements in General.

No Improvement of any kind shall be commenced, erected or maintained within the Property, nor shall any exterior addition to, change or alteration be made in or to any Unit or any Improvement containing Units or to any Exclusive Use Common Area until the plans and specifications showing its nature, color, kind, shape, height (including front, side and rear elevations), materials, and location shall have been submitted to the Architectural Committee and approved in writing by the Association's Board of Directors as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation.

Section 7.2. Appointment of Architectural Committee.

The Board of Directors may appoint an Architectural Committee composed of three (3) members. Committee members shall be appointed from the membership of the Association.

Members of the Committee shall serve for a term of three(3) years on a rotating basis. The Board of Directors shall appoint a member to the Architectural Committee at the second regular Board meeting following the annual meeting of the Members of the Association and, when appointed, such Committee member shall serve a term of three (3) - years, except as provided below. At the second regular Board meeting following the annual meeting in January 2001, the Board shall appoint three (3) members to the Architectural Committee. The Committee shall appoint one member to serve a three (3) - year term, one member to serve a two (2) - year term and one to serve a one (1) - year term. At the expiration of the initial term of office of each respective Committee member, his successor shall be appointed to serve for a term of three (3) years. In the event of the death or resignation of any member of the Architectural Committee, the Board shall appoint a successor. Committee members shall not receive any salary or compensation for their services as members of the Committee; provided, however, that any Committee member may (1) serve the Association in some other capacity and receive compensation therefor, and (2) be reimbursed for actual expenses incurred in the performance of his duties.

Section 7.3. Submission of Plans; Action by Board or Committee.

Plans and specifications for the proposed Improvement shall be submitted by personal delivery or certified mail to the chairman of the Architectural Committee. If the Board is unable to approve or disapprove the Improvement within forty-five (45) days after said plans and specifications have been submitted, the Board shall, prior to the end of such forty-five (45) -day period, advise the Owner, in writing, that an additional thirty (30) days will be required to consider the Owner's proposed plans and specifications. The Board shall then provide the Owner with its decision within seventy-five (75) from the date that the Owner's plans and specifications were submitted to the chairman of the Architectural Committee. Approval of the Board can contain conditions or requests for modification of particular aspects of the Owner's plan and specifications.

Section 7.4. Architectural Rules.

The Board, or the Architectural Committee (subject to review by the Board of Directors), may from time to time adopt, amend and repeal architectural Rules and Regulations. Those rules shall set forth the standards and procedures for the review and approval of proposed Improvements and guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended for use within the Property, provided that said rules shall meet the minimum standards required by this Restated Declaration. In the event of any conflict between the Architectural Rules and this Restated Declaration, the Restated Declaration shall prevail.

Section 7.5. Variances.

The Board of Directors shall be entitled to allow reasonable variances with respect to this Article or any restrictions specified in this Restated Declaration in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship, provided that the Board makes a good faith determination that:

- (a) the requested variance does not constitute a material deviation from the overall plan and scheme of development within the Properties or from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or
- (b) the variance relates to a requirement under this Restated Declaration that is unnecessary or burdensome under the circumstances; or

(c) the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to the Common Area or any other Owner within the Properties.

Section 7.6. Estoppel Certificate.

Within thirty (30) days after written demand is delivered to the Board by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Board shall execute an estoppel certificate, signed by any two of its members, certifying (with respect to any Unit owned by the applicant Owner) that as of the date thereof, either (i) all Improvements made and other work completed by said Owner with respect to the Unit comply with this Declaration; or (ii) that such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or anyone deriving any interest in said Unit through the Owner, shall be entitled to rely on said certificate with respect to the matters stated in it, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

ARTICLE VIII INSURANCE

Section 8.1. Fire and Casualty Insurance.

The Association shall obtain and maintain a direct physical loss policy or policies for the full insurable replacement value of the Improvements in the Common Area. The amount of any deductible shall be determined by the Board. This insurance shall be maintained for the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Restated Declaration.

Section 8.2. General Liability Insurance.

The Association shall obtain and maintain a policy or policies insuring the Association, its officers, directors, agents and employees, the Owners, and the Owner's relatives, invitees, guests, employees, and their agents against any liability for bodily injury, death, and property damage arising from the activities of the Association and its Members, with respect to the Common Area and any Units owned by the Association. Limits of liability under the insurance shall not be less than Three Million Dollars (\$3,000,000.00), covering all claims for death, personal injury, and property damage arising out of a single occurrence.

The limits and coverage shall be reviewed at least annually by the Board and increased or decreased in its discretion.

Section 8.3. Other Association Insurance.

The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association may also purchase and maintain fidelity bond coverage which names the Association as an obligee, for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. This coverage may be in an amount that is at least equal to the estimated maximum of funds, including reserve funds, in the custody of the Association or its managing agent at any given time during the term of each bond. The aggregate amount of these bonds must be in an amount the Board determines in its best business judgment is adequate. The Association also may purchase and maintain a blanket policy of flood insurance, and demolition insurance in an amount that is sufficient to cover any demolition that occurs following the total or partial destruction of the Project and a decision not to rebuild. The Association may purchase such other insurance as the Board in its discretion considers necessary or advisable.

Section 8.4. Failure to Acquire Insurance.

Subject to Civil Code Section 1365.7, as amended from time to time, the Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain any insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Mortgagee entitled to notice that the specific insurance will not be obtained or renewed.

Section 8.5. Trustee for Policies.

The Association, acting through its Board, is appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article 9, below. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise

and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

Section 8.6. Individual Insurance.

An Owner shall separately insure his or her real and personal property, and shall obtain and maintain personal liability and property damage liability insurance for his or her Unit, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association, and the First Mortgagee of the Owner's Unit. Each Owner is responsible for integrating his or her personal insurance with the Association's insurance to confirm that such Owner's property will be protected in the event of a loss.

Section 8.7. Insurance Premiums.

Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular or special assessments. That portion of the assessments necessary for the required insurance premiums shall be used solely for the payment of the premiums when due.

Section 8.8. Insurance Policy Deductibles.

As provided in Section 8.1 above, the Board of Directors shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

- (a) Owners shall be responsible for the cost of any deductible if the damage or loss occurs to an item of personal property, or for which the Owner is responsible.
- (b) The Association shall be responsible for the cost of any deductible if the damage or loss occurs to any item owned by the Association, or for which the Association is responsible.
- (c) The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, the responsible Owner shall be liable for the cost of the deductible.

ARTICLE IX DAMAGE OR DESTRUCTION

Section 9.1. Duty to Repair or Reconstruct.

If the Improvements are damaged or destroyed by fire or other casualty, the Improvements shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Board, unless either of the following occurs:

(a) The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement costs of all Project Improvements, available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction, and three-fourths (3/4) of the total voting power of the Association residing in Members vote against such repair and reconstruction;

(b) Repair or replacement would be illegal under a state statute or municipal ordinance; or

(c) Available insurance proceeds are not sufficient to substantially repair or reconstruct the Improvements within a reasonable time as determined by the Board, a special assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in Section 4.8, and the Board, without the Owners' approval, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the Improvements to be substantially repaired or reconstructed within a reasonable time.

Section 9.2. Process For Repair or Reconstruction.

If the Improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of twenty-five percent (25%) of the current replacement cost of all the Project Improvements, the Board shall designate a construction consultant, a general contractor, and an architect for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal

construction loan practices of the depository that require as a minimum that the construction consultant, general contractor and architect certify within ten (10) days prior to any disbursement substantially the following:

(a) that all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

(b) that such disbursement request represents monies which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, subcontractors, materialmen, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

(c) that the sum then requested to be disbursed plus all sums previously disbursed does not exceed the cost of the work actually accomplished up to the date of such certificate;

(d) that no part of the cost of the services and materials described in the foregoing Section 9.2(a) has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

(e) that the amount held by the depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

If the cost of repair or reconstruction is less than twenty-five percent (25%) of the current replacement cost of all the Improvements, the Board shall disburse the available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

The repair or reconstruction shall commence as soon as reasonably practicable after the date of such damage or destruction and shall be completed as quickly as is reasonably practicable after commencement of reconstruction, subject to delays that are beyond the control of the party responsible for making the repairs.

Section 9.3. Process if Repair or Reconstruction Not Undertaken.

If the Improvements are not required to be repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among all Owners and their respective Mortgagees in proportion to the respective fair market values of their Condominiums as of the date immediately preceding the date of damage or destruction as determined by a qualified independent appraiser selected by the Board, after first applying the proceeds to the cost of mitigating hazardous conditions on the Project, making provision for the continuance of public liability insurance to protect the interests of the Owners until the Project can be sold, and complying with all other applicable requirements of governmental agencies. In the event of a failure to agree upon an appraiser, the appraiser shall be appointed by the then President of the County Bar Association.

If the failure to repair or reconstruct results in a material alteration of the use of the Project from its use immediately preceding the damage or destruction as determined by the Board (a material alteration shall be conclusively presumed if repair or reconstruction costs exceed twenty-five percent (25%) of the current replacement cost of all Project Improvements), the Project shall be sold in its entirety under such terms and conditions as the Board deems appropriate. If any Owner or First Mortgagee disputes the Board's determination as to a material alteration, the dispute shall be submitted to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the arbitrator shall be conclusive and binding on all Owners and their Mortgagees.

If the Project is sold, the sales proceeds shall be distributed to all Owners and their respective Mortgagees in proportion to their respective fair market values of their Condominiums as of the date immediately preceding the date of damage or destruction as determined by the independent appraisal procedure described above. For the purpose of effecting a sale under this Section, each Owner grants to the Association an irrevocable power of attorney to sell the entire Project for the benefit of the Owners, to terminate the Declaration and to dissolve the Association.

Notwithstanding anything herein to the contrary, any Owner or group of Owners shall have a right of first refusal to match the terms and conditions of any offer made to the Association in the event of a sale of the Project under this Section, provided this right is exercised within ten (10) days of receipt by the Owners of a notice from the Association containing the terms and conditions of any offer it has received. If the Owner or group of Owners subsequently default on their offer to purchase, they shall be liable to the other Owners and their respective Mortgagees for any damages resulting from the default. If more than

one (1) Owner or group elects to exercise this right, the Board shall accept the offer that in its determination is the best offer.

Section 9.4. Revival of Right to Partition.

Within sixty (60) days following the date of a determination by the Board or arbitrator of a material alteration, or within one hundred twenty (120) days following the date of damage or destruction if the Board has failed to make a determination as to a material alteration, then the Association shall have the duty to execute, acknowledge, and record in the office of the County Recorder of Los Angeles County, a certificate declaring the Association's intention not to rebuild. On recordation of said certificate, the right of any Owner to partition as to the entire Project under California Civil Code Section 1359, or any successor statute, shall revive immediately.

**ARTICLE X
EMINENT DOMAIN**

Section 10.1. Representation by Association.

The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of all or part of the Common Area. Each Owner, by acceptance of a deed to his or her Condominium, irrevocably appoints the Association as their attorney-in-fact to represent the Owners in any such condemnation proceeding(s). In the event of a taking or acquisition of part or all of the Common Area by a condemning authority, the award or proceeds of settlement, less any fees or costs incurred, shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their Mortgagees as their interests may appear.

Section 10.2. Common Area Taking.

In the event of a taking by eminent domain of any part of the Common Area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Condominiums are not valued separately by the condemning authority or by the court. Proceeds of condemnation, less any costs and fees incurred, shall be distributed among Owners of Condominiums and their respective Mortgagees according to the relative values of the Condominiums affected by the condemnation.

Section 10.3. Condominium Unit Taking.

In the event of an award for the taking of any Condominium in the Project by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking, less any fees and costs incurred in collecting such amount and only up to the fair market value of his or her Condominium. If the Owner vacates his or her Condominium as a result of the taking, after acceptance of the award, he or she and the Mortgagee shall be divested of all interest in the Project. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project, or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Board shall submit to the Members for their approval amendments to the Declaration to reflect the taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project.

Section 10.4. Substantial Taking.

If there is a substantial taking of the Project (more than fifty percent), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California Civil Code Section 1359 or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association. The proceeds from the partition sale, less any costs or fees incurred in collection thereof, shall be distributed to the Owners and their respective Mortgagees in proportion to the fair market values of the Condominiums.

ARTICLE XI RIGHTS OF MORTGAGEES

Section 11.1. Warranty.

The Association warrants that Mortgagees of Units in the Project shall be entitled to the rights and guaranties set forth in this Article. No amendment of this Article shall affect the rights of the holder of any First Mortgage recorded prior to the recordation of the amendment who does not join in the execution of the amendment.

Section 11.2. Protection of First Mortgagees.

No breach of any of the covenants, conditions and restrictions contained in this Restated Declaration, nor the enforcement of any lien provision herein, shall render invalid the lien of any First Mortgage on any Condominium 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 judicial or non-judicial foreclosure, or otherwise.

Section 11.3. Possession by Foreclosure.

Each holder of a First Mortgage lien on a Condominium who comes into possession of the Condominium by virtue of foreclosure of the First Mortgage, or any purchaser at a foreclosure sale under a First Mortgage, will take the Condominium free of any claims against the Condominium for unpaid assessments and fees which accrue before such holder takes title to the Condominium, except for claims for a pro rata share of such assessments or charges to all Condominiums including the mortgaged Condominium, and except for assessment liens recorded prior to the First Mortgage.

Section 11.4. Right to Furnish Mortgage Information.

Each Owner authorizes the First Mortgagee of a First Mortgage on the Owner's Condominium to furnish information to the Board concerning the status of the First Mortgage and the loan that it secures.

**ARTICLE XII
ENFORCEMENT**

Section 12.1. Right to Enforce.

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the Governing Documents. Each Owner of a Condominium shall have a right of action against the Association or any Owner for failure to comply with the provisions of the Governing Documents.

Section 12.2. Nuisance.

Every act or omission by which any provision, condition, restriction, covenants, easements, or reservation contained in the Governing Documents is violated in whole or in part, is declared to be and constitute a nuisance. Every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such act or omission and may be exercised by any Owner and the Association. Each remedy provided herein shall be cumulative and not exclusive.

Section 12.3. Failure to Enforce.

Failure by the Association or any Owner to enforce any provisions of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.4. Violation of Law.

Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Condominium within the Project is declared to be a violation of the Governing Documents and subject to any or all of the enforcement procedures herein set forth.

Section 12.5. Judicial Reference.

(a) Disputes Subject to Judicial Reference.

Notwithstanding any provision in this Restated Declaration to the contrary, in the event of a tie vote of the Owners, or if the Association or any Member has any claim, grievance, demand, cause of action, or dispute of any kind whatsoever, other than those described under Subsection (h), below (hereinafter sometimes referred to as "the "Dispute"), which relates to enforcement of the Governing Documents and which arises between said Member and the Association or any of its officers, directors, or agents, which Dispute cannot be resolved or settled within a reasonable time by negotiation, the Dispute shall be subject to and decided by judicial reference, to try any or all of the issues in the action or proceeding, whether of fact or of law.

(b) Appointment of Referee.

Within ten (10) days after either party demands that the Dispute be determined by judicial reference, the parties shall attempt to agree to the appointment of a retired judge of the local Superior Court as Referee. If the parties are unable to agree, either party may, upon ten (10) days' notice, apply to the presiding judge of the local Superior Court to appoint a Referee who shall be selected from the most recently prepared local County Trial Panel of Retired Judges.

(c) Discovery.

Per California Code of Civil Procedure Section 1283.05, discovery shall be permitted in such proceedings, subject to restrictions imposed by the Referee if requested by any party. Hearings shall be held in the County of Los Angeles, at such time and place and for such periods as the Referee shall designate.

(d) Trial.

The trial of the Dispute shall be commenced within ninety (90) days of the appointment of the Referee unless the Referee declares an extension of such time. Hearings shall be continuously conducted and diligently completed and the parties shall require that the Referee's statement of decision be reported to the parties within 20 days of completion of the hearings. Prior to the rendering of the Referee's decision, the cost of said judicial reference including Referee and court reporter's fees and all costs of administration shall be borne equally by both parties. The prevailing party shall be awarded recovery of reasonable attorney's fees, costs of suit, and all other incurred costs in addition to any other award made by the Referee as part of any judgment decision.

(e) Entry of Judgment.

Judgment upon the award of the Referee may be entered, in accordance with the applicable law, in any court having jurisdiction thereof, and shall be final and binding upon the parties.

(f) Survival of This Section.

The provisions for judicial reference (as a means of Alternative Dispute Resolution), which are contained in this Section, shall survive any termination of ownership interest on behalf of a Member of the Association who is a party to a Dispute.

(g) Mediation.

As part of the judicial reference process, and unless otherwise provided by California law, any party to the Dispute may request in writing that the issues in contention first be submitted for mediation to the Referee, who will attempt to mediate and settle the dispute. If the parties agree, the Referee may mediate the dispute, and at the conclusion of the mediation, and if settlement is not possible, the Referee will render a decision which will be binding upon the parties. In the event that the decision is not agreeable to all of the parties, the Referee will set a trial date for the judicial reference, and will rule on any requests for discovery by any of the parties, which discovery must be completed prior to trial.

(h) Claims and Disputes Exempt from Judicial Reference.

The following types of claims and/or disputes arising under the Governing Documents of the Association shall be exempt from the judicial reference provisions set forth in this Section:

(1) Claims and disputes arising solely between Members of the Association, not involving the Association and for which no claim or relief is sought against the Association, its officers, directors, or agents;

(2) Any claim or dispute where the applicable time limitation for commencing an action would run within 120 days;

(3) Any claim or dispute solely for damages;

(4) Any claim or dispute including a claim for damages of less than \$5,000;

(5) Any claim or dispute wherein the Association or any Member must obtain preliminary or temporary injunctive relief from a court of competent jurisdiction. By way of illustration, and not by way of limitation, any application to enjoin the construction, alteration or modification of any Improvement within the Project, which is deemed to be in violation of this Restated Declaration, shall be exempt from the judicial reference provisions of this Section. Subsequent to the court's ruling on any application for such remedies, and upon issuance of a court order compelling arbitration pursuant to California Code of Civil Procedure Section 1281.2 or any successor statute, the Dispute shall be submitted for final and binding arbitration in accordance with the judicial reference procedures set forth in Subsection (a), above; or

(6) Any action for collection of assessments arising under Article IV of this Restated Declaration, except that any claim arising over a disputed assessment which is paid in full, under protest, in accordance with California Civil Code Section 1366.3, and which is thereby subject to the provisions of California Civil Code Section 1354(b) shall be subject to this Section 12.5.

Section 12.6. Compliance with Statute.

All activities to enforce the provisions of the Governing Documents shall be conducted in accordance with all applicable laws, statutes and ordinances. This Section shall apply to both the Association and to all Owners.

ARTICLE XIII AMENDMENTS

This Restated Declaration may be amended by the vote or written consent of Owners representing not less than sixty-six and two-thirds percent (66 and

2/3%) of the voting power of the Association. Notwithstanding any contrary provision in this Article XIII, the percentage of the voting power necessary to amend a specific clause or provision of this Restated Declaration shall not be less than the percentage of affirmative votes required for action to be taken under that clause or provision.

An amendment becomes effective after (a) the approval of the required percentage of Owners has been given, (b) that fact as been certified in the form of a written document executed and acknowledged by an officer designated by the Association for that purpose or, if no such designation is made, by the President of the Association and (c) the document has been recorded in Official Records of Los Angeles County.

ARTICLE XIV GENERAL PROVISIONS

Section 14.1. Term.

The provisions of this Restated Declaration shall continue in effect for a term of fifty (50) years from the date of execution. Thereafter, it shall be automatically extended for successive period of ten (10) years, until Owners representing not less than sixty-six and two-thirds percent (66 and 2/3%) of the voting power of the Association vote to terminate it.

Section 14.2. Nonwaiver of Remedies.

Each remedy provided for in this Restated Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

Section 14.3. Severability.

The provisions of this Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision.

Section 14.4. Binding.

This Restated Declaration, as well as any amendment thereto and any valid action or directive made pursuant to it, shall be binding and the Owners and their heirs, grantees, tenants, successors, and assigns.

Section 14.5. Interpretation.

The provisions of this Restated Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision of this Restated Declaration is not a waiver of the right to enforce that provision or any other provision of this Restated Declaration.

Section 14.6. Limitation of Liability.

No Owner shall be responsible for the performance of any obligation under this Restated Declaration which arises after the sale, transfer, or other divestment of the Owner's entire interest in his or her Unit.

Section 14.7. Fair Housing.

Neither the Association nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Unit to any person on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, adulthood, marital status or physical handicap.

Section 14.8. Number and Headings.

As used in this Restated Declaration, the singular shall include the plural, unless the context requires otherwise. The headings are not a part of this Restated Declaration, and shall not affect the interpretation of any provision.

Section 14.9. Attorneys' Fees.

In the event an attorney is engaged by the Board to enforce the Governing Documents, the Association shall be entitled to recover from the adverse party to the controversy its actual attorneys' fees and costs so incurred. In the event litigation is commenced to enforce the Governing Documents, the prevailing party shall be entitled to its attorneys' fees and costs. This Section shall also apply to actual attorneys' fees incurred to collect any post-judgment costs. All such costs and attorneys' fees described in this Section shall constitute a lien on the Unit which is enforceable pursuant to Article IV herein.

Section 14.10. Personal Injury or Property Damage Sustained Within a Unit.

In the event any personal injury or property damage is sustained by any person while physically within or on a Unit or any balcony attached thereto and shall result in a claim or suit against any other Owner or the Association, any of

its officers, Members, directors, agents or employees, the Owner of such Unit or balcony within which such injury or damage occurred (i) shall and does hereby agree to fully indemnify and hold harmless such other Owner and the Association, officer, director, agent or employee against whom such claim or suit is brought and (ii) does hereby agree to defend at his or her own cost and expense any litigation resulting therefrom in which such other Owner and/or the Association, officer, director, agent or employee has been made a party; provided that no such obligation shall exist with respect to such other Owner or other Person whose negligence or willful misconduct caused or contributed to the cause of any such injury or damage. In the event of joint ownership of any Condominium within the Project, the liability of such Owners shall be joint and several.

Section 14.11. Association Not Responsible for Loss.

Neither the Association nor any Director, officer, agent or employee shall be responsible to any Owner nor to any member of his or her family, social guests, servants, employees or invitees for any loss or damage suffered by reason of theft or otherwise of any article, vehicle or thing which may be stored by such Owner or other Person in or on any portion of the Common Area.

Section 14.12. Notices.

Any communication or notice of any kind permitted or required herein may be delivered as provided in this Declaration and shall be in writing and may be served, as an alternative to personal service, by mailing same as follows:

If to the Owner:

To the street address of the Owner's Condominium or at such other address as said Owner may from time to time designate in writing to the Association.

If to the Association,
its manager, the Board
of Directors, or any
Director or officer:

To the Palos Verdes Bay Club, Inc., at the street address of the Project, or to such other address as the Board of Directors may from time to time designate in writing to the Owners.

IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Declaration of Restrictions this 5 day of January, 2001.

PALOS VERDES BAY CLUB, INC.,
a California nonprofit mutual benefit
corporation

By: Marjorie Woodcock
Marjorie Woodcock, President

By: Nancy Mericle
Nancy Mericle, Secretary

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On January 5, 2001, before me, Kathy South,
Notary Public, personally appeared Marjory Woodcock, [] personally known to me -
OR - [X] proved to me on the basis of satisfactory evidence to be the person whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in her authorized capacity, and that by her signature on
the instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.



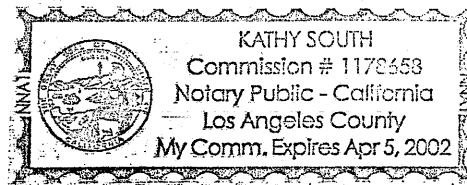
WITNESS my hand and official seal.

Kathy South
Notary Public

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On January 5, 2001, before me, Kathy South,
Notary Public, personally appeared Nancy Mericle, [] personally known to me - OR - [X]
] proved to me on the basis of satisfactory evidence to be the person whose name is
subscribed to the within instrument and acknowledged to me that she executed the
same in his/her/their authorized capacity, and that by her signature on the instrument
the person(s), or the entity upon behalf of which the person acted, executed the
instrument.



WITNESS my hand and official seal.



Kathy South
Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

Lot 1 of Tract 28905 in the County of Los Angeles, State of California, as per Map recorded in Book 727, Pages 65 to 76, inclusive, of Maps in the Office of the County Recorder of Los Angeles County.

**CERTIFICATE OF SECRETARY
OF
PALOS VERDES BAY CLUB, INC.**

I, Nancy Mericle, Secretary of Palos Verdes Bay Club, Inc., hereby certify that:

The terms and provisions recited in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Palos Verdes Bay Club, Inc. ("Association"), attached hereto, was approved in writing, by written ballot, by the holders of not less than sixty-seven percent (67%) of the Members of the Association; and

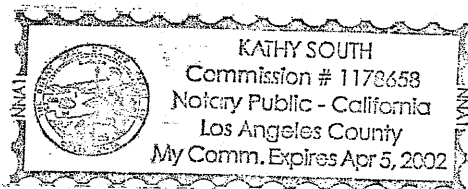
IN WITNESS WHEREOF, I, Nancy Mericle, as Secretary of Palos Verdes Bay Club, Inc., have executed this Certificate and the attached Amended and Restated Declaration of Covenants, Conditions and Restrictions for Palos Verdes Bay Club, Inc., on January 5, 2000/2001

Nancy Mericle
Nancy Mericle, Secretary

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On January 5, 2001, before me, Kathy South,
Notary Public, personally appeared Nancy Mericle, [] personally known to me -
or - [X] proved to me on the basis of satisfactory evidence to be the person whose
name is subscribed to the within instrument and acknowledged to me that she
executed the same in his authorized capacity, and that by her signature on the
instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.



WITNESS my hand and official seal.

Kathy South
Notary Public