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For Recorder's Use

**2002 AMENDED AND RESTATED**

**DECLARATION OF RESTRICTIONS**

**FOR**

**CAMELOT AT EASTLAKE SHORES**  
*A Residential Condominium Development*

**Recorded Pursuant to Civil Code §1356**

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**2002 AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR  
CAMELOT AT EASTLAKE SHORES**

THIS 2002 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS is made on the day and year hereinafter written, by Camelot at Eastlake Shores, a California nonprofit mutual benefit corporation ("Association"), with reference to the following Recitals.

**RECITALS**

A. The Association is a corporation whose Members are the Owners of all the Condominium Units within that certain real property in the City of Chula Vista, County of San Diego, State of California, more particularly 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 Four Hundred Twenty Two (422) Condominium Units and related Common Areas. The development and sale of the Condominium Units occurred in ten (10) phases, as follows: Phase 1 consisted of Thirty Eight (38) Condominium Units, Phase 2 consisted of Forty Four (44 ) Condominium Units, Phase 3 consisted of Thirty Two (32) Condominium Units, Phase 4 consisted of Forty (40) Condominium Units, Phase 5 consisted of Forty Four (44) Condominium Units, Phase 6 consisted of Forty Four (44) Condominium Units, Phase 7 consisted of Fifty Six (56) Condominium Units, Phase 8 consisted of Forty (40) Condominium Units, Phase 9 consisted of Sixty Six (66) Condominium Units and Phase 10 consisted of Eighteen (18) Condominium Units.

C. Ownership of the Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in:

1. The Declaration of Restrictions for Camelot at Eastlake Shores recorded February 13, 1987 as File No. 87-083301.

2. Supplementary Declaration for Eastlake I Community Association recorded February 13, 1987 as File No. 87-083299.
3. First Amendment to Declaration of Restrictions for Camelot at Eastlake Shores recorded May 6, 1987 as File No. 87-249456.
4. Declaration of Annexation - Camelot at Eastlake Shores - Phase 2 recorded May 7, 1987 as File No. 87-252813.
5. Declaration of Annexation - Camelot at Eastlake Shores - Phase 3 recorded June 1, 1987 as File No. 87-302931.
6. Declaration of Annexation - Camelot at Eastlake Shores - Phase 4 recorded June 2, 1987 as File No. 87-306161.
7. Second Amendment to Declaration of Restrictions for Camelot at Eastlake Shores recorded October 8, 1987 as File No. 87-569693.
8. Declaration of Annexation - Camelot at Eastlake Shores - Phase 5 recorded March 25, 1988 as File No. 88-136725.
9. Declaration of Annexation - Camelot at Eastlake Shores - Phase 6 recorded March 25, 1988 as File No. 88-137808.
10. Declaration of Annexation - Camelot at Eastlake Shores - Phase 7 recorded July 28, 1988 as File No. 88-368991.
11. Declaration of Annexation - Camelot at Eastlake Shores - Phase 8 recorded August 26, 1988 as File No. 88-429557.
12. Declaration of Annexation - Camelot at Eastlake Shores - Phase 9 recorded August 26, 1988 as File No. 88-429554.
13. Declaration of Annexation - Camelot at Eastlake Shores - Phase 10 recorded August 26, 1988 as File No. 88-429551.

All of the above documents are recorded in the Official Records of the County Recorder of San Diego County, and are hereinafter referred to together as "*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, and that this Restated Declaration take the place of and relate back in time to the recording of the original Declaration.

E. The Declaration, in Article XIV, Section 2, provides that it may be amended by the affirmative vote or written consent of sixty-six and two-thirds percent (66 2/3%) of the total voting power of the Association.

F. The Condominium Property is a part of an overall development known as the "Eastlake I Community" and, in addition to being subject to the provisions of this Declaration, the Condominium Property is subject to the provisions of that certain Declaration of Covenants, Conditions and Restrictions of Eastlake I Community Association ("Master Declaration") recorded January 14, 1986 at File/Page No. 86-015345 with the Office of the County Recorder of San Diego County, California, as the Master Declaration may have been or may become amended from time to time. Owners of Condominiums will be Members of the Master Association established pursuant to the Master Declaration.

NOW, THEREFORE, 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.

## DECLARATION

### ARTICLE 1 - DEFINITIONS

1.1 **"Articles"** means the Articles of Incorporation of Camelot at Eastlake Shores Association, filed in the Office of the Secretary of State of the State of California on February 2, 1987 as File No. 1578216, and any amendments thereto now existing or hereafter adopted.

1.2 **"Association"** means Camelot at Eastlake Shores Association, a California nonprofit mutual benefit corporation created for the purpose of managing a common interest development.

1.3 **"Association Property"** means all real property and easements owned by the Association from time to time for the common use and enjoyment of the Owners. The Association Property includes the Recreational Lots.



1.4 **"Board"** means the Board of Directors of the Association.

1.5 **"Bylaws"** means the Bylaws of the Association and any duly adopted amendments thereto, which are incorporated herein by reference.

1.6 **"Common Area"** means the entire Property except all Units as defined in this Restated Declaration and as shown on the Condominium Plan. The Common Area of the Phase 1 Lot is owned by Owners of Units in the Phase 1 Lot as tenants-in-common, in equal undivided one thirty-eighth (1/38) fractional interests. The Common Area of the Phase 2 Lot is owned by Owners of Units in the Phase 2 Lot as tenants-in-common, in equal undivided one forty-fourth (1/44) fractional interests. The Common Area of the Phase 3 Lot is owned by Owners of Units in the Phase 3 Lot as tenants-in-common in equal undivided one thirty-second (1/32) fractional interests. The Common Area of the Phase 4 Lot is owned by Owners of Units in the Phase 4 Lot as one-fortieth (1/40) fractional interests. The Phase 5 Lot is owned by Owners of Units in the Phase 5 Lot as one forty-fourth (1/44) fractional interests. The Phase 6 Lot is owned by Owners of Units in the Phase 6 Lot as one forty-fourth (1/44) fractional interests. The Phase 7 Lot is owned by Owners of Units in the Phase 7 Lot as one fifty-sixth (1/56) fractional interests. The Phase 8 Lot is owned by Owners of Units in the Phase 8 Lot as one-fortieth (1/40) fractional interests. The Phase 9 Lot is owned by Owners of Units in the Phase 9 Lot as one sixty-sixth (1/66) fractional interests. The Phase 10 Lot is owned by Owners of Units in the Phase 10 Lot as one-eighteenth (1/18) fractional interests.

The Common Area is all of the property encompassed in and by the Condominium Plans, including all buildings, structures and improvements now or hereafter built thereon excepting all the Living Units. The Common Area shall also include the Recreational Lots.

1.7 **"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, a fractional undivided interest as a tenant-in-common in the Common Area of the Phase Lot where Unit is located, non-exclusive easement over Common Area of other Phase Lots, a membership in the Association, and the exclusive right to use any Exclusive Use Common Area appurtenant to the Unit as shown on the Condominium Plan or deed of conveyance.

1.8 **"Condominium Plan"** means those certain condominium plans as follows:

- 1.8.1 The Condominium Plan of Camelot at Eastlake Shores Phase 1 recorded February 13, 1987 as File/Page No. 87-083302.
- 1.8.2 The Condominium Plan of Camelot at Eastlake Shores Phase 2 recorded May 7, 1987 as File/Page No. 87-252814.
- 1.8.3 The Condominium Plan of Camelot at Eastlake Shores Phase 3 recorded June 1, 1987 as File/Page No. 87-302933.

- 1.8.4 The Condominium Plan of Camelot at Eastlake Shores Phase 4 recorded June 2, 1987 as File/Page No. 87-306162.
- 1.8.5 The Condominium Plan of Camelot at Eastlake Shores Phase 5 recorded March 25, 1988 as File/Page No. 88-136726.
- 1.8.6 The Condominium Plan of Camelot at Eastlake Shores Phase 6 recorded March 25, 1988 as File/Page No. 88-137809.
- 1.8.7 Amendment to Camelot at Eastlake Shores Phase 2 Condominium Plan, with Grants Between Owners and Subordination to Effect Changes Shown Thereon recorded May 12, 1988 as File/Page No. 88-224746.
- 1.8.8 Camelot at Eastlake Shores Phase 5 First Superseding Condominium Plan recorded May 24, 1988 as File/Page No. 88-244648.
- 1.8.9 Camelot at Eastlake Shores Phase 6 First Superseding Condominium Plan recorded May 24, 1988 as File/Page No. 88-244649.
- 1.8.10 The Condominium Plan of Camelot at Eastlake Shores Phase 7 recorded July 28, 1988 as File/Page No. 88-368992.
- 1.8.11 The Condominium Plan of Camelot at Eastlake Shores Phase 8 recorded August 26, 1988 as File/Page No. 88-429558.
- 1.8.12 The Condominium Plan of Camelot at Eastlake Shores Phase 9 recorded August 26, 1988 as File/Page No. 88-429555.
- 1.8.13 The Condominium Plan of Camelot at Eastlake Shores Phase 10 recorded August 26, 1988 as File/Page No. 88-429552.

All of the above documents are of Official Records of the County Recorder of San Diego County. Condominium Plan shall include any amendments to the above documents.

1.9 **"Eligible Lender"** a holder, insurer or guarantor of a First Mortgage that provides a written request to the Association stating the name and address of such holder, insurer or guarantor and the Unit number, and requesting notice to which such Eligible Lender is due under the Governing Documents.

1.10 **"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

or deed of conveyance and pursuant to the provisions herein. "Exclusive Use Common Areas" and "Restricted Common Areas" shall have the same meaning, and shall consist of patios, balconies, and carports as shown and described on the Condominium Plan, and any shutters, awnings, window boxes, doorsteps, stoops, porches, exterior doors, door frames, and hardware incident thereto, screens and windows and other fixtures, and internal and external telephone wiring designed to serve a Unit but located outside the boundaries of the Unit as provided by section 1351(i) of the Civil Code. Conveyance of a Unit will automatically convey all appurtenant Exclusive Use Common Areas and no appurtenant Exclusive Use Common Area shall be conveyed apart from the Unit.

1.11 **"Governing Documents"** means this Restated Declaration and any other documents such as the Articles, Bylaws, Condominium Plan or Rules and Regulations which govern the operation of the Association.

1.12 **"Lender"** 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. "Institutional Lender" means a mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA). "First Lender" means a mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Condominium or other portions of the Project. The term "Beneficiary" shall be synonymous with the term "Lender."

1.13 **"Master Association"** means and refers to *EASTLAKE I COMMUNITY ASSOCIATION*, a California nonprofit mutual benefit corporation.

1.14 **"Master Declaration"** means and refers to that certain Declaration of Covenants, Conditions and Restrictions of Eastlake I Community Association recorded January 14, 1986 at File/Page No. 86-015345 in the Office of the County Recorder of San Diego County, California, as the Master Declaration may have been or may become amended from time to time.

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

1.16 **"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.

1.17 **"Owner"** means any natural person, firm, corporation, partnership, trust or other entity which owns a fee simple interest in any Unit, 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. For purposes of exercising membership rights and incurring membership obligations when an Owner is a corporation, any director, officer, employee or agent designated by corporate resolution may exercise the membership rights attributable to the corporation. When an Owner is a trust, the trustee may exercise the membership rights attributable to the trust unless otherwise designated in writing by the trustee.

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

1.19 **"Phase Lot"** means the Phase 1 Lot, the Phase 2 Lot, the Phase 3 Lot, the Phase 4 Lot, the Phase 5 Lot, the Phase 6 Lot, the Phase 7 Lot, the Phase 8 Lot, the Phase 9 Lot and the Phase 10 Lot as described in Exhibit "A" attached hereto and incorporated herein by reference.

1.20 **"Project"** means the common interest development which is a condominium project as described herein and on the Condominium Plan, including all improvements thereon.

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

1.22 **"Recreational Lots"** means Lot 4 of Chula Vista Tract 86-2, Camelot at Eastlake Shores Unit No. 1, in the City of Chula Vista, County of San Diego, State of California, according to Map thereof No. 11728, filed in the Office of the County Recorder of San Diego County, California, on February 9, 1987 and Lot 4 of Chula Vista Tract 86-2, Camelot at Eastlake Shores Unit No. 2, in the City of Chula Vista, County of San Diego, State of California, according to Map thereof No. 11968, filed in the Office of the County Recorder of San Diego County, California, on December 8, 1987.

1.23 **"Restated Declaration"** means this 2002 Amended and Restated Declaration of Restrictions and any amendments thereto.

1.24 **"Rules and Regulations"** means any Rules and Regulations for the Association regulating the use of the Units, Exclusive Use Common Areas, Common Areas, the Project and any facilities located thereon adopted by the Board pursuant to Subsection 3.5.2 herein.

1.25 **"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. Each Unit consists of a living area space bounded by and contained within the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors (including the wall coverings and floor coverings), and includes both the portions of the building so described and the airspace so encompassed; provided, however, that the

following are not part of the Living Unit: bearing walls, columns, floors, roofs, foundations, central heating, central refrigeration and central air conditioning equipment, reservoir tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Unit. Each Unit shall include any door or window within a perimeter wall; the interior undecorated surfaces of bearing walls and perimeter walls, floors and ceilings; and the outlets of all utility installations in the Unit, including the fire box of any fireplace located in the Unit. In interpreting deeds and plans, the then existing physical boundaries of a Unit, whether in its original state or reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed and those of the building.

## ARTICLE 2 - THE PROPERTY

**2.1 *Project Subject to Restated Declaration.*** The entire Project shall be subject to this Restated Declaration.

**2.2 *Description of Land and Improvements; Ownership of Common Area.*** The Property shall consist of the Phase 1 Lot, the Phase 2 Lot, the Phase 3 Lot, the Phase 4 Lot, the Phase 5 Lot, the Phase 6 Lot, the Phase 7 Lot, the Phase 8 Lot, the Phase 9 Lot, and the Phase 10 Lot. The Phase 1 Lot Common Area is owned by Owners of Units in the Phase 1 Lot in equal undivided one-thirtieth (1/30) interests. The Phase 2 Lot Common Area is owned by Owners of Units in the Phase 2 Lot in equal undivided one forty-fourth (1/44) interests. The Phase 3 Lot Common Area is owned by Owners of Units in the Phase 3 Lot in equal undivided one-fortieth (1/40) interests. The Phase 4 Lot Common Area is owned by Owners of Units in the Phase 4 Lot in equal undivided one-fortieth (1/40) interests. The Phase 5 Lot Common Area is owned by Owners of Units in the Phase 5 Lot in equal undivided one forty-fortieth (1/44) interests. The Phase 6 Lot Common Area is owned by Owners of Units in the Phase 6 Lot in equal undivided one forty-fortieth (1/44) interests. The Phase 7 Lot Common Area is owned by Owners of Units in the Phase 7 Lot in equal undivided one fifty-sixth (1/56) interests. The Phase 8 Lot Common Area is owned by Owners of Units in the Phase 8 Lot in equal undivided one-fortieth (1/40) interests. The Phase 9 Lot Common Area is owned by Owners of Units in the Phase 9 Lot in equal undivided one sixty-sixth (1/66) interests. The Phase 10 Lot Common Area is owned by Owners of Units in Phase 10 in equal undivided one-eighteenth (1/18) interests. The Owners of Units in any Phase Lot shall have a nonexclusive easement over the Common Area of such Phase Lot, and over the Common Area of all other Phase Lots and the Recreational Lots. Such nonexclusive easements shall be subordinate to any separate ownership interests and any exclusive easements in such other Phase Lots.

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.

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 upon showing that such partition is consistent with the requirements of section 1359 of the California Civil Code.

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 and the original construction plans for the Project, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan, 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 or described in the deed and those of the building as constructed or reconstructed. In the event a structure is partially or totally destroyed and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be appropriate rights for the maintenance of said encroachments so long as they shall exist.

2.6 **Prohibition Against Severance of Elements.** Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Unit shall include all interests and appurtenances as shown in the original deed of conveyance. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's membership interest in the Association, as provided in Article 3 herein. Any transfer that attempts to sever those component interests shall be void.

### ARTICLE 3 - ASSOCIATION

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.

3.2 **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 Article 3 of the Bylaws.

3.3 **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 as 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.

**3.4 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 the number of votes assigned to each Unit owned in the Bylaws, subject to the provisions set forth in the Bylaws.

**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:

- 3.5.1 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 4 herein.
- 3.5.2 The power to adopt reasonable Rules and Regulations governing the use of the Units, the Common Area, any common facilities and Association owned property, and the conduct at Board and Members' meetings, in accordance with the following:
  - (a) The Rules and Regulations may include, but are not limited to:
    - (i) Reasonable restrictions on use of the Common Area, recreational facilities and Units by the Owners and their families, guests, employees, tenants and invitees.
    - (ii) Reasonable restrictions on the conduct of Owners and their families, guests, employees, tenants and invitees as to activities on the Common Area and Units.
    - (iii) The setting of reasonable fees, deposits and use fees for any Common Area facilities.

(iv) In accordance with Section 3.13 of the Bylaws, the establishment of reasonable hearing procedures and a schedule of monetary penalties and fines which may be imposed for violations of any provisions of the Governing Documents.

(b) A copy of the current Rules and Regulations, if any, and all modifications, revisions and updates shall be given to each Owner.

(c) 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.

3.5.3 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:

(a) Enforcement of the Governing Documents.

(b) Damage to the Common Area.

(c) Damage to any Units that the Association is obligated to maintain or repair.

(d) Damage to the Units that arises out of, or is integrally related to, damage to the Common Area or Units that the Association is obligated to maintain or repair.

(e) Enforcement of payment of assessments in accordance with the provisions of Section 4.14 herein.

(f) Any other matter(s) in which the Association is a party, including, but not limited to, contract disputes.

3.5.4 Subject to the limitations set forth in Section 3.13 of the Bylaws, the right to discipline Owners for violation of any of the provisions of the Governing Documents by (a) suspending the Member's membership rights, including the Member's voting rights and the rights and privileges to use the Common Area and facilities appurtenant to the Members' Unit, (b) imposing monetary fines, and (c) recording a notice of noncompliance in the Office of the County Recorder of San Diego County encumbering the Unit of the Owner.



- 3.5.5 The right for its agents and employees to enter any Unit when necessary in connection with any maintenance, landscaping, or construction work for which the Association is responsible. 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 thereby shall be repaired by the Association at its own expense.
- 3.5.6 The right for its agents and employees to enter any Unit when necessary in connection with any inspection, maintenance, or repair of the fire alarm and fire sprinkler systems. 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 thereby shall be repaired by the Association at its own expense.
- 3.5.7 The power to grant permits, licenses and easements over, under and through the Common Area for roads, utilities, cable television, sewer facilities and other purposes in accordance with Section 5.2.4(i) herein, (a) to serve the Common Area or the Condominiums, or (b) where necessary or convenient to satisfy or achieve appropriate governmental purposes or requests.
- 3.5.8 Notwithstanding any nonexclusive easement rights to the Common Area granted herein or by any deed or other conveyance, 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.
- 3.5.9 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.
- 3.5.10 The power, without the approval of the membership, to bid and acquire any Unit at a foreclosure sale.
- 3.5.11 The power to separately meter and charge Owners for use of utilities by such means as may be determined in the sole discretion of the Board.

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:

- 3.6.1 The Association, acting through the Board, shall operate, maintain, repair, and replace those components described in Section 6.2 , or contract for the performance of that work, subject to the provisions of the Governing Documents.
- 3.6.2 The Association shall use the operating fund described in Article 4 herein to, among other things, acquire and pay for goods and services for the Project, including, but not limited to:
- (a) 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. If any utility service to a Unit is separately metered by either the utility provider or the Association and the Association is liable for payment to the utility provider, the costs thereof may be assessed against Owners as a utility assessment as otherwise provided herein.
  - (b) The insurance policies described herein.
  - (c) The services of any personnel that the Board determines are necessary or proper for the operation of the Common Area and the Association.
  - (d) Legal and accounting services necessary or proper in the operation of the Common Area and the Association or the enforcement of the Governing Documents; and
  - (e) Services and rental payments as required to fulfill the Association's duties and obligations in the Lease.

#### **ARTICLE 4 - ASSESSMENTS AND COLLECTION PROCEDURES**

4.1 ***Covenant to Pay.*** Each Owner by acceptance of the deed to the Owner's Condominium is deemed to covenant and agree to pay to the Association regular, special, individual, and utility assessments, and all other charges duly levied by the Association pursuant to the provisions of this Restated Declaration. A regular, special, individual, or utility assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall also be a personal debt of each Owner of the Condominium at the time the assessment or other sums are levied. Co-owners of a Unit shall be jointly and severally liable for all charges levied by the Association on that Unit. No Owner may waive or otherwise escape liability for these assessments by non-use of the Common Area or abandonment of the Owner's Condominium.

4.2 **Purpose of Assessments.** Except as provided herein, the Association shall levy regular, special, individual, and utility 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, and for the operation, replacement, improvement, and maintenance of the Project, and to discharge any other obligations of the Association under this Restated Declaration. All assessment payments shall be put into general operating and reserve funds to be used for the foregoing purposes.

4.3 **Regular Assessments.** Concurrently with preparation of the financial documents and budget as required in Section 3.12 of the Bylaws, 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. Regular assessments shall be divided equally among all Units and 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. Failure of the Board to estimate the net charges within the time period stated herein shall not void any assessment imposed by the Board. Regular assessments for fractions of any month shall be prorated. 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. Collection of assessments is subject to the right of the Master Association to collect assessments on behalf of the Board pursuant to the Master Declaration.

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 due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Area, or any other reason, it 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.

4.5 **Limitations on Regular and Special Assessments.** Except in emergency situations, the Board may not, without the approval of Members constituting a quorum of the Owners and casting a majority of the votes at a meeting or election of the Association conducted in accordance with Corporations Code sections 7510 - 7527 and 7613, impose a regular assessment per Unit 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 only, a "quorum" means more than fifty percent (50%) of the Members 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:

4.5.1 Required by a court order.

- 4.5.2 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.
- 4.5.3 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.

4.6 **Owner Notice of Regular and Special 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 not less than thirty (30) nor more than sixty (60) days prior to the increase in the regular assessment or special assessment becoming due.

4.7 **Individual Assessments.** Subject to the limitations of the Governing Documents and in addition to regular and special assessments, the Board may levy individual assessments against Owners and Units whenever the Association (a) 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, or (b) incurs any costs which by law or as required by the Governing Documents must be reimbursed by an Owner. Such individual assessment shall include the cost thereof, together with any financing costs and administrative costs incurred by the Association. Prior to levying an individual assessment, the Board shall provide the Owner with notice and a hearing in accordance with Section 3.13 of the Bylaws. The notice and hearing regarding the levy of an individual assessment may be combined with the notice and hearing regarding any underlying violation. Duly levied individual assessments shall be subject to the provisions in the Governing Documents regarding costs, late charges and interest for delinquent payment, and may become a lien on the Unit, in the same manner as regular and special assessments.

4.8 **Utility Assessments.** In addition to any other assessment levied against a Condominium, the Association may impose a utilities assessment for any utilities that are not separately metered and charged to the Condominiums by the utility company. If any such utility assessment is imposed by the Association, each Owner shall be obligated to pay to the Association, or its agent, a utilities assessment comprised of the costs for those utilities used by each Condominium as determined by the Board in its discretion. The amount of the utilities assessment levied by the Association against a Condominium shall be based upon each Condominium Owner's and/or tenant's actual use of the utility and may vary from month to month based upon such actual usage. The rate charged to each Condominium shall be based upon the utility company's rate for multifamily, residential

dwellings or an equivalent designation established by the utility company. The utility assessment may include a nominal fee charged by a person or firm to read the sub-meter and administer the utility assessment.

Anything in this Restated Declaration to the contrary notwithstanding, the utilities assessment shall be separate from, and not considered a part of either regular or special assessments, and shall not be subject to the limitations on the increases or decreases thereof contained in this Declaration or in section 1366 of the California Civil Code or any successor statute or law. Duly levied utility assessments shall be subject to Section 4.11 herein regarding costs, late charges and interest for delinquent payment, and may become a lien on the Condominium, in the same manner as regular and special assessments.

**4.9 Monetary Penalty Assessments.** The Board of Directors may levy, subject to the limitations of the Governing Documents, monetary penalties or fines against an Owner and his or her Unit. In the event the Board of Directors imposes a monetary penalty or fine, that fine shall be subject to costs, late charges and interest as described in Section 4.11 for delinquent payment, and may become a lien on the Unit, collectable by the Association through judicial foreclosure as allowed by Section 4.14 herein. In no event may the Association collect a monetary penalty or fine through nonjudicial foreclosure.

**4.10 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.

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

- 4.11.1 Reasonable costs incurred in collecting the delinquent assessment, including actual attorneys' fees.
- 4.11.2 A late charge not exceeding ten percent (10%) of the delinquent assessment or the maximum amount allowed by law.
- 4.11.3 Interest on the foregoing sums, at an annual percentage rate of twelve percent (12%) commencing thirty (30) days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. The amounts

delinquent, including the entire unpaid balance and any related costs described herein, may be collected by the Association as provided in Section 4.14 hereinbelow.

**4.12 Priority of Payments.** The Board, in its sole discretion, may enact policies, not in violation of applicable law, including Civil Code section 1367, regarding how payments received from Owners will be applied to any outstanding balances due the Association from that Owner.

**4.13 No Offsets.** All assessments shall be payable in the amounts specified by the Association, and no offsets against such amount shall be permitted for any reasons, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance, operation or enforcement.

**4.14 Enforcement of Assessments and Late Charges.** A delinquent regular, special, individual, or utility assessment, and any related late charges, reasonable costs of collection (including actual attorneys' fees), and interest assessed in accordance with Section 4.11 herein, excluding monetary penalties, shall become a lien upon the Condominium when a Notice of Assessment Lien is duly recorded as provided in section 1367 of the California Civil Code or applicable statute. Unless otherwise provided by statute, the Notice of Assessment Lien shall describe the amount of the delinquent assessment or installment, the related charges authorized by this Declaration, the legal description of the Unit, 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 may be signed by any officer or director of the Association, or any employee or agent of the Association authorized to do so by the Board. The Notice shall be mailed in the manner set forth in Civil Code section 2924b, to all record owners of the Unit no later than ten (10) calendar days after recordation.

Unless otherwise allowed by statute, the Notice of Assessment Lien may not be recorded until after the Association has mailed, via certified mail, a written demand for payment to the delinquent Owner. The written demand shall include the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the Owner, including items on the statement which indicate the principal owed, any late charges and the method of calculation, and any attorneys' fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. 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 of Assessment Lien.

If not paid in full within thirty (30) days after recordation of the Notice of Assessment Lien, any lien described herein may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the Notice or by a trustee substituted pursuant to section 2934(a) of the California Civil Code, in accordance with the provisions of sections 2924, 2924(b), and 2924(c) of the California Civil Code.

If all sums specified in the Notice of Assessment Lien are paid before the completion of any judicial or nonjudicial 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 notice of default and demand for sale.

The Notice of Assessment Lien is not required to be amended by the Association or Trustee to reflect any partial payments made on the account of the delinquent Owner after its recordation, and any such partial payments received shall not be construed to invalidate the Notice of Assessment Lien and said Notice of Assessment Lien may be foreclosed upon as set forth herein even though the delinquent Owner has made one or more partial payments.

Notwithstanding any other provision herein, a monetary penalty or fine may not become a lien on a Unit enforceable by the sale of the Unit through nonjudicial foreclosure. Any Notice of Assessment Lien recorded to enforce a monetary penalty or fine must specifically state that such lien may not be enforceable by sale of the Unit through nonjudicial foreclosure.

**4.15 *Priority of Assessment Lien.*** As set forth hereinbelow, the assessment lien referred to in Section 4.14 shall be superior to all other liens, except (i) all taxes, bonds and governmental assessments which, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record. Notwithstanding any other provision to the contrary, the following provisions shall govern the priority and obligation for payment of the assessment lien:

- 4.15.1 Only the judicial or nonjudicial foreclosure of the First Mortgage shall operate to transfer title free of the assessment lien or obligation for any assessment lien, and then only as to payments which became due prior to the date of sale, and excluding those assessment liens recorded prior to the recording of the First Mortgage.
- 4.15.2 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 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.

- 4.15.3 No sale or transfer of any Condominium shall relieve such Condominium or its new Owner from liability for any future assessments which accrue during such Owner's period of ownership.

4.16 **Statement of Delinquent Assessment.** The Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Condominium.

## ARTICLE 5 - USE RESTRICTIONS AND COVENANTS

5.1 **General.** The use and enjoyment of the Project by Owners and their tenants, guests, invitees or any other person deriving rights from such Owner, shall be subject to the covenants and restrictions contained in the Governing Documents. Each such person shall comply with the provisions hereof 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.

5.2 **Common Area.** The following provisions govern the use and enjoyment of the Common Area:

- 5.2.1 The Association shall have an easement in, to, and throughout the Common Area and the improvements thereon to perform its duties and exercise its powers.
- 5.2.2 Except as provided in this Restated Declaration, there shall be no judicial partition of the Common Area, nor shall the Association or any person acquiring an interest in all or any part of the Project seek any judicial partition.
- 5.2.3 Subject to the provisions of this Restated Declaration, each Owner has non-exclusive rights of ingress, egress, 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 an area.
- 5.2.4 The Owners' rights of use and enjoyment of the Common Area shall be subject to the restrictions set forth in the Governing Documents, and the right of the Association, subject to the limitations of any laws or the Governing Documents, to:
- (a) Adopt and enforce reasonable Rules and Regulations for the use of the Common Area and the Project.



- (b) Reasonably limit the number of Persons using the Common Area.
- (c) Charge a fee or deposit for use of any Common Area facilities.
- (d) Setting of fees and deposits for supplying and replacing keys or key codes to Common Areas, including charges calculated to limit distribution and deter loss of keys or codes.
- (e) Assign or otherwise control the use of any unassigned parking spaces within the Common Area.
- (f) Remove any vehicle within the Project parked in violation of this Declaration or the Rules and Regulations of the Board in accordance with the provisions of California Vehicle Code section 22658.2 and any amendments thereto.
- (g) 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 as otherwise provided in the Governing Documents.
- (h) Cause the construction of additional improvements in the Common Area, or cause the alteration or removal of existing improvements on the Common Area.
- (i) Dedicate, grant, or join in the grant or conveyance of easements, licenses or rights-of-way in, on and over the Common Area to any public agency, authority or utility or other third party as may be determined by the Board to be in the best interests of the Association; provided that no such easement, license or right-of-way 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.
- (j) Reasonably restrict access to roofs, maintenance facilities or areas, landscaped areas, and similar areas of the Project.
- (k) Approve any proposed alteration of or modification to the Common Area or any Unit.

5.2.5 The Board, with the approval of two-thirds ( $\frac{2}{3}$ ) of the total voting power of the Association may mortgage or encumber the Common Area or portions thereof.

(a) Dedicate, grant or join in the grant or conveyance of easements, licenses or rights-of-way in, on, and over the Common Area, other than those allowed by Section 5.2.4(i) above, (i) to third parties for purposes reasonably related to the operation of the Project, or (ii) to one or more Owners to exclusively use portions of the Common Area, subject to the Governing Documents. No such easement, license or right-of-way 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. Each Owner, in accepting his or her deed to the Unit, expressly consents to these easements.

(b) Mortgage or encumber the Common Area or portions thereof.

5.2.6 Notwithstanding the easement rights or other rights contained herein, an Owner who has sold his or her Condominium to a contract purchaser or who has leased or rented the Condominium shall be deemed to have assigned his or her rights to use and enjoy the Common Area to the contract purchaser or tenant who resides in the Owner's Condominium, subject to reasonable regulation by the Board. If the Owner is deemed to have assigned such rights, 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 the assignment remains effective.

5.2.7 All internal and external 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 this wiring, subject to the consent of the Association and to any other conditions reasonably imposed by the Association. The Association's consent shall not be unreasonably withheld.

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:

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

- 5.3.2 Modify, alter or otherwise change his or her Unit except as provided in Article 7 herein.
- 5.3.3 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. The Board may establish guidelines in the Rules and Regulations to allow certain home occupations which (a) are consistent with the normal residential usage of the Project, (b) do not cause any external effects which are detrimental to neighboring Units or the Project, and (c) are compatible with the characteristics of residential use in the Project.
- 5.3.4 Lease or rent a Unit in derogation of the following:
- (a) All leases and rental agreements must be in writing.
  - (b) All leases and rental agreements must be for the entire Unit and not merely parts thereof, unless the Owner remains in occupancy.
  - (c) No lease or rental shall be for a period of less than ninety (90) days.
  - (d) All leases and rental agreements shall be subject in all respects to the Governing Documents, and shall provide that failure to comply with the requirements of the Governing Documents shall constitute a default under the lease or rental agreement which may be cured by eviction of the tenant either by the Owner or the Association.
  - (e) An Owner who leases or rents their Unit shall promptly notify the Association in writing of the names of all tenants and members of a tenant's family occupying such Unit.
  - (f) All Owners leasing or renting their Unit shall promptly notify the Association of the address and telephone number where such Owner can be reached.
  - (g) Owners shall provide their tenants with copies of the Governing Documents, including the Rules and Regulations. Owners shall be responsible for the costs of reproducing the Governing Documents.
- 5.3.5 Permit anything to obstruct the Common Area or store anything on the Common Area without the prior written consent of the Board, except as otherwise provided in the Governing Documents.

- 5.3.6 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. Further, 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.
- 5.3.7 Disconnect, damage, tamper with or otherwise modify any protection system, including, but not limited to fire sprinklers, fire alarms and fuse boxes.
- 5.3.8 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 amounts of these liquids, substances or materials which are reasonable for household use may be placed in appropriate containers and properly stored.
- 5.3.9 Discharge or cause the emission of any dust, sweepings, dirt, cinders, odors, gases, or other substances into the atmosphere other than normal residential chimney or outdoor grill emissions.
- 5.3.10 Erect or display any sign on or from any Unit except one sign not exceeding 18 inches by 24 inches in size advertising a Unit for sale or lease with the prior written approval of the Board. All signs must conform with applicable City of Chula Vista ordinances. No signs shall be erected or displayed on the Association Property or on the Common Area (including, but not limited to, Exclusive Use Common Area), except signs placed by authority of the Board.
- 5.3.11 Erect or display any radio or television antenna, satellite dish or other equipment or apparatus for transmitting or receiving transmissions. Notwithstanding the foregoing, an Owner may erect a video or television antenna, including a satellite dish, as allowed by any applicable statute or law, with Board approval. The Board may impose reasonable restrictions on its approval.
- 5.3.12 Raise or keep pet(s) or other animal(s) in derogation of the following:
- (a) No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any Unit or elsewhere within the Project, except that Owners may keep one (1) domestic dog or one (1) domestic cat, or fish in aquariums and birds inside bird cages kept as household pets within any Unit; provided,

however, that no Owner or other occupant of a Unit may raise or keep pets which interfere with, or have a reasonable likelihood of interfering with, the rights of any Owner or other occupant of a Unit to the peaceful and quiet enjoyment of the Unit. In the event the Board determines that any such pet(s) or other animal(s) create an unreasonable annoyance or nuisance to any Owner or other occupant of a Unit, the raising or keeping thereof shall be discontinued within a reasonable time after such determination.

- (b) No pets or other animals shall be permitted in the Common Area except as specifically permitted by the Rules and Regulations, and then only when on a leash held by a person capable of controlling the animal.
  - (c) No owners may raise or keep animals for commercial purposes.
  - (d) The Association, its Board, officers, employees and agents shall have no liability to any Owner, their family members, guests, invitees, tenants and contract purchasers, or any other person on the Project, for any damage or injury to persons or property caused by any pet, absent any willful or wanton negligence on the part of the Association, or its Board, officers, employees and agents.
- 5.3.13 Engage in 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.
- 5.3.14 Engage in any type of harassment, illegal, noxious or offensive activity toward any Owners, residents, Association representatives, management representatives, Board members and/or vendors working in the Project.
- 5.3.15 Alter, attach, construct, or remove anything on or from the Common Area, except upon the written consent of the Board.
- 5.3.16 Keep or maintain any fixture, personal property or other object upon any balcony or patio which interferes with the enjoyment of adjacent Units, patios or balconies, or which may be in derogation of the Rules and Regulations.
- 5.3.17 Park any dune buggy, boat, trailer, recreational vehicle, mobile home, motor home, van, camper shell which is detached from a

vehicle or otherwise mounted on a vehicle, or truck which is (i) larger than  $\frac{3}{4}$  ton capacity, or (ii) has a mounted camper shell which protrudes from the truck from either side or from beyond the rear gate or above the cab ceiling within any carport, uncovered parking space, private street or anywhere else in the Project. Owners may use the Owner's carport and uncovered parking space to park automobile (including cars, passenger vans and trucks not larger than the applicable carport and uncovered parking space boundaries) and, if storage facilities have been provided, or with Board approval, the storage of non-hazardous materials. No Owner shall maintain more than two (2) vehicles in the Project at any one time. No Owner shall convert his parking space(s) to any use which prevents their use for vehicular parking. Commercial vehicles shall be permitted within the Project for purposes of making deliveries and similar purposes, provided the same conform to rules which may be established by the Board. No dismantled or wrecked vehicle or equipment shall be parked, stored or deposited within the Project and no vehicle shall be repaired within the Project. No trailer, truck, boat, camper or recreational vehicle shall be used as a living area in the Project.

- 5.3.18 Allow the accumulation of rubbish, trash or garbage on the adjacent Association Property or Common Area. The rubbish, trash and garbage shall be regularly removed from each Unit.
- 5.3.19 Permit exterior clothes lines to be erected or maintained, and there shall be no outside drying or laundering of clothes on the Association Property or on the Common Area.
- 5.3.20 Permit any power equipment, hobby shops or car maintenance (other than emergency work) on the Condominium Property except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.
- 5.3.21 Place any items (including potted plants) on top of any patio wall, or upon or over any balcony railing. However, each Owner shall have the right to place furniture and potted plants upon the patio or balcony, if any, which the Owner has the exclusive right to use. The Board shall have the right to allow Owners to exclusively use portions of the Common Area above or below the vertical limits of any patio or balcony Exclusive Use Common Area.

5.4 **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, tenants, 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.

5.5 **Vacating Unit; Costs.** As provided in Civil Code section 1364 or any successor statute, the Association shall have the power to temporarily remove any Unit resident for such periods and at such times as may be necessary in connection with any maintenance or repair work performed by the Association. The costs of any temporary relocation during such maintenance or repair work 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 work, the anticipated date and time of termination of work and that the occupants will be responsible for all necessary accommodations during the relocation.

## ARTICLE 6 - REPAIR AND MAINTENANCE

6.1 **General; Standards of Maintenance.** The Association and all Owners are required to fulfill the maintenance requirements imposed by the Governing Documents. For purposes of this Article "maintenance" shall include without limitation painting, weatherproofing and cleaning to keep a clean, safe and sanitary condition necessary to preserve the attractive appearance of each Condominium and the Project and protect the values thereof, and to ensure that there is no threat to the health, safety or welfare of any resident. The Board shall have the power to determine the standards of such maintenance. The replacement of exterior items by Owners shall be subject to the requirements of Article 7 herein.

6.2 **Division of Responsibility.** Attached hereto as Exhibit "B," and incorporated herein by reference, is a listing of the allocation of responsibility for various components in the Project. Generally, each Owner shall be responsible for the maintenance, repair and replacement of his or her Unit and those items located anywhere within the Project which are used exclusively by that Owner, and the Association shall be responsible for the maintenance, repair and replacement of other portions of the Common Area. Each Owner shall also be responsible for the maintenance and repair of the plumbing servicing the Owner's Unit and located either within or without the outside perimeter of the exterior walls, floors, and ceilings of the Unit as long as the plumbing is used exclusively by the Owner and not in common. In the event of any inconsistency between the above general provisions and the specific provisions of Exhibit "B," the provisions of Exhibit "B" shall prevail. Provided any item is not listed in Exhibit "B," the responsibility for its maintenance

shall be determined in accordance with the above general provisions or as otherwise provided by statute or law. Except as otherwise provided in the Governing Documents, the costs of maintenance, repair and replacement shall be borne by the party responsible for the maintenance, repair and replacement.

**6.3 Owner Improvements.** Each Owner shall be responsible for the maintenance, repair, and replacement of any improvements installed or planted by the Owner, any resident in the Owners' Unit, or the Owners' predecessor in interest, within the Unit or upon the Common Area. The Owner is also responsible for damages to the Common Area caused by such installation, maintenance, or repair. Installation of any improvement(s) within the Common Area is subject to the provisions of Article 7 herein.

**6.4 Access over Common Area.** The Owner of the Unit shall be entitled to reasonable access over and through the Common Area, subject to the consent of the Association and to any other conditions reasonably imposed by the Association, for the purposes of performing any maintenance, repairs or replacement as required by the Governing Documents. The Association's consent shall not be unreasonably withheld.

**6.5 Failure to Maintain.** In the event an Owner fails to maintain the areas described herein pursuant to the standards set by the Board, the Board may notify the Owner of the work required and request that the same be done within a reasonable time from the giving of such notice. In the event the Owner fails to carry out such maintenance within said time period, the Board may, following notice and a hearing, cause such work to be done and the cost thereof shall immediately be paid by such Owner to the Association and until paid shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law).

**6.6 Termite Control.** The responsibility for control of wood destroying pests or organisms shall be as follows:

- 6.6.1 Owners 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.
- 6.6.2 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 the provisions of Civil Code section 1364.
- 6.6.3 The Association shall have the power to temporarily remove any Unit resident for such periods and at such times as may be necessary 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.

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

6.6.5 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 or Common Area which may be necessary to obtain the termite clearance certificate. An Owner or group of Owners may agree, in a signed writing delivered to the Association, with such reasonable assurances as the Board may request, to agree to share the above costs.

**6.7 *Landscape and Irrigation Maintenance.*** The Association shall inspect, maintain and repair the landscaping and irrigation systems serving or within the Common Area and Association Property. The Association may employ the services of a professional landscape architect, maintenance contractor or other such professional person to assist the Association in performing its duties hereunder. Should such inspection require the inspection of any Exclusive Use Common Area, there is hereby created a nonexclusive easement in favor of the Association, and its officer, agents, employees and independent contractors, to conduct such inspections and to provide such maintenance, repair and replacement, provided that entrance is made at reasonable hours and with at least three (3) days' advance notice to the Owner, except in case of emergency. Notwithstanding any other provisions herein, any damage to any structure, landscaping or other improvements caused by the Association, or any of its officers, agents, employees or independent contractors, while performing such maintenance, repair or replacement work shall be repaired by the Association at its sole cost and expense.

**6.8 *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 is an Owner responsibility, the cost of all repairs shall be borne solely by the culpable 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 culpable Owner's expense. The culpable Owner shall be responsible for performing the repair of any damage to his or her Unit for which such Owner has control and for causing any repairs to be made to any other Unit which sustained damage. The Owner of any other damaged Unit may initiate the repairs and charge the cost thereof to the culpable Owner.

If the culpable Owner disputes or refuses to pay any repair costs incurred by the Association, the Association, after reasonable notice and hearing procedures as provided for the imposition of monetary fines or suspensions, may charge the cost of those repairs to such Owner as an individual or special 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 culpable 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.

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 as may be required to conform with any applicable building codes in effect at the time the damage is repaired.

## ARTICLE 7 - ARCHITECTURAL AND DESIGN CONTROL

7.1 **General.** Any change or improvement to the exterior of a Unit, or to the interior which affects the exterior of Unit, any wall, or any mechanical or utility systems (HVAC systems, gas, water or electrical pipes or wires, etc.), or the structural integrity of any building, shall be governed by this Article. Changes or improvements to the Common Area by the Association do not need to comply with the requirements of this Article. The powers and duties set forth in this Article shall be vested in, and exercised by, the Board. The Board may establish a architectural committee as provided herein to assist the Board in reviewing architectural submittals, and to provide recommendations to the Board with regard to approval or disapproval of any submittal. The foregoing notwithstanding, the Board shall be solely responsible for approving or rejecting any architectural submittal.

7.2 **General Changes Requiring Prior Approval.** Nothing may be erected, placed or planted on the exterior of any Unit, or on the Common Area by any Owner, including any railing, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony or patio enclosure, screen, patio cover, tent, awning, trellis, tree, grass, shrub or other landscaping, any improvement or structure of any kind without the prior written approval of the Board. Modifications to the interior of Units which involve alterations to the floor plan, or removal of a wall or have the potential to affect the Common Area, including the walls, roofs and mechanical or utility systems shall require prior approval. Additionally,

prior written Board approval shall be required for any alteration, modification, painting or other change or addition to any existing improvement or landscaping.

**7.3 Specific Changes.** Subject to other applicable restrictions contained in the Governing Documents, Owners may modify their Units subject to the following:

- 7.3.1 Modifications or alterations of the exterior of any Unit must have the prior written consent of the Board, 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 such modification's removal, by the Owner at his or her sole expense, once the handicapped access is no longer necessary for the Unit.
- 7.3.2 Each Owner shall have the right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim and perimeter walls of the Unit, and the surfaces of the bearing walls and partitions located within the Unit. Such Owner shall have the right to substitute new finished surfaces in place of those existing on said ceiling, floors, walls and doors of said Unit. However, no hard surface flooring (including, but not limited to, vinyl, wood, linoleum or tile) shall be installed on the floor of any Unit located above the first floor in a building, except within the kitchen and the bathrooms. Hard surfaced materials may also be installed in the entry with the approval of the Board. Each Owner shall have the obligation to keep in good repair all items mentioned in this Section.
- 7.3.3 Windows shall be covered only by drapes, curtains and shades which are in conformance with standards established by the Board. Windows shall not be painted or covered by aluminum foil, paper or similar materials.
- 7.3.4 No Owner may enclose his or her Unit's balcony or patio without the prior written consent of the Board.
- 7.3.5 Except as provided by the Governing Documents, Owners shall not have the right to paint, decorate, remodel or alter any portion of the Common Area without the prior written consent of the Board.

**7.4 Procedure for Obtaining Approval of Architectural Changes.** The procedure for obtaining approval of any architectural change shall be as follows:

- 7.4.1 Complete plans and specifications showing the nature, kind, shape, color, size, height, materials to be used and location of any

proposed improvements, alterations or landscaping, as well as the proposed contractor and any other information as required by the Board, shall be prepared by the requesting Owner and submitted to the Association.

- 7.4.2 The architectural committee, if any, shall review the submission and provide a written recommendation as to approval or disapproval of any such submission, including the reasons for any decision, to the Board and the requesting Owner within thirty (30) days of receipt of such submission.
- 7.4.3 The Board shall review such recommendation within thirty (30) days of receipt of the architectural committee's written recommendation, if any, or within 60 days of receipt of the submission, whichever is earlier and provide a written response to the requesting Owner, including reasons for such response.
- 7.4.4 In the event the Board fails to provide a written response to the requesting Owner within sixty (60) days of receipt of the request from the Owner, the Owner may notify the Board in writing that a response has not been received. If the Board fails to respond within thirty (30) days of the receipt of the notice, approval will not be required and the related covenants shall be deemed to have been fully satisfied.
- 7.4.5 Once an Owner has obtained approval for an architectural submittal, work on such approved submittal shall promptly commence and shall be completed within a reasonable time.

7.5 ***Estoppel Certificate.*** Within 30 days after written demand is delivered to the Board of Directors 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, executed 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 Restated 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 bases 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 therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

7.6 ***Architectural Rules.*** The Board may, in its sole discretion, adopt, amend and repeal, as it deems necessary and by majority vote, rules and regulations to be known as "Architectural Rules." Said Architectural Rules shall interpret and implement the provisions of this Article by setting forth the standards for review by the Board and

architectural committee and guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Project, provided, however, that said Architectural Rules shall not be in derogation of the standards required by this Restated Declaration. The Architectural Rules may also address the information which is required to be presented in connection with an architectural submittal.

**7.7 Standard of Architectural Review.** An architectural submittal made by an Owner shall be reviewed for conformity with the Architectural Rules. Additional factors to be considered include, but are not limited to, the quality of proposed workmanship, the design and harmony of the improvement with existing structures, the location of the improvement in relation to surrounding structures, topography, and finish grade elevation, Owner and contractor insurance coverage, compliance with governmental permit requirements and contractor license status.

**7.8 Architectural Committee.** The architectural committee, if any, shall consist of at least three (3) but not more than five (5) members, formed as follows:

- 7.8.1 The Board shall have the right to appoint all of the members of the committee.
- 7.8.2 Members appointed to the committee by the Board shall be Members of the Association.
- 7.8.3 Members shall be appointed for terms as prescribed by the Board, provided that no term may be less than one (1) year. Notwithstanding the foregoing, all members of the committee may be removed by the Board at any time with or without cause.
- 7.8.4 The committee shall meet as often as it deems necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.
- 7.8.5 The vote or written consent of the majority of the committee shall be required for any recommendation.

**7.9 Fee for Review.** The Board shall have the right to establish a fee for the review and approval of plans and specifications which must be submitted to it pursuant to the provisions of this Article or the Bylaws, which shall be reasonably related to the duties performed. Owners shall be responsible for their costs incurred for review of their plans.

**7.10 Compensation.** The members of the Board and architectural committee shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred by them in the performance of their duties hereunder.

7.11 **Liability.** Neither the Board, the architectural committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, (c) the development of any property within the neighborhood, or (d) the execution and filing of a certificate, pursuant to Section 7.7 above, whether or not the facts therein are correct, provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him or her.

7.12 **Enforcement.** In addition to other enforcement remedies set forth in this Restated Declaration, the Board shall have enforcement rights with respect to any matters required to be submitted to and approved by it, and may enforce such architectural control by any proceeding at law or in equity in accordance with this Section.

- 7.12.1 No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation or commencement of a suit to enjoin such work.
- 7.12.2 The Board shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Board or if it does not conform to the plans and specifications submitted to the Board.
- 7.12.3 If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, the Board shall set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall not be more than forty-five (45) days nor less than fifteen (15) days after the hearing notice is issued.
- 7.12.4 At the hearing, the Owner, a representative(s) of the committee and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance.
- 7.12.5 If a noncompliance is determined to exist, the Board shall require the Owner to remedy or remove the same within such period or within any extension of such period as the Board, at its discretion, may grant.
- 7.12.6 If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board at its option, may

pursue all legal and equitable remedies available to remedy or remove the noncomplying improvement and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to the Association, the Board shall recover such expenses through the levy of an individual assessment against such Owner.

- 7.12.7 Notwithstanding any other provisions herein, the Board of Directors shall have the authority to obtain a restraining order or injunction at any time after discovery that work is proceeding without proper approval of the Board if the Board deems such action necessary to protect the Association's interests.
- 7.12.8 The approval by the Board of any plans, drawings or specifications for any work of improvement done or proposed, or for any other matter requiring the approval of the architectural committee under this Restated Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different location for improvements, the size of the structure, proximity to other residences or the Common Area and other factors may be taken into consideration by the Board in reviewing a particular submittal.
- 7.12.9 If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

**7.13 *Non-Compliance with Laws.*** Neither the Association, the Board nor the architectural committee shall be responsible for any non-compliance with any governmental law, rule or regulation of any building or other structure erected, constructed, installed, placed, altered or maintained in accordance with or pursuant to any plans and specifications approved by the Board or any defect in any conditions or requirements they may have imposed with respect thereto.

**7.14 *Governmental Permits and Approvals.*** Prior to commencing any alteration or improvements approved by the Board, the Owner shall comply with all appropriate governmental laws and regulations. The Association shall not be obligated to enforce the provisions of this Section. Approval by the Board shall not be considered to satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction, nor shall the approval of any governmental entity be considered to completely satisfy the requirement of Board approval. An Owner's failure to obtain such governmental approval may subject such Owner to certain penalties imposed by the governmental entity,

notwithstanding the approval of the Board, which penalties shall be the responsibility of such Owner.

## ARTICLE 8 - INSURANCE

8.1 ***Fire and Casualty Insurance.*** The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Project. "Improvements" means and refers to the Common Area together with those appliances and improvements located within the Units as originally constructed by the Project developer and does not include any upgrades or modifications made by any past or present Owners. 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 Lenders, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Restated Declaration. If required by any First Lender who notifies the Association of its requirement, and if economically feasible and available, such policies shall contain an agreed amount endorsement, an inflation guard endorsement, and a construction code endorsement.

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 Owners' 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 covering all claims for death, personal injury, and property damage arising out of a single occurrence.

8.3 ***Directors and Officers Liability Insurance.*** The Association shall obtain and maintain one or more policies of insurance which include coverage for individual liability of officers and directors of the Association for negligent acts or omissions of those persons acting in their capacity as officers and directors. Limits of liability under this insurance shall be determined by the Board at its sole discretion.

8.4 ***Fidelity Coverage.*** The Association shall purchase and maintain fidelity coverage for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. If an agent handles Association funds, such agent shall be covered by the Association's coverage, unless such agent provides similar coverage. The Association's coverage may be in the form of a separate bond, a separate policy (e.g., crime policy), or may be added by endorsement to the general policies carried by the Association. The 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 or



policy. However, in no event may the aggregate amount of these bonds be less than a sum equal to three (3) months' aggregate assessments on all units plus reserve funds. The bond or policy must contain a provision that it may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

**8.5 Other Association Insurance.** The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. 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 the Board considers necessary or advisable, including earthquake insurance coverage.

**8.6 Review of Insurance; Notice of Cancellation or Modification.** The limits and coverage of insurance carried by the Association shall be reviewed at least annually by the Board and increased or decreased in its discretion. Such policies shall include a provision for at least ten (10) days' prior written notice to the Association, and, if available, to each First Lender which is listed as a scheduled holder of a First Mortgage in the insurance policy, of any cancellation or substantial modification by any party.

**8.7 Qualifications of Insurance Carriers.** The Association shall use generally acceptable insurance carriers from which to purchase and maintain the coverage required herein.

**8.8 Failure to Acquire Insurance.** The Association, and its directors and officers, shall have no liability to any Owner or Lender 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 Lender entitled to notice that the specific insurance will not be obtained or renewed.

The Association, and its directors and officers, shall also have no liability to any Owner or Lender if it does not obtain any of the insurance referenced hereunder which is not required but may be obtained at the discretion of the Association. The Board may, in good faith in its sole discretion, determine that obtaining any of the discretionary insurance is unreasonable or unnecessary under the circumstances. In making a determination as to whether to acquire any such discretionary insurance, the Board may base its decision upon, among other things, a vote of the Owners.

**8.9 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 herein. 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.

**8.10 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.

**8.11 Insurance Policy Deductibles.** 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:

- 8.11.1 If the damage or loss occurs to an item of personal property or other item for which an Owner is responsible, the Owner shall be responsible for the cost of any deductible.
- 8.11.2 If the damage or loss occurs to an item owned by the Association or for which the Association is responsible, the Association shall be responsible for the cost of any deductible.
- 8.11.3 If the damage or loss occurs to any Unit and the Common Area, or to more than one Unit, the responsibility for the payment of any deductible shall be apportioned among the affected parties on the basis of the ratio of each party's cost of repair to the total costs of repair.
- 8.11.4 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, such Owner shall be liable for the cost of the deductible.

**8.12 Insurance Disclosures.** The Association shall disclose such information regarding insurance coverage as and when required by any applicable statute or law. Failure to disclose such information shall not impose any liability upon the Association or Board other than that provided for in such statute or law.

**8.13 Individual Property Insurance.** Except as provided in this Section, no Owner can separately insure his or her Unit or any part of it, against loss by fire or other casualty covered by the Association's blanket insurance carried under Section 8.1. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 8.1 that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the

Owner will be liable to the Association to the extent of any diminution. An Owner may insure his or her personal property against loss. In addition, any improvements made by an Owner may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, and any institutional First Lender of such Unit.

**8.14 Individual Liability Insurance.** An Owner may carry whatever personal liability and property damage liability insurance with respect to his or her Unit that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable by the Board and to any First Lender.

**8.15 Damage to or Loss of Owner Property; Insurance; Limitation of Liability.** An Owner is responsible for obtaining and maintaining such insurance, at his or her sole expense, to protect against any damage to, or loss of property, and the cost of repair or replacement of damaged items, including, but not limited to, any personal property, decorations, upgraded floor and wall coverings, appliances, fixtures or other items therein which are not covered under the Association's fire and casualty policy, or any exterior items such as landscaping, which is caused by any Common Area component or any component maintained by the Association. The Association shall not be liable to any Owner or his or her tenants, guests or others, for damage to or loss of any such property, or the cost of repair or replacement of any damaged property or portions of such Owners' Unit which is not covered under the Association's fire and casualty policy.

## ARTICLE 9 - DAMAGE OR DESTRUCTION

**9.1 Duty to Restore.** Any portion of the Project that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- 9.1.1 The Project is terminated.
- 9.1.2 Repair or replacement would be illegal under a state statute or municipal ordinance.
- 9.1.3 Eighty percent (80%) of Owners, including each Owner of a Unit that will not be rebuilt, vote not to rebuild.

**9.2 Cost of Repair.** Any cost of repair or replacement in excess of any insurance proceeds and reserves shall be a common expense, levied against Condominiums in the same proportion as regular assessments are levied.

**9.3 Repair Plans.** The Project must be repaired and restored in accordance with either (a) the original plans and specifications, updated as required to reflect applicable building codes, or (b) other plans and specifications which have been approved in writing

by the Board, a majority of Owners, and at least fifty-one percent (51%) of Eligible Lenders holding Mortgages on Units subject to the repair.

**9.4 Replacement of Less Than Entire Project.**

9.4.1 Any insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Project.

9.4.2 Except to the extent that other persons or entities will be distributees:

- (a) Any insurance proceeds attributable to a Unit that are not rebuilt must be distributed to the Owner of that Unit, or to lien holders, as their interests may appear.
- (b) The remainder of any proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the interests of all the Units.
- (c) If the Owners vote not to rebuild a Unit, the common interest portions of the Unit shall be reallocated among all other Units, and the Association shall prepare, execute and record an amendment to the Declaration reflecting the reallocations.

**9.5 Insurance Proceeds.** An insurance trustee appointed by the Board or insurance company, or if there is no trustee, then the Board, acting by the President, shall hold any insurance proceeds in trust for the Association, Owners and lien holders as their interests may appear. Subject to the provisions of this Restated Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property. The Association, Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus after the Project has been completely repaired or restored, or unless the Project is terminated.

**9.6 Disbursements to Owners and Lenders.** Any insurance proceeds distributed to Owners and Lenders shall be distributed proportionately according to the fair market values of the Units at the time of the destruction as determined by an independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Board and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

**9.7 Certificates By Board.** The trustee, if any, may rely on the following certifications in writing made by the Board:

- 9.7.1 Whether or not damaged or destroyed property is to be repaired or restored.
- 9.7.2 The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

9.8 **Certificates by Attorneys or Title Insurance Companies.** If payments are to be made to Owners or Lenders, then the Board and the trustee, if any, shall obtain and may rely on a title insurance company's or attorney's title certificate or a title insurance policy based on a search of the Official Records of the County Recorder, stating the names of the Owners and the mortgagees.

## ARTICLE 10 - EMINENT DOMAIN

10.1 **Representation by Association.** The Association shall represent the Owners in the event of any threatened condemnation, condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area(s), or any part thereof. In furtherance of this purpose, 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).

10.2 **Common Area Taking.** In the event of a taking or acquisition of part or all of the Common Area(s) by a condemning authority, the award or proceeds of settlement, less any fees or costs incurred in collection thereof, shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their Lenders as their interests may appear according to the relative values of the Condominiums affected by the condemnation where Condominiums are not valued separately by the condemning authority or by the court.

10.3 **Condominium Unit Taking.** In the event of an award for the taking of any Condominium in the Project by eminent domain, the respective Owner(s) and Lenders 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 the Condominium, and after acceptance thereof he or she and the Lender shall be divested of all interest in the Project if such Owner shall vacate his Condominium as a result of such taking. 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 Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project based on the number of Units remaining in the Project.

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 Lenders in proportion to the fair market values of the Condominiums.

## ARTICLE 11 - RIGHTS OF LENDERS

11.1 **General.** No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any First Mortgage on any Unit made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

11.2 **No Right of First Refusal.** This Restated Declaration neither contains nor shall be amended to contain any provision creating a "right of first refusal" to the Association before a Unit can be sold. Should any such rights nevertheless be created in the future, such rights shall not impair the rights of any First Lender to: (a) foreclose or take title to a Unit pursuant to the remedies provided in the mortgage, (b) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (c) sell or lease a Unit acquired by the Lender.

11.3 **Unpaid Dues or Charges.** Where the Lender of a first Mortgage of record or other purchaser of a Unit obtains title to the same pursuant to the remedies in the Mortgage or as a result of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments made by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Units including such acquirer, his successors and assigns.

11.4 **Action Requiring Lender Approval.** Except as provided by statute in case of condemnation or substantial loss to the Condominiums and Common Area, unless at least two-thirds ( $\frac{2}{3}$ ) of the First Lenders (based upon one (1) vote for each mortgage owned), or two-thirds ( $\frac{2}{3}$ ) of the voting power of the Association have given their prior written approval, the Association and/or the Owners shall not be entitled to:

- 11.4.1 By act or omission seek to abandon, or terminate the Project as a condominium project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain).

- 11.4.2 Change the pro rata interest or obligations of any individual Condominium for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium in the Common Area, provided that no Owner's undivided interest in the Common Area may be changed without the consent of that Owner.
- 11.4.3 Partition or subdivide any Condominium.
- 11.4.4 By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area, or any property owned, directly or indirectly, by the Association (the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association is not a transfer in the meaning of this clause).
- 11.4.5 Use hazard insurance proceeds for losses to any of the Project (whether to Condominiums or to Common Area) for other than the repair, replacement or reconstruction of such property.

**11.5 *Payment of Taxes and Insurance.*** First Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area property. First Lenders making such payments shall be owed immediate reimbursement from the Association.

**11.6 *Priority of Proceed or Award Distribution.*** Any other provision herein contained to the contrary notwithstanding, no provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the First Lender pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

**11.7 *Notification of Lender.*** Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any Eligible Lender will be entitled to timely written notice of:

- 11.7.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or the Unit insured or guaranteed by such Eligible Lender;
- 11.7.2 Any default in the performance by an Owner of any obligation under the Governing Documents not cured within sixty (60) days;

- 11.7.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- 11.7.4 Any proposed action which would require the consent of a specified percentage of Eligible Lenders as required by the Governing Documents.

11.8 **Termination of Professional Management.** Provided professional management has previously been required by any Eligible Lender, any decision to establish self-management by the Association shall require the consent of at least sixty-seven percent (67%) of the voting power of the Association and at least fifty-one percent (51%) of Eligible Lenders; provided that so long as any Mortgage which is a lien on a Unit is insured or guaranteed by the Federal Housing Administration, any termination and failure to replace professional management shall require the prior written approval of the Federal Housing Administration.

11.9 **Inspection of Documents, Books and Records.** The Association shall make available to Eligible Mortgage Holders, current copies of the Governing Documents and the accounting books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

11.10 **Non-Curable Breach.** Any Lender who acquires title to a Residential Unit by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

11.11 **Loan to Facilitate.** Any First Mortgage given to secure a loan to facilitate the resale of a Residential Unit after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by an assignment-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article.

11.12 **Lenders Furnishing Information.** Any Lender shall be entitled and authorized to furnish information to the Board concerning the status of any Mortgage.

11.13 **Financial Statement.** Any First Lender shall be entitled, on written request therefor, to have the Association provide an audited financial statement for the immediately preceding fiscal year, which statement shall be furnished within a reasonable time following such request.

11.14 **Termination without Substantial Destruction.** Except as provided by statute or by other provision of the Governing Documents in case of substantial destruction or condemnation of the Project, the consent of at least sixty-seven percent (67%) of the voting power of the Association and the approval of fifty-one percent (51%) of Eligible Lenders shall be required to terminate the Project; provided that if termination is for



reasons other than substantial destruction or condemnation, the agreement of sixty-seven percent (67%) Eligible Lenders is required.

## ARTICLE 12 - ENFORCEMENT

12.1 **Right to Enforce; Remedies.** 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. The remedies provided for herein are to be considered cumulative and the use of one remedy shall not preclude the use of any other.

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

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.

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.

12.5 **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 13 - AMENDMENTS

13.1 **Owner Approval of Amendments.** Subject to Sections 13.2 and 13.4 below, this Restated Declaration may be amended by the vote or written consent of Owners representing at least one-third ( $\frac{1}{3}$ ) of the voting power of the Association; provided, however, that 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 prescribed 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 has 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 San Diego County.

**13.2 Approval of Specified Amendments.** Notwithstanding Section 13.1 above, if there are any Eligible Lenders, the consent of sixty-seven percent (67%) of the voting power of the Association and the approval of fifty-one percent (51%) of Eligible Lenders shall be required to add or amend (i) any provision of this Restated Declaration which is for the express benefit of holders or insurers of First Mortgages, or (ii) any material provisions of this Restated Declaration which establish, provide for, govern or regulate:

- 13.2.1 Voting rights.
- 13.2.2 Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens or the priority of assessment liens.
- 13.2.3 Reductions in reserves for maintenance, repair and replacement of the Common Area.
- 13.2.4 Responsibility for maintenance and repairs.
- 13.2.5 Reallocation of interests in the Common Area or rights to their use.
- 13.2.6 Redefinition of any Unit boundaries.
- 13.2.7 Convertibility of Units into Common Area or vice versa.
- 13.2.8 Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project.
- 13.2.9 Hazard or fidelity insurance requirements.
- 13.2.10 Imposition of any restrictions on the leasing of Units.
- 13.2.11 Imposition of any restrictions on an Owner's right to sell or transfer his or her Unit.

**13.3 Eligible Lender Approval Response.** An Eligible Lender who receives a written request to approve additions or amendments by first class mail, addressed to the address provided by such Eligible Lender, who does not deliver or post to the requesting party a negative response within thirty (30) days after the notice of the proposed addition or amendment, shall be deemed to have approved such request. No Lender may charge

a fee in connection with reviewing a request for a response. Any response from a Lender which only requests a fee for review shall not be deemed a "negative response" for the purposes of determining Lender consent within the meaning of this Section.

**13.4 *Amendment of Restated Declaration or Bylaws by Board Vote.*** The Board of Directors shall have the power to amend this Restated Declaration or the Bylaws, as the case may be, but only as this section permits. By a majority vote of the Board, the Board shall have the power to prepare and, if necessary, to record an amendment for either or both of the following purposes:

- 13.4.1 To correct any printing or grammatical error or omission in the Restated Declaration or Bylaws without any vote of the Members.
- 13.4.2 To make any change in the Restated Declaration or Bylaws required by a change in any applicable law, which obligates the Association, the Board or the Owners to conform their conduct with the terms of the law.
- 13.4.3 To make any change in the Restated Declaration or Bylaws needed to comply with any requirements of an Institutional Mortgagee.
- 13.4.4 If the Board approves an amendment using the procedure in this Section 13.4.2. and 13.4.3, the amendment shall not be recorded or filed until the following procedure is implemented. The Board shall first send notice of such action to the Owners, which notice shall include the text of the proposed amendment and an opinion from legal counsel that the proposed change in the Governing Documents is either required by law or by an Institutional Mortgagee. An amendment shall be considered ratified, unless within thirty (30) days after the date such notice is sent to the Owners, the Owners entitled to cast twenty percent (20%) of the votes in the Association, sign a written petition to reconsider the Board's action and file it with the Board. If such a petition is filed, the Board shall call a special meeting of the Members to reconsider the Board's action. At the meeting, unless a majority of the total voting power of the Association rejects the proposed amendment, the amendment shall be considered ratified, whether or not a quorum is present at the special meeting.

This section shall not restrict the powers of the Owners to amend this Restated Declaration or the Bylaws by any other method, but is intended to authorize a simple process for amendment where the property rights of Owners are not materially or adversely affected.

13.5 **Amendments.** No action to challenge the terms or validity of any amendment to this Restated Declaration or to the Bylaws may be made more than one (1) year after the recording date in the case of an amendment to this Restated Declaration, or more than one (1) year after the official tally of the vote in the case of an amendment to the Bylaws.

## ARTICLE 14 - GENERAL PROVISIONS

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 periods of ten (10) years, until the membership of the Association decides to terminate it.

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.

14.3 **Severability; Invalidity.** 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. If for any reason this Restated Declaration is declared completely invalid in its entirety, the Original Declaration shall be deemed to have survived and thereafter become effective without any further action.

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 on the Owners and their heirs, grantees, tenants, successors, and assigns.

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 shall not constitute a waiver of the right to enforce that provision or any other provision of this Restated Declaration.

14.6 **Limitation of Liability.** The liability of any Owner for performance of any of the provisions of this Restated Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Unit but only with respect to obligations arising from and after the date of the divestment.

14.7 **Fair Housing.** Neither Association nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Lot to any person on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, age, marital status, physical handicap or any other classification prohibited by Law.

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

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. Said costs and attorneys' fees shall constitute a lien on the Unit which is enforceable pursuant to Article 4 herein. This Section shall also apply to actual attorneys' fees incurred to collect any post-judgment costs.

14.10 **Variances.** The Board may authorize variances from compliance with any of the architectural or use provisions of this Restated Declaration as follows:

- 14.10.1 Variances may be granted, without limitation, to restrictions upon use contained in Article 5, restrictions on repair and maintenance in Article 6, and architectural restrictions in Article 7, when circumstances such as topography, location, engineering, economy, hardship, aesthetic or environmental considerations warrant.
- 14.10.2 Variances shall be in writing and shall become effective upon final approval by the Board or an authorized committee.
- 14.10.3 When a variance is granted, no violation of the Restated Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the terms and provisions of this Restated Declaration for any purpose except as to the particular property and particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the premises, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by the County of San Diego or any other governmental authority.
- 14.10.4 The Association may charge a reasonable fee to cover any costs associated with the variance approval process, or for issuance of a variance.
- 14.10.5 The Board may enact additional rules and regulations regarding the variance approval process, the circumstances under which a variance may be granted, and the execution of indemnity or other agreements by the Owner as a condition to issuance of a variance.

14.11 **Governing Document Priorities.** In the event of a conflict between the Governing Documents, or any provision thereof, the following documents shall take precedence in the order given: (1) the Articles, (2) the Condominium Plan, (3) this Restated Declaration, (4) the Bylaws, and (5) the Rules and Regulations.

14.12 **Conflict with Statutes.** Provided any federal, state or local statute, law or ordinance ("Law") is inconsistent with any provision or provisions of the Governing Documents, and compliance with that Law is mandatory, neither the Association, the Board nor any member thereof shall have any liability for complying with the Law or for failing to comply with provisions of the Governing Documents if compliance would violate such Law.

IN WITNESS WHEREOF, the undersigned, following entry of the Order by Judge Luis R. Vargas, on November 5, 2002, granting Association's Petition for Order Reducing Percentage of Votes Necessary to Amend Declaration of Common Interest Development, a certified copy of which is attached hereto and recorded herewith, have executed this 2002 Amended and Restated Declaration of Restrictions this 2nd day of December, 2002.

ASSOCIATION:

Camelot at Eastlake Shores Association,  
a California nonprofit mutual benefit corporation

By: Martha Doiron  
Martha Doiron, President

By: Peggy Leiker  
Peggy Leiker, Secretary

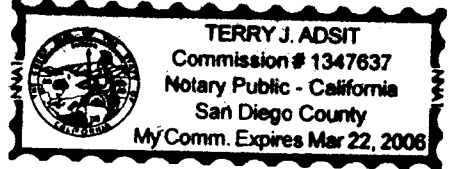
STATE OF CALIFORNIA    )  
  )  
COUNTY OF SAN DIEGO    )

On Dec 2, 2002, before me, Terry J. Adsit, Notary Public, personally appeared Martha Doiron and Peggy Leiker,

personally known to me  
  - OR -  
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~are subscribed to the within instrument and acknowledged to me that ~~he~~~~she~~/they executed the same in ~~his~~~~her~~/their authorized capacity(ies), and that by ~~his~~~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Terry J. Adsit  
Notary Public  
Comm. exp. 3/22/2006

**EXHIBIT "A"**  
**PROJECT LEGAL DESCRIPTION**

Lot 1 of CHULA VISTA TRACT NO. 84-9, CAMELOT AT EASTLAKE SHORES UNIT NO. 13 in the City of Chula Vista, County of San Diego, according to Map thereof No. 11606 filed in the Office of the County Recorder of San Diego County, California, on September 8, 1986.

Lots 1, 2, 3 and 4 of CHULA VISTA TRACT NO. 86-2, CAMELOT AT EASTLAKE SHORES, UNIT NO. 1, in the City of Chula Vista, County of San Diego, State of California, according to Map thereof No. 11728, filed in the Office of the County Recorder of San Diego County, California, on February 9, 1987.

Lots 1, 2, 3 and 4 of CHULA VISTA TRACT NO. 86-2, CAMELOT AT EASTLAKE SHORES, UNIT NO. 2, in the City of Chula Vista, County of San Diego, according to Map thereof No. 11968 filed in the Office of the County Recorder of San Diego County, California, on December 8, 1987.

Lots 1 and 2 of CHULA VISTA TRACT NO. 86-2, CAMELOT AT EASTLAKE SHORES, UNIT NO. 3, in the City of Chula Vista, County of San Diego, according to Map thereof No. 11997 filed in the Office of the County Recorder of San Diego County, California, on January 26, 1988.

Lot 1 of CHULA VISTA TRACT NO. 84-9, CAMELOT AT EASTLAKE SHORES, UNIT NO. 12, in the City of Chula Vista, County of San Diego, according to Map thereof No. 11605 filed in the Office of the County Recorder of San Diego County, California, on September 8, 1986.



**EXHIBIT "B" - MAINTENANCE LIST  
CAMELOT AT EASTLAKE SHORES**

The following is a listing of the items within the Project, the maintenance, repair and replacement duty for which Owners and the Association are responsible in accordance with Section 6.2 of the Restated Declaration.

The items marked with an asterick require prior written consent of the Board of Directors before Owners can modify or replace these items. Approval is also required for any other components not marked with an asterick which require approval under some other portion of this Restated Declaration, or which requires moving or adding to electrical wiring, water supply lines, sewer lines and any other components that require moving or altering the Common Area or any load-bearing or structural components.

COMPONENT(S)	OWNER	ASSOC
Air Conditioning and Heating System - Heat Pump	X	
Appliances - Built-in and Free Standing	X	
Attic Spaces		X
Bathtub Waste Drain and Overflow	X	
Bearing Walls, Non-bearing Walls, Studs, Frames, Tie-Downs, other Structural Items		X
Building Surfaces - Exterior Common Area (except Doors and Windows)		X
Cable TV (See Wiring)		
Carport Structure - Maintain, Repair and Replace		X
Carport/Open Space Parking - Concrete/Asphalt Surfaces: Maintain, Repair and Replace		X
Caulking/Waterproofing - Exterior		X
Caulking/Waterproofing - Interior (e.g., Bathrooms, Kitchen)	X	
Ceiling Coverings - Including any "Popcorn" Texturing	X	
Chimneys - Exterior: Structure, Stucco		X
Chimneys - Interior: (See Fireplaces)		
Chimneys - Sweeping	X	
Common Area Improvements - Not Otherwise Specified		X

COMPONENT(S)	OWNER	ASSOC
Common Area Damaged Components - Due to Owner or Occupant Negligence or other Abuse: The Association Reserves the Right to do the Work on Damaged Common Area Components and to Charge the Cost to the Owner as an Individual Assessment as Provided in Section 4.7 of this Restated Declaration.	X	
Crawl Spaces		X
Decks - Mer-Kote Entry, Stairway Landing, Exclusive Use Balcony: Routine Cleaning	X	
Decks - Mer-Kote Entry, Stairway Landing, Exclusive Use Balcony: Painting, Repair or Replace (If cause for Repair or Replacement is Due to Negligence of the Owner or Occupant, the Association Reserves the Right to do the Work and Charge the Cost to the Owner as an Individual Assessment as Provided in Section 4.7 of this Restated Declaration).		X
Doorbell - Interior and Exterior Components/Button Switch	X	
*Doors - Entry, Patio/Balcony, Patio/Balcony Storage Unit: Repair and Replacement including Weatherstripping	X	
Doors - Entry and Patio/Balcony Storage Unit: Exterior Surface Painting		X
Doors - Entry and Patio/Balcony Storage Unit: Interior Surface Painting	X	
*Doors - Entry, Patio/Balcony, Patio/Balcony Storage Unit: Locks and Hardware Set.	X	
*Door Frames - Entry, Patio/Balcony Sliding Glass Metal Frame and Track, Patio/Balcony Storage Unit: Replacement. The Association will Waterproof the Stucco Surrounding the Frame following Installation.	X	
*Doors - Entry Screen/Security, Patio/Balcony Sliding Screen.	X	
Drainage Systems (e.g., Ditches, Catch Basins)		X
Drainage Systems - Entry Decks		X
*Drainage Systems - Patios and Balconies	X	
Drains - Bathtubs, Showers, Sinks	X	

COMPONENT(S)	OWNER	ASSOC
Drains - Curbs		X
Dryer Vents - Cleaning	X	
*Dryer Vents - Repair and Replacement	X	
Drywall - Interior: Repair or Replace	X	
Electrical Switches, Sockets, Wall Plates - Interior to Unit and in Exclusive Use Patio/Balcony	X	
Electrical Switches, Sockets, Wall Plates - Exterior Common Area		X
Exhaust Fans	X	
Exterior Lighting Fixtures (Common Area)		X
Faucets, Handles, Washers - Exterior Common Area		X
Faucets, Handles, Washers - Interior to Unit and Exclusive Use Common Area	X	
Fences - Wood and Wrought Iron: Maintenance, Repair, Replacement		X
Fireplaces - Firebox Repair, Flues, Mantle, Trim and Facing	X	
Floor - Lightweight Concrete Soundproofing		X
Floor - Floor Joists and Plywood		X
Floor Coverings - Unit Interior: Carpet, Vinyl, Tile, etc.	X	
Garbage Disposal	X	
Gas Lines - Below Ground/On Inlet Side of Gas Meter		X
Gas Lines - From Outlet Side of Unit Gas Meter Including Meter	X	
Glass - Unit Windows/Doors	X	
Guard Rails - Metal at Entry Decks, Patio, Balcony: Painting, Repair, Replacement		X
Gutters & Downspouts - Install and Maintain		X
Insulation - Attics, Crawl Spaces		X
Landscaping - Beds, Lawns, Slopes, Trees		X

COMPONENT(S)	OWNER	ASSOC
Lighting Fixtures - Attached to Outside of Buildings, the Carports, and in the Common Areas (including Light Bulb).		X
*Lighting Fixtures - Exclusive Use Common Area Patio/Balcony including Light Bulb.	X	
Lighting Fixtures - Unit Interior	X	
Painting - Unit Interior	X	
Patio/Balcony - Interior Surfaces: Painting		X
Patio/Balcony - Structural Supports		X
Patio - Slab	X	
Plumbing Fixtures - Water Pressure Regulator (One per Building)		X
Plumbing Fixtures - Interior to Unit and Exclusive Use Patio/Balcony: Tubs/Sinks/Faucets/Toilets including Wax Ring/Hose Bibs/Angle Stop Valves/Spigots/Hoses, etc.	X	
Plumbing Lines - Common to all Units - Cold Water		X
Plumbing Lines - Serving only One Unit, Including Slab Leaks - Hot Water	X	
Roof - Vents, Furnace Flues, Plumbing Stacks, Other Roof Penetrations, Sheathing, Underlayment, Flashing, Shingles and other Roofing Components		X
Satellite Dishes - Owner Installed (Installation Limited to Being Free Standing on Exclusive Use Patio or Balcony)	X	
Sewer Lines - Common Main Line and Below Ground		X
Sewer Lines - Single Use	X	
Sewer/Toilet Backup - Due to stoppage in Line Serving One Unit	X	
Sewer/Toilet Backup - Clearing stoppage in Common Main Line (If Owner Contacts Association, and Association Calls its Plumber, but the Problem is not in the Association Maintained Component, the Association will Charge the Fees to the Owner as an Individual Assessment as Provided in Section 4.7 of this Restated Declaration).		X
Sidewalks - Entry and Common Areas		X

COMPONENT(S)	OWNER	ASSOC
Signage		X
Slab and Foundations - Building		X
Slab - Patio	X	
Spraying/Eradication of Interior Household Pests (Ants, Fleas, Rodents, etc.)	X	
Spraying/Eradication of Exterior/Landscaping or Common Area Pests		X
Staircase Structural Members, Steps and Landing - Exterior: Routine Preventive Maintenance, Repair, Replacement. If Owners or their Tenants have Damaged the Membranes and Waterproofing, other than Normal Wear and Tear, such as by Moving Heavy Furniture and Appliance, as Determined in the Board's Discretion, the Association will do the Work, but the Cost will be Charged to the Owner as an Individual Assessment as Provided in Section 4.7 of this Restated Declaration.		X
Streets		X
Stucco Repair, Replacement, Painting/Coloring		X
Termite Eradication - Exterior and Whole Building but Excluding Treatment Required to Meet Owner's Timing or to Provide the Scope of Work (Primary or Secondary Treatment) Desired by an Owner		X
Termite Eradication - Unit Interior (Spot or Secondary Treatment) or Treatment to Meet an Owner's Timing or to Provide the Scope of Work (Primary or Secondary Treatment) Desired by an Owner	X	
Trim - Exterior Wood: Maintenance, Repair, Replacement		X
Unit Interiors - Components not Otherwise Specified, including Drywall	X	
Wall Coverings - Paint, Wallpaper, Paneling, Tile, Mirrors, etc.	X	
Water Heater - One per Unit	X	
*Window Frames - Replacement. The Association will Waterproof the Stucco Surrounding the Frame Following Installation.	X	

COMPONENT(S)	OWNER	ASSOC
Windows and Screens	X	
Window Locks and Hardware	X	
Wiring - Cable TV	X	
Wiring - Electrical: From the Outlet of the Unit Meter, including the Meter, Wiring, Circuit Breaker Panel, Circuit Breakers, Sockets, Switches and Wall Plates (Serving a Single Unit)	X	
Wiring - Electrical: To the Input to the Unit Meter, Exterior and Common Area, including Common Area Meter, Wiring, Circuit Breaker Panel, Circuit Breakers, Sockets, Switches and Wall Plates		X