

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

PETERS & FREEDMAN, L.L.P.
191 Calle Magdalena, Suite 220
Encinitas, CA 92024
Tel: (760) 436-3441

(Above Space for Recorder's Use)

**FIRST RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
VILLA CABALLEROS HOMEOWNERS ASSOCIATION**

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

TABLE OF CONTENTS

	<u>PAGE</u>
RECITALS.....	1
ARTICLE 1 DEFINITIONS.....	2
Section 1.1 Annual Budget Report.	2
Section 1.2 Annual Policy Statement.	2
Section 1.3 Architectural Committee.	2
Section 1.4 Articles.....	2
Section 1.5 Assessment.....	2
Section 1.6 Association or Corporation.	2
Section 1.7 Beneficiary.....	2
Section 1.8 Board of Directors or Board.....	3
Section 1.9 Bylaws.	3
Section 1.10 City.....	3
Section 1.11 Common Area.	3
Section 1.12 Common Expense.	3
Section 1.13 Common Facilities.....	3
Section 1.14 Condominium.	4
Section 1.15 Condominium Building.	4
Section 1.16 Condominium Lease.	4
Section 1.17 Condominium Plan.	4
Section 1.18 County.	4
Section 1.19 Declaration.....	4
Section 1.20 Deed of Trust or Trust Deed.	4
Section 1.21 Director.	4
Section 1.22 Eligible Mortgage Holder.	4
Section 1.23 Exclusive Use Common Area.	4
Section 1.24 General Delivery or General Notice.....	5
Section 1.25 Governing Documents.....	5
Section 1.26 Individual Delivery or Individual Notice.....	5
Section 1.27 Master Lease.	5
Section 1.28 Member.	5
Section 1.29 Mortgage.	5
Section 1.30 Officer.	5
Section 1.31 Owner.....	5
Section 1.32 Project or Real Property.....	5
Section 1.33 Regular Assessment.....	5
Section 1.34 Reimbursement Assessment.	6
Section 1.35 Rules and Regulations.	6
Section 1.36 Sale.....	6
Section 1.37 Secretary.....	6
Section 1.38 Special Assessment.	6
Section 1.39 Unit.	6

TABLE OF CONTENTS

	<u>PAGE</u>
Section 1.40 Voting Power.....	6
ARTICLE 2 MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION.....	7
Section 2.1 Membership.....	7
Section 2.2 Voting Rights.....	7
Section 2.3 Transfer.....	7
Section 2.4 Joint Owner Votes.....	7
ARTICLE 3 PROPERTY RIGHTS, EASEMENTS AND OBLIGATIONS OF OWNERS.....	7
Section 3.1 Elements of Condominium Ownership.....	7
Section 3.2 Owners' Nonexclusive Easements of Use.....	7
Section 3.3 Exclusive Use Common Area.....	9
Section 3.4 Encroachment Easements.....	9
Section 3.5 Persons Subject to Governing Documents.....	9
Section 3.6 Waiver of Use.....	9
Section 3.7 Obligations of Owners.....	9
Section 3.8 Delegation of Use.....	10
Section 3.9 Interest in Common Area.....	10
ARTICLE 4 POWER AND DUTIES OF THE ASSOCIATION.....	11
Section 4.1 Directors' Standard of Care; Limitation of Liability.....	11
Section 4.2 Conflict of Interest.....	11
Section 4.3 Management and Control.....	12
Section 4.4 Powers of the Board.....	12
Section 4.5 Duties of the Association.....	14
Section 4.6 Limitations on Authority of Board.....	15
Section 4.7 Limit on Third Person Contracts.....	16
Section 4.8 Management Agreement.....	16
Section 4.9 Limited Right of Entry.....	16
ARTICLE 5 COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION.....	17
Section 5.1 Assessments Generally.....	17
Section 5.2 Creation of Lien and Personal Obligation for Assessments.....	17
Section 5.3 Regular Assessments.....	18
Section 5.4 Special Assessments.....	19
Section 5.5 Assessments to Address Emergency Situations.....	19
Section 5.6 Reimbursement Assessments.....	20

TABLE OF CONTENTS

	<u>PAGE</u>
Section 5.7	Notice/Certificate..... 21
Section 5.8	Exemption of Certain Properties From Assessments.. 21
Section 5.9	Remedies of the Association for Non-Payment of Assessments..... 21
Section 5.10	Effect of Non-Payment of Assessments..... 22
Section 5.11	Foreclosure of Assessment Lien. 22
Section 5.12	Subordination of Lien. 22
Section 5.13	Assignment of Rents. 22
Section 5.14	Waiver of Exemptions..... 23
Section 5.15	Uniform Rate of Assessments. 23
ARTICLE 6	USE RESTRICTIONS..... 23
Section 6.1	Single Family Residential Occupancy/Use. 23
Section 6.2	Pets..... 24
Section 6.3	Signs, Flags and Banners..... 25
Section 6.4	Antennas and Similar Devices..... 25
Section 6.5	Vehicles, Parking and Parking Structures. 25
Section 6.6	Impairment of Units and Easements; Structural Alterations. 26
Section 6.7	Rubbish, Trash, and Garbage..... 26
Section 6.8	Nuisance..... 27
Section 6.9	Unightly or Unkempt Conditions..... 27
Section 6.10	Dangerous Use of Units..... 27
Section 6.11	Responsibility for Damage to the Project. 27
Section 6.12	Use of Common Area. 27
Section 6.13	Window Covers. 28
Section 6.14	No Timeshare Use. 28
Section 6.15	Exterior Clotheslines/Drying Racks.. 29
Section 6.16	Use of Exclusive Use Common Area. 29
Section 6.17	Code of Conduct. 29
Section 6.18	Flooring Modifications in Second and Third Floor Units. 29
Section 6.19	No Smoking in the Common Area..... 30
ARTICLE 7	ARCHITECTURAL CONTROL..... 30
Section 7.1	Architectural Committee. 30
Section 7.2	Duties of the Architectural Committee. 30
Section 7.3	Approval of Improvements. 30
Section 7.4	Meetings..... 32
Section 7.5	Architectural Guidelines. 32
Section 7.6	Waiver. 32
Section 7.7	Liability. 32
Section 7.8	Variances. 33
Section 7.9	Approval of Individual Director. 33

TABLE OF CONTENTS

	<u>PAGE</u>
Section 7.10	Completion of Improvements. 33
Section 7.11	Inspection. 33
Section 7.12	Compliance with Master Lease. 33
ARTICLE 8	RENTING/LEASING OF CONDOMINIUMS. 33
Section 8.1	Definition. 33
Section 8.2	Leasing Provisions. 33
ARTICLE 9	MAINTENANCE RESPONSIBILITIES. 35
Section 9.1	Maintenance Matrix. 35
Section 9.2	Common Area and Common Facilities. 35
Section 9.3	Association Maintenance Responsibility With Respect to Condominium Buildings. 36
Section 9.4	Owner Maintenance Responsibilities. 37
Section 9.5	Failure of Owner to Carry Out Maintenance Responsibilities. 38
Section 9.6	Liability for Damage. 38
Section 9.7	Cooperative Maintenance Obligations; Easements. 39
Section 9.8	No Liability. 39
Section 9.9	Owner Notification to Association. 40
ARTICLE 10	INSURANCE. 40
Section 10.1	Types of Insurance Coverage. 40
Section 10.2	Owner's Insurance. 41
Section 10.3	Waiver of Claims Against Association and Others. 42
Section 10.4	Making Claims to the Association's Insurance. 42
Section 10.5	Insurance Policy Deductibles. 42
Section 10.6	Notification of Lapse, Cancellation or Change. 43
Section 10.7	Board's Authority to Revise Insurance Coverage. 43
Section 10.8	Trustee for Policies. 43
Section 10.9	Approval By Secretary. 43
ARTICLE 11	DESTRUCTION OF IMPROVEMENTS. 44
Section 11.1	Insurance Proceeds Sufficient. 44
Section 11.2	Insurance Proceeds Insufficient. 44
Section 11.3	Assessments. 44
Section 11.4	Determination Not to Rebuild. 44
Section 11.5	Interior Repairs. 44

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 12	CONDEMNATION..... 45
Section 12.1	Condemnation. 45
ARTICLE 13	PARTITION PROHIBITED. 45
Section 13.1	Partition. 45
Section 13.2	Power of Attorney. 46
ARTICLE 14	PROTECTION OF MORTGAGEES. 46
Section 14.1	Notices of Actions. 46
Section 14.2	Rights of Mortgagees Upon Foreclosure. 47
Section 14.3	Consent of Mortgagees. 47
Section 14.4	Additional Rights of Mortgagees..... 48
Section 14.5	Information.. 48
Section 14.6	Priority of Mortgage Lien. 48
Section 14.7	Insurance. 48
Section 14.8	Priority on Distribution of Proceeds. 48
Section 14.9	Special FNMA-FHLMC Provisions. 49
ARTICLE 15	ENFORCEMENT. 49
Section 15.1	Enforcement..... 49
Section 15.2	Nuisance.. 51
Section 15.3	Violation of Law. 51
Section 15.4	No Waiver. 51
Section 15.5	Attorneys' Fees. 52
Section 15.6	Cumulative Remedies. 52
ARTICLE 16	AMENDMENTS..... 52
Section 16.1	General..... 52
Section 16.2	Amendments Requiring Approval of Mortgagees..... 52
ARTICLE 17	GENERAL PROVISIONS..... 53
Section 17.1	General Delivery/General Notice..... 53
Section 17.2	Individual Delivery/Individual Notice..... 54
Section 17.3	Delivery of Documents to Association. 54
Section 17.4	Completion of Delivery of Documents. 55
Section 17.5	Extension of Declaration. 55
Section 17.6	Limitation of Liability. 55

TABLE OF CONTENTS

	<u>PAGE</u>
Section 17.7 Liberal Interpretation of Declaration.	55
Section 17.8 Indemnification.	55
Section 17.9 Partial Invalidity.....	56
Section 17.10 Number; Gender.....	56
Section 17.11 Successors and Assigns.	56
Section 17.12 Joint and Several Liability.....	56
Section 17.13 Conflicts.....	56
Section 17.14 References to Code Sections.	56
 CERTIFICATE OF AMENDMENT.....	 57
 CERTIFICATE OF AMENDMENT.....	 58

FIRST RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

VILLA CABALLEROS HOMEOWNERS ASSOCIATION

The Declaration of Covenants, Conditions and Restrictions of VILLA CABALLEROS HOMEOWNERS ASSOCIATION, recorded in the official records of Riverside County, California, on June 5, 1986, as Instrument No. 130386 (“Original Declaration”) and any other amendments not specifically set forth but recorded prior to the date of the recording of this instrument, are hereby superceded, amended and restated in its entirety to read as follows:

RECITALS

(A) The Original Declaration established VILLA CABALLEROS HOMEOWNERS ASSOCIATION (“Association”) to oversee, manage, maintain and operate the real property (“Project”), subject to the Original Declaration, plus all annexations to the Project.

(B) The Project subject to this Declaration is more particularly described as a leasehold interest under Business Lease No. PSL-306, under Contract No. J53C1420-5152, dated May 11, 1981, approved by the Area Director of the United States Bureau of Indian Affairs on January 19, 1982, and recorded February 5, 1982, as Instrument No. 21775, in the Official Records of Riverside County (hereinafter referred to as “Master Lease”), California, including the property described in Exhibit “A” to this First Restated Declaration.

(C) The Project was originally conveyed subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declaration referred to above, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project and all of which shall run with the Project and be binding on all parties having or acquiring any right, title or interest in any part of the Project, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

(D) Pursuant to the Area Director of the United States Bureau of Indian Affairs, the leasehold interest relationship between the Lessor and the Lessee as memorialized by the Master Lease and Condominium subleases is no longer in place. The individual Owners of Condominiums will be operating under a leasehold interest directly with the Lessor under the Master Lease, such that there will no longer be a Master Lease Lessee assigning subleasehold interests to the Condominium Owners. At the date of the recordation of this Declaration, there is no formal cancellation or termination of the Master Lease. Accordingly, to the extent the Master Lease is cancelled or terminated, the provisions set forth herein that pertain to same will be superceded by such terms and conditions as agreed to between the Condominium Owners and the Lessor and/or the United States Bureau of Indian Affairs.

(E) It was further intended that the Project consists of a “Condominium Project” as defined in *Civil Code* Section 4125, and the Condominiums conveyed to the Owners are subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes as set forth in this Declaration, and the terms and conditions of the Master Lease so long as applicable, or successor document or requirements of the United States Bureau of Indian Affairs.

(F) The Association now desires to amend and restate the Original Declaration and replace it in its entirety with this First Restated Declaration, and that upon recordation of same, the Project shall be subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges contained in this First Restated Declaration which shall run with the Project and be binding on all parties having or acquiring any right, title or interest in any part of the Project, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

ARTICLE 1

DEFINITIONS

Section 1.1 “**Annual Budget Report**” means the report prepared by the Association and distributed to the Owners by Individual Delivery as set forth in Article 10, Section 10.3(A) of the Bylaws and *Civil Code* Section 5300.

Section 1.2 “**Annual Policy Statement**” means the statement prepared by the Association and distributed to the Owners by Individual Delivery as set forth in Article 10, Section 10.3(D) of the Bylaws and *Civil Code* Section 5310.

Section 1.3 “**Architectural Committee**” means the committee created in accordance with Article 7 of this Declaration.

Section 1.4 “**Articles**” means the Articles of Incorporation of the Association which are filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.

Section 1.5 “**Assessment**” means any Regular, Special or Reimbursement Assessment made or assessed by the Association against an Owner and his or her Condominium in accordance with the provisions of Article 5 of this Declaration.

Section 1.6 “**Association**” or “**Corporation**” means VILLA CABALLEROS HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation (formed pursuant to the Nonprofit Mutual Benefit Corporation Law of the State of California), its successors and assigns. The Association is an “association” as defined in *Civil Code* Section 4080.

Section 1.7 “**Beneficiary**” means a Mortgagee under a Mortgage or, as the case may be, the beneficiary of or holder of a note secured by a Deed of Trust, and/or the assignees of such Mortgagee, beneficiary or holder.

Section 1.8 “**Board of Directors**” or “**Board**” means the Board of Directors of the Association.

Section 1.9 “**Bylaws**” means the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.10 “**City**” means the City of Palm Springs and its various departments, divisions, employees and representatives.

Section 1.11 “**Common Area**” means the entire Project, except all Condominiums, as defined in this Article and shown on the Condominium Plan. Unless the context clearly indicates a contrary intention, any reference to the “Common Area” shall also include any Common Facilities located thereon. As more particularly described in Article 1, Section 1.22, portions of the Common Area are designated as Exclusive Use Common Area whose use and enjoyment are restricted to the Owners and occupants of the Unit adjacent to such Exclusive Use Common Area.

Section 1.12 “**Common Expense**” means any use of Association funds authorized in the Governing Documents and includes, without limitation:

(A) All expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities that the Association is obligated to maintain or repair;

(B) All expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board;

(C) Any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Area and Common Facilities that the Association is obligated to maintain or replace and for nonpayment of any Assessments;

(D) The use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents; and

(E) Any expense reasonably incurred to protect, preserve and maintain the Project in the discretion of the Board.

Section 1.13 “**Common Facilities**” means the community room, entry gates, callbox, swimming pool, spa, tennis court, racquetball court, parking spaces, parking structure, elevator, monument, private drives and driveways, trees, hedges, plantings, shrubs, landscaping, fences, utilities, lighting fixtures, fountain, structures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

Section 1.14 “**Condominium**” means an estate in real property as described in *Civil Code* 4125(b) consisting of a separate fee simple interest in the space within a Unit, and an undivided fractional interest as a tenant in common in all or any portion of the Common Area.

Section 1.15 “**Condominium Building**” shall mean and refer to a separate residential building containing one or more Units.

Section 1.16 “**Condominium Lease**” shall mean that document utilized to convey to Owners the leasehold interest in a Condominium.

Section 1.17 “**Condominium Plan**” means any condominium plan and amendments recorded for any phase of the Project, pursuant to *Civil Code* Section 4285.

Section 1.18 “**County**” means the County of Riverside, State of California, and its various departments, divisions, employees and representatives.

Section 1.19 “**Declaration**” means this instrument, including all of the exhibits (all of which shall be deemed incorporated by reference), as the same may be amended from time to time.

Section 1.20 “**Deed of Trust**” or “**Trust Deed**” means a Mortgage or a Deed of Trust, as the case may be.

Section 1.21 “**Director**” means a natural person who serves on the Board.

Section 1.22 “**Eligible Mortgage Holder**” means and refers to a holder of a first Mortgage on a Condominium who has requested notice from the Association of those matters to which such holder is entitled by reason of this Declaration.

Section 1.23 “**Exclusive Use Common Area**” shall mean any portion of the Common Area designated by this Declaration and/or the Condominium Plan for the exclusive use of one or more, but fewer than all, of the Owners of the separate interests and which is appurtenant to the Unit and consists of Balconies and Patios. As set forth in the Condominium Plan, these Exclusive Use Common Area elements have specific boundaries. Therefore, the foregoing shall not be construed as determining maintenance responsibilities of the Owners and Association. The specific maintenance responsibilities are set forth in Article 10 of this Declaration.

Additionally, unless otherwise provided in this Declaration or on the Condominium Plan, any doorsteps, entryways, exterior doors, door frames and hardware, screens and windows or other fixtures designed to serve an individual Unit, but located outside the boundaries of the Unit, are Exclusive Use Common Area. Internal and exterior wiring designed to serve an individual Unit, are Exclusive Use Common Area. Appliances that solely serve a Unit and all equipment, including, but not limited to, pipes, wires, conduits, servicing such appliances are also Exclusive Use Common Area.

Section 1.24 “**General Delivery**” or “**General Notice**” means the delivery of documents or notification of information by the Association to the Owners through one or more of the methods set forth in Article 17, Section 17.1 of this Declaration and *Civil Code* Section 4045.

Section 1.25 “**Governing Documents**” is a collective term that means and refers to the Declaration, Articles, Bylaws, Rules and Regulations, Architectural Guidelines, Election Rules and any policies and procedures adopted by the Board.

Section 1.26 “**Individual Delivery**” or “**Individual Notice**” or means the delivery of documents or notification of information by the Association to the Owners through one of the methods set forth in Article 17, Section 17.2 of this Declaration and *Civil Code* Section 4040.

Section 1.27 “**Master Lease**” means the lease referred to in Recital (A) of this Declaration, and any duly adopted amendments, extensions, cancellation or termination of the Master Lease. “**Master Lessor**” or “**Lessor**” means the lessors of the real property described in Exhibit “A” to this Declaration, which is comprised of restricted Indian lands that are a part of the Agua Caliente (Palm Springs) Reservation situated in Riverside County, California. In the event of a conflict between this Declaration and the Master Lease, the Master Lease shall govern, so long as the Master Lease is in effect.

Section 1.28 “**Member**” means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Article 3, Section 3.2(D).

Section 1.29 “**Mortgage**” means any security device encumbering all or any portion of the Project, including any Deed of Trust. “**Mortgagee**” shall refer to the beneficiary of, or the holder of a note secured by a first Deed of Trust (Trust Deed) or, as the case may be, the Mortgagee under a first mortgage, and/or the assignee of such beneficiary, holder or Mortgagee.

Section 1.30 “**Officer**” means the President, Vice President, Secretary, Treasurer of the Association, or any subordinate Officers, as set forth in the Bylaws.

Section 1.31 “**Owner**” means any person, firm, corporation or other entity which holds a leasehold interest under the Master Lease or any lease between the Owner and the Lessor as set forth in the Master Lease (as recorded in the Official Records of the Office of the County Recorder) in a Condominium, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. “**Ownership**” means the acquisition of a leasehold interest of a Condominium, i.e., Condominium Lease.

Section 1.32 “**Project**” or “**Real Property**” means all parcels of real property (Common Area, Exclusive Use Common Area and Units) described and identified in Recital(A), together with all buildings, structures, utilities, Common Facilities, and all other Improvements, either currently included or installed in the future.

Section 1.33 “**Regular Assessment**” means an Assessment levied against an Owner and his or her Condominium in accordance with Article 5, Section 5.3.

Section 1.34 “**Reimbursement Assessment**” means an Assessment levied against an Owner and his or her Condominium in accordance with Article 5, Section 5.6.

Section 1.35 “**Rules and Regulations**” means the rules, regulations and policies adopted by the Board of the Association, pursuant to *Civil Code* Sections 4340 - 4370, and this Declaration, as the same may be in effect from time to time.

Section 1.36 “**Sale**” shall mean the sale, transfer, conveyance or assignment, for value, by an Owner of the leasehold interest in a Condominium to a contract purchaser.

Section 1.37 “**Secretary**” shall mean the Secretary of the Interior of the United States of America or his or her authorized representative.

Section 1.38 “**Special Assessment**” means an Assessment levied against an Owner and his or her Condominium in accordance with Article 5, Section 5.4.

Section 1.39 “**Unit**” means the elements of a Condominium that are not owned in common with the Owners of other Condominiums in the Project, such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration.

“Unit” does not include other interests in real property that are less than estates in real property, such as exclusive or non-exclusive easements. In interpreting deeds and plans, the existing physical boundaries of the Unit, or of a Unit reconstructed in substantial accordance with the original plan, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Declaration, in the Condominium Plan, in any deed, or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements.

The following are not part of any Unit: bearing walls, columns, floors, roofs, foundations, yard areas, garages, driveways, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, bearing walls, columns and girders to the unfinished surfaces thereof, regardless of location. The foregoing shall not be construed as determining maintenance responsibilities of the Owners and Association. The specific maintenance responsibilities are set forth in Article 9 of this Declaration.

Section 1.40 “**Voting Power**” means the number of Units eligible to vote at any election or vote of the Owners. Owner(s)’ voting privileges that have been suspended shall not be included into the Voting Power during the effective period of any such suspension.

ARTICLE 2

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 2.1 **Membership**. All Condominium Owners, by virtue of their Ownership of a Condominium, shall be a Member of the Association and shall be entitled to vote on all matters upon which Members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Articles and Bylaws which are incorporated. Membership shall be appurtenant to and may not be separated from Ownership of any Condominium. Each Member is obligated to promptly, fully and faithfully comply with and conform to the Governing Documents pertaining to the Association.

Section 2.2 **Voting Rights**. As more specifically set forth in the Bylaws, the Association has one (1) class of voting membership.

Section 2.3 **Transfer**. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the Sale of the Condominium to which it is appurtenant, and then only to the purchaser. The transfer of title to a Condominium or Sale of a Condominium and transfer of possession to the purchaser shall automatically transfer the membership appurtenant to such Condominium to the transferee. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in his or her name to the purchaser of such Condominium, the Association shall have the right to record the transfer upon the books of the Association.

Section 2.4 **Joint Owner Votes**. The vote for each Condominium shall be cast as a single vote, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Condominium, it will thereafter be conclusively presumed for all purposes that he, she or they were acting with the authority and consent of all other Owners of the same Condominium.

ARTICLE 3

PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

Section 3.1 **Elements of Condominium Ownership**. Ownership of each Condominium within the Project shall include a Unit, an undivided fractional interest in the Common Area as a tenant in common, which fraction shall have a numerator of one (1) and a denominator equal to the total number of Units within the applicable Condominium Plan. The undivided interest in the Common Area cannot be altered or changed as long as the prohibition against partition remains in effect as provided in Article 13 of this Declaration.

Section 3.2 **Owners' Nonexclusive Easements of Use**. Every Owner shall have a non-exclusive right and easement of use in and to the Common Area within the Project, including ingress and egress to and from his or her Unit, which shall be appurtenant to and shall pass with the title to every

Condominium, subject to the rights and restrictions set forth in the Association's Governing Documents, including, but not limited to the following:

(A) The right of the Association to limit the number of guests of Owners using the recreational areas of the Common Facilities;

(B) The right of the Association to limit the use of the recreational areas of the Common Facilities by Owners not in possession of a Unit;

(C) The right of the Board to adopt reasonable Rules and Regulations in accordance with the provisions of Article 4, Section 4.4(A) and California law;

(D) The right of the Board to temporarily suspend the voting rights and right to use the recreational portions of the Common Facilities by an Owner for any period during which any Assessments remain unpaid. In addition, the Association may suspend an Owner's right to use the recreational portions of the Common Facilities for any infraction of the Governing Documents by that Owner, his or her lessees, or guests. Any action to suspend an Owner's rights shall only be valid after notice has been provided to the Owner by personal delivery or Individual Delivery at least ten (10) days prior to the date of the Board meeting where such disciplinary action will be considered, in accordance with the provisions of the Governing Documents and *Civil Code* Section 5855. The notice shall contain, at a minimum, the following: the date, time, and place of the meeting, the nature of the alleged violation for which the Owner may be disciplined or the nature of the damage to the Common Area and Common Facilities for which a monetary charge may be imposed, and a statement that the Owner has a right to attend and may address the Board at the meeting.

If the Board decides to impose a penalty or suspension, written notice of the penalty or suspension shall be provided to the Owner by personal delivery or Individual Delivery within fifteen (15) days after the date of the hearing in accordance with *Civil Code* Section 5855;

(E) The right of the Board to grant licenses or easements on, over and under the Common Area to public utilities or governmental entities or agencies; provided that such easement shall not unreasonably interfere with the right of any Owner to the use and enjoyment of his or her Unit and the Common Area;

(F) Subject to the limitations set forth in Article 4, Section 4.6(D), the right of the Board to grant licenses or easements to individual Owners over the Common Area;

(G) The right of the Board to charge deposit fees and other administrative costs for use of the Common Facilities situated upon the Common Area; and

(H) Subject to the limitations set forth in Article 4, Section 4.6(A) of this Declaration, the right of the Board to borrow money for the purpose of improving the Common Area and to hypothecate any or all real or personal property owned by the Association.

Section 3.3 Exclusive Use Common Area. Each Exclusive Use Common Area Balcony and Patio shall be: (1) appurtenant to the Unit which bears the same number as the Exclusive Use Common Area as set forth on the Condominium Plan, and (2) used only for the purposes set forth in this Declaration. The right to use an Exclusive Use Common Area shall be exercisable only by the Owner(s) of the appurtenant Condominium and/or the Owner's tenants and licensee(s). Conveyance of a Condominium shall effect conveyance of appurtenant Exclusive Use Common Area and transfer all rights to the vested Owner of the Condominium. Any license(s) shall be terminated upon such conveyance. No Exclusive Use Common Area or any rights to such area (other than revocable licenses) shall be transferred or conveyed apart from conveyance of the Condominium to which it is appurtenant. Each Exclusive Use Common Area shall be deemed to be Common Area for the purposes set forth in this Declaration which are not inconsistent with this Article.

Section 3.4 Encroachment Easements. The Owner of each Condominium is hereby granted an easement over all adjoining Units and the Common Area for the purpose of accommodating any minor encroachments due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be easements for the maintenance of such encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by such encroachments, settlement or shifting, provided, however, that in no event shall an easement for encroachment be created in favor of any Owner if such encroachment occurred due to the willful misconduct of an Owner. In the event any portion of a structure on the property is partially or totally destroyed and then repaired or rebuilt, each Owner agrees that minor encroachments over adjoining Common Area shall be an easement for the maintenance of such encroachments so long as they shall exist.

Section 3.5 Persons Subject to Governing Documents. All present and future Owners, tenants and occupants of Condominiums within the Project shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of Condominium Lease, the entering into a contract of Sale, lease, sublease or assignment with respect to any Condominium, or the occupancy of any Condominium shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of the Governing Documents shall be binding upon such person and that such person will observe and comply with the Governing Documents. The Owners hereby delegate and assign to the Association, acting through the Board, the power and authority of enforcement against the tenant for breaches resulting from the violation of the Governing Documents, including the power and authority to evict the tenant on behalf of and for the benefit of the Owner, in accordance with the terms of this Declaration.

Section 3.6 Waiver of Use. No Owner may exempt himself from personal liability for Assessments duly levied by the Association, nor release the Condominium owned by him or her from the liens, charges and other provisions of the Governing Documents, by waiver of the use and enjoyment of the Common Area or the abandonment of his or her Condominium.

Section 3.7 Obligations of Owners. Owners of Condominiums within the Project shall be subject to the following:

(A) Owner's Duty to Notify Association of Tenants and Contract Purchasers. Each Owner shall notify the Secretary of the Association or the Association's property manager, if any, of the names of any contract purchaser of a Condominium Lease, or tenant of the Owner's Condominium. Each Owner, contract purchaser, or tenant shall also notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights to use and enjoy the Project.

(B) Payment of Assessments and Compliance With Rules. Each Owner shall pay when due each Regular, Special and Reimbursement Assessment levied against the Owner and his or her Condominium and shall observe, comply with and abide by any and all Rules and Regulations set forth in, or promulgated by the Association pursuant to any Governing Document for the purpose of protecting the interests of all Owners or protecting the Common Area and Common Facilities.

(C) Discharge of Assessment Liens. Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Condominium.

(D) Joint Ownership of Condominiums. In the event of joint Ownership of any Condominium, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subsection shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

(E) Termination of Obligations. Upon the Sale, conveyance, assignment or other transfer of a Condominium to a new Owner, the transferor-Owner shall not be liable for any Assessments due after the date of recording of the deed evidencing such transfer and, upon such recording, all Association membership rights possessed by the transferor by virtue of the Ownership of such Condominium shall cease.

Section 3.8 Delegation of Use. Any Owner may delegate his or her rights of enjoyment in the Project, including the Common Area and Common Facilities, to the members of his or her family, guests, and invitees, and to such other persons as may be permitted by the Governing Documents and the Association Rules and Regulations. Neither an Owner of a Unit who has sold the Ownership of the Condominium, or has leased or rented same, nor members of his or her family, guests and invitees shall be entitled to use and enjoy the recreational areas of the Common Area while such Owner's Unit is occupied by such contract purchaser, lessee or renter. As specifically set forth in Article 8 of this Declaration, each Owner shall notify the Association of the names of any contract purchaser, lessees or renters of such Owner's Unit. Any rights of enjoyment delegated pursuant to this Section are subject to suspension to the same extent to which the rights of the Owners are subject.

Section 3.9 Interest in Common Area. No Owner may assign, lease or convey his or her interest in the Common Area, separate and apart from his or her Unit.

ARTICLE 4

POWERS AND DUTIES OF THE ASSOCIATION

Section 4.1 Directors' Standard of Care; Limitation of Liability. Each Director shall perform his or her duties as a Director, including duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In performing the duties of a Director, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

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

(B) Counsel, independent accountants or other persons as to matters which the Director reasonably believes to be within such person's professional or expert competence;

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

A person who performs the duties of a Director in accordance with the foregoing, shall have no liability based upon any failure or alleged failure to discharge the person's obligations as a Director.

In discharging their duties and responsibilities, the Board, committee members and Officers act on behalf of and as representative of the Association, which acts on behalf of and as representative of the Owners, and no member of the Board shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he or she fails to act in the manner set forth in this Section.

Section 4.2 Conflict of Interest. A Director or committee member shall not vote on any of the following matters:

(A) Discipline of the Director or committee member;

(B) An Assessment against the Director or committee member for damage to the Common Area or Common Facilities;

(C) A request, by the Director or committee member, for a payment plan for overdue Assessments;

(D) A decision whether to foreclose on a lien on the Condominium of the Director or committee member;

(E) Review of a proposed physical change to the Condominium of the Director or committee member; or

(F) Granting a portion of the Common Area to the Director or committee member for his or her exclusive use.

Section 4.3 Management and Control. The Association shall have all those duties and powers set forth in the Governing Documents of the Association or permitted pursuant to the provisions of the *Corporations Code* for nonprofit mutual benefit corporations. All such duties and powers shall be subject to any specific limitations set forth in the Governing Documents. All such duties and powers shall be exercised by the Board unless specifically reserved to the Owners. The Board shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Project subject only to such limitations on the exercise of such powers as are set forth in the Governing Documents.

The Board shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under California law and the Governing Documents, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association.

Section 4.4 Powers of the Board. In addition to the general powers set forth above, the Board shall have the following specific powers:

(A) **Rule-Making Power.** Subject to the provisions of the Governing Documents and California law, the Board shall have the right to adopt reasonable Rules and Regulations and to amend the same from time to time relating to the use of the Common Area and Units, and all other facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to vehicle parking, outside storage, disposal of waste materials, drying of laundry, control of pets and other activities reasonably contemplated under the Association's Governing Documents. The Rules and Regulations may include the establishment of a system of fines and penalties.

So long as required by *Civil Code* Sections 4340 - 4370, at least thirty (30) days prior to adopting, amending or repealing rules that relate to use of the Common Area, Units, member discipline (including monetary penalties for violation of the Governing Documents), delinquent Assessment payment plans, and procedures regarding resolution of Assessment disputes, the Board shall provide the Owners of the proposed Rule change by General Notice. This notice shall include the text of the proposed Rule change and a description of the purpose and effect of such proposed Rule change. The Rules and Regulations may be amended only by the vote of a majority of the entire Board at a duly held meeting after consideration of any comments made by the Owners. Within fifteen (15) days after making any rule change, the Board shall deliver General Notice of the Rule change to every Owner.

The requirement that Owners be sent General Notice of proposed Rule changes does not apply to any Rule change that the Board determines is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the Association. A copy of such Rules and Regulations shall be:

(1) Maintained in the office of the Association and be available for inspection at all reasonable times; and

(2) Given to each Owner within a reasonable time after the Association has notice of his or her occupancy of a Unit.

Upon completion of the above notice requirements, the Rules and Regulations shall have the same force and effect as if they were set out in this Declaration.

(B) Enforcement Power. As more specifically set forth in Article 15 of this Declaration, the Board shall have the power, but not the obligation, to enforce the Governing Documents by the imposition of reasonable monetary fines, levy of Reimbursement Assessments for costs incurred in compelling compliance with the Association's Governing Documents, and suspension of the Owners' right to use Common Facilities and voting privileges. These powers, however, shall not be construed as limiting any other legal means of enforcing such provisions. Any fines and/or Reimbursement Assessments so imposed shall be considered an Assessment against the Condominium and may be collected in the manner provided for collection of other Assessments, except that fines shall not be recoverable through the imposition of a lien against the Owner's Condominium enforceable through foreclosure, but the same may be recovered by the Association through other legal processes.

(C) Delegation of Powers; Professional Management. To delegate the management of the activities of the Association to any person or persons, management company or committee, however imposed, provided that the affairs of the Association shall be managed and all Association powers shall be exercised under the ultimate discretion of the Board.

(D) Selection of Officers. To select and remove all the Officers, committee members, agents and employees of the Association, prescribe such powers and duties for them as may be consistent with law and the Governing Documents.

(E) Vacancies. To fill vacancies on the Board or on any committee, except a vacancy created by the removal of a Director by a vote of the Owners.

(F) Bank Accounts. To open bank accounts on behalf of the Association and designate the signatories to such bank accounts.

(G) Acquire and Dispose of Property. The Board shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the

Association. The Board's ability to sell property is subject to the limitations set forth in Section 4.6(C) of this Article.

(H) Grant Permits, Licenses or Easements. The Board may grant permits, licenses, utility easements, and other easements, necessary for the proper maintenance or operation of the Project under, through, or over the common elements, as may be reasonably necessary to or desirable for the ongoing development and operation of the Project.

(I) Borrowing Money. Subject to the limitations set forth in Section 4.6(A) of this Article, the Board may borrow money for the purposes of Improvement or restoration of the Common Area and Common Facilities.

(J) Legal Action. To institute, prosecute, defend, settle or intervene in proceedings in the name of the Association, any action affecting or relating to the Common Area or Common Facilities, or any action in which the Owners and/or the Association have an interest.

Section 4.5 Duties of the Association. In addition to the powers delegated to it by its governing documents, and without limiting their generality, the Association, acting by and through the Board and its agents, has the obligation to conduct all business affairs of common interest for all Owners and to cause to be performed each of the duties set forth below:

(A) Maintenance of Common Area. As more specifically set forth in Article 9 of this Declaration, the Board shall maintain in good repair all Common Area structures, Improvements and appurtenances. The Board shall have the power to contract for and pay for maintenance, landscaping, utilities, materials, supplies, labor and services that may be required from time to time in relation to the Common Area and other portions of the Project which the Association is obligated to maintain. The Board has the power to remove any Common Area structures, Improvements and appurtenances it deems necessary in furtherance of its duties under this Declaration.

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

(C) Utilities and Services. The Association shall provide water, sewer, gas, electric, refuse collection, janitorial and gardening service for the Common Area, refuse service to all Units, and may make water, sewer, electrical service, cable T.V. service and such other utilities, as the Board may determine, available to all Units. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units.

(D) Provide Insurance. The Board shall secure and maintain policies of insurance, as more particularly provided in Article 10 of this Declaration.

(E) Assessments. The Board shall establish, fix, and levy Assessments against the Owners and to enforce payment of such Assessments, in accordance with the provisions of the Declaration.

(F) Annual Budget Report, Financial Statements and Assessment and Reserve Funding Disclosure Summary. The Board shall prepare Annual Budget Reports, financial statements and assessment and reserve funding disclosure summaries for the Association as provided in Article 10 of the Bylaws and as required by *Civil Code* Sections 5300, 5305, and 5570.

(G) Distribute Documents and Perform Other Duties. The Board shall prepare and distribute to the Owners documents as provided in the Article 10 of the Bylaws and as required by *Civil Code* Sections 4530, 5300, 5305, 5310, and 5810, and to perform other duties as required by *Civil Code* Sections 5500 and 5550.

Section 4.6 Limitations on Authority of Board. The Board shall not take any of the actions listed below except with the vote or written consent of a majority of the Voting Power of the Owners of the Association:

(A) Borrowing Money. Borrow money and incur indebtedness for the purposes of the Association in excess of the aggregate sum of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(B) Capital Improvements. Make expenditures for capital improvements for the Association in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. For purposes of the Governing Documents, the term “capital improvement” means those items or elements which are new to the Project.

(C) Sell Property. Except as provided in subsection (D) of this Section, sell property of the Association in excess of or having a fair market value in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(D) Convey Property. Convey, sell or grant easements, licenses and/or permits to Owners to use the Common Area with a value of more than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. For purposes of *Civil Code* Section 4600, the affirmative vote of zero percent (0%) of the Owners is required for the Board to convey, sell or grant exclusive use of any portion of the Common Area to any Owner if the value of such portion of the Common Area is less than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. Notwithstanding the provisions of this section, the Board shall not be obligated to obtain a vote of the Owners if any of the exceptions contained in *Civil Code* Section 4600(b) apply to any conveyance, sale or grant of easement, license and/or permit.

(E) Compliance with Bureau of Indian Affairs. The Association, as successor Lessee under the Master Lease, is required to comply with the terms and conditions of the Master Lease for so long as such document remains in effect. Upon cancellation or termination of the Master Lease,

the Association shall comply with such successor document or requirements as may be imposed by the Secretary.

Section 4.7 Limit on Third Person Contracts. The Board shall not, without obtaining the consent of a majority of the Voting Power of the Owners, enter into contracts with third persons for the furnishing of goods or services for the Common Area of the Association for a term longer than one (1) year, with the following exceptions:

(A) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(B) A prepaid casualty and/or liability insurance policy not to exceed three (3) years duration; provided that the policy permits for short-rate cancellation by the insured; and

(C) Payment of any taxes and governmental special assessments which are and could become a lien on any portion of the Common Area.

Section 4.8 Management Agreements. Any agreement for the management of the Project shall contain the following provisions:

(A) Be terminable by the Association without cause or payment of a termination fee upon thirty (30) days written notice;

(B) Be for a term not in excess of one (1) year; and

(C) Any renewal by agreement of the parties for successive terms shall not exceed more than one (1) year.

Section 4.9 Limited Right of Entry.

(A) For any purposes reasonably related to the performance by the Board of its duties, powers or responsibilities under the Governing Documents, including but not limited to constructing, maintaining and repairing the Common Area and Condominium Building, enforcing the Governing Documents, or making necessary repairs that an Owner has failed to perform, the Association's Officers, agents or employees, managers, contractors, insurers, and vendors, shall have the right, after reasonable notice to Owner(s), to enter any Unit and/or Exclusive Use Common Area during reasonable hours. Owners shall have no right to directly or indirectly impede, hinder, prevent, or delay access by the Association for such purposes. Work may be performed by the Association through its agents or employees, managers, contractors, insurers, vendors, or any other third party under such circumstances whether or not the Owner is present.

(B) In addition to, and not in limitation of, all other rights, the Association may enter into Units and Exclusive Use Common Area without prior notice to the Owner where the Board in its sole discretion determines entry is necessary or appropriate for emergency, security, or safety

purposes. Owners shall provide keys and contact information in writing to the Association so as to facilitate access in the event the Association determines immediate entry is warranted. This right may be exercised by the Association's Board, Officers, agents, employees, managers, contractors, insurers and vendors, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. In a situation where it is determined that immediate entry is necessary or appropriate, if practicable, prior to entering the Unit, or Exclusive Use Common Area, a reasonable attempt will be made to notify the occupant and the Owner of the Unit of the Association's need and intent to enter the Unit and/or Exclusive Use Common Area. The Board has the right to determine, in its sole discretion, that immediate entry is not warranted, upon which the Owner shall be responsible to provide access to and/or inspect his or her Unit and/or Exclusive Use Common Area to determine whether any repair or maintenance is required.

(C) When there is an entry into any Unit or Exclusive Use Common Area, such entry shall be made with as little inconvenience to the occupant as possible. The Association or its agents shall not be deemed guilty of trespass by reason of any entry into any Unit or Exclusive Use Common Area pursuant to the provisions of this Section.

(D) The Association is responsible for providing notices under this Section only to the Owner. The Owner is responsible for notifying the occupants, residents and/or tenants living in Owner's Unit of any notice received from the Association pursuant to this Section.

ARTICLE 5

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 5.1 Assessments Generally.

(A) Purpose of Assessment. The Assessments for Common Expenses provided for in this Article shall be used for the general purpose of the preservation and proper operation of the Project and for promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and/or occupants of Condominiums in the Project as may be more specifically authorized from time to time by the Board.

(B) No Avoidance of Assessment Obligations. No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Condominium or other property owned by him or her from such liens and charges, by waiver of the use and enjoyment of the Common Area or Common Facilities thereon or by abandonment or non-use of his or her Condominium or any other portion of the Project or due to the Association's failure to perform services.

Section 5.2 Creation of Lien and Personal Obligation for Assessments. Each Owner of any Condominium, by acceptance of a deed, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay the Association: (1) Regular Assessments; (2) Special Assessments, to be established and collected as provided; and (3) Reimbursement

Assessments against any particular Condominium which are established pursuant to the terms of the Association's Governing Documents.

(A) All such Assessments, together with late charges, interest, costs, and all attorney's fees reasonably incurred, as provided in this Declaration and in the maximum amount permitted by the laws of the State of California, whichever is greater, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each Assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the Assessment fell due or was levied. Each Owner of a Condominium shall be jointly and severally liable for the entire Assessment coming due while he or she is the Owner of a Condominium. Unless otherwise stated in the Association's policy with respect to collection of Assessments, Assessments shall be considered delinquent if not received by the fifteenth (15th) day of the month in which they are due.

(B) Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided, the Regular Assessments shall be paid in monthly installments due on the first day of each calendar month.

(C) The personal obligation shall not pass to an Owner's bona fide and for value successors in title unless expressly assumed by them.

(D) Any Assessment not paid within thirty (30) days after the date due shall bear interest from the date due at the rate of twelve percent (12%) per annum or any other amount provided for under California law, whichever is greater.

Section 5.3 Regular Assessments.

(A) Establishment of Regular Assessments. The total annual expenses estimated in the Association's Annual Budget Report (less projected income from sources other than Assessments) shall be a guide to establishing the aggregate Regular Assessment for the next succeeding fiscal year, provided that, except as provided in subparagraph (C) below, the Board may not impose a Regular Assessment that is more than twenty percent (20%) greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association. For purposes of this Section, "quorum" means more than fifty-percent (50%) of the Owners of the Association.

(B) Mailing Notice of Assessment. The Board shall provide Individual Notice to each Owner at the street address of the Owner's Unit, or at such other address as the Owner may from time to time designate in writing to the Association, a statement of the amount of the Regular Assessment for the next succeeding fiscal year no less than thirty (30) days nor more than ninety (90) days prior to the beginning of the next fiscal year.

(C) Failure to Make Estimate. If, for any reason, the Board fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding

fiscal year, together with any Special Assessment made pursuant to Article 5, Section 5.4 for that year, shall be assessed against each Owner and his or her Condominium on account of the then current fiscal year and the Assessments shall be payable on the regular payment dates established by the Association.

(D) Ability to Change Assessments. The Board may increase the amount of Assessments at any time upon not less than thirty (30) nor more than sixty (60) days prior written Individual Notice to the Owners, subject to the limitations set forth in Section 5.3(A).

Section 5.4 Special Assessments.

(A) In addition to the Regular Assessments, authorized above, the Board may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any capital improvement to the Common Area or such other purpose as may be determined by the Board; provided, however, that no Special Assessment shall exceed, in the aggregate during any fiscal year of the Association, an amount equal to five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of Owners, constituting a quorum, casting a majority of the votes at any meeting or election of the Association. For purposes of this Section, “quorum” shall constitute a majority of Owners. All such Special Assessments shall be levied upon each Lot in the same proportion as Regular Assessments are levied.

(B) Ability to Change Special Assessments. The Board may increase the amount of Special Assessments at any time upon not less than thirty (30) nor more than sixty (60) days prior written Individual Notice to the Owners, subject to the limitations in Section 5.4(A).

Section 5.5 Assessments to Address Emergency Situations. The requirement of a membership vote to approve Regular Assessment increases in excess of twenty percent (20%) of the previous year’s Regular Assessment and Special Assessments in an amount exceeding five percent (5%) of the budgeted gross expenses of the Association for that fiscal year shall not apply to Assessment increases necessary to address emergency situations. For purposes of this subparagraph (A), an emergency situation is any of the following:

(A) An extraordinary expense required by an order of a court;

(B) An extraordinary expense necessary to repair or maintain the Common Area, Common Facilities or any portion of the Units which the Association is obligated to maintain where a threat to personal safety is discovered; or

(C) An extraordinary expense necessary to repair or maintain the Common Area, Common Facilities or any portion of the Units which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing the Annual Budget Report pursuant to Section 5.3(A) above, provided that, prior to the imposition or collection of an Assessment under this paragraph, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have

been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Owners together with the notice of Assessment.

Section 5.6 Reimbursement Assessments.

(A) Circumstances Giving Rise to Reimbursement Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 5.4, above, the Board may impose Reimbursement Assessments against an Owner in any of the circumstances described, without limitation, in Subparagraphs (1) through (4) below, provided that no Reimbursement Assessment may be imposed against an Owner pursuant to this Section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to the Declaration and *Civil Code* Section 5855, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Reimbursement Assessments include the following:

(1) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities, including any portion of the Unit which the Association is obligated to repair and maintain is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Reimbursement Assessment.

(2) Expenses Incurred in Gaining Membership Compliance. In the event that the Association incurs any costs or expenses, to accomplish (a) the payment of delinquent Assessments, (b) any repair, maintenance or replacement to any portion of the Project that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion, or (c) to otherwise bring the Owner and/or his or her Condominium into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable costs imposed hereunder, title company fees, accounting fees, court costs and reasonable attorney's fees) shall be assessed and charged solely to and against such Owner as a Reimbursement Assessment.

(3) Required Maintenance on Units. If any Unit is maintained so as to become a nuisance, fire or safety hazard for any reason, including without limitation, the accumulation of trash or hazardous material, the Association shall have the right to enter the Unit, correct the offensive or hazardous condition and recover the cost of such action through imposition of a Reimbursement Assessment against the offending Owner.

(4) Unpaid Fines, Fees or other Charges. If an Owner does not pay any other fee or charge duly levied against him or her within thirty (30) days after the Board has notified the Owner of the fine, then the Board shall have the right to levy a Reimbursement Assessment against such Owner. Unless expressly permitted under California law, any lien against the Owner's Condominium for nonpayment of a Reimbursement Assessment levied

pursuant to this subsection (4) shall not be enforceable by nonjudicial foreclosure of the Condominium.

(B) Levy of Reimbursement Assessment and Payment. Once a Reimbursement Assessment has been levied against an Owner for any reason described in the Governing Documents, and subject to the conditions imposed, Individual Notice shall be mailed to the affected Owner and the Reimbursement Assessment shall thereafter be due and payable in full to the Association within thirty (30) days after the mailing of notice of the Assessment. The Reimbursement Assessment may be collected in the same manner as Regular and Special Assessments as allowed by California law.

Section 5.7 Notice/Certificate. Annual written notice of an Assessment shall be given to every Owner with the Annual Budget Report and Annual Policy Statement prepared pursuant to Article 10 of the Bylaws and *Civil Code* Sections 5300, et. seq. Assessments may be collected on a monthly basis or otherwise as determined by the Board. The Association shall, upon demand and for a reasonable charge, furnish the Owner, or designated representative, with a certificate signed by an Officer or other agent of the Association setting forth whether the Assessments of a specified Condominium have been paid.

Section 5.8 Exemption of Certain Properties From Assessments. The following real property subject to this Declaration shall, unless devoted to use as a residential dwelling, be exempted from the Assessments and the lien provided in this Article:

- (A) Any portion of the Project dedicated and accepted by a local public authority;
- (B) The Common Area and Common Facilities; and
- (C) Any Condominium owned by the Association.

Section 5.9 Remedies of the Association for Non-Payment of Assessments. The Association shall have the power to impose Assessments as provided in these Governing Documents. Such Assessments are the personal obligation of the Owner against whom they are assessed and constitute a lien against that Condominium. The Association shall have the authority to initiate a lawsuit and/or create and enforce the lien with a power of sale on each separate Condominium (including the Unit and Improvements) to secure payment of the amount of any Assessment, to the full extent permitted by applicable law. The obligation and the lien for Assessments may also include the following:

- (A) A late or delinquency charge in the amount of the greater of ten dollars (\$10.00) or ten percent (10%), or such higher amount as may be authorized by the laws of the State of California, of the amount of each Regular Assessment or lump sum or installment payment of any Special Assessment or Reimbursement Assessment not paid when due;
- (B) Interest on each Assessment or installment not paid when due and on any delinquency fee or late charge from the date the charge was first due and payable at the rate of twelve percent

(12%) per annum, or such higher rate as may be authorized by the laws of the State of California; and

(C) Costs of collection, including court costs, the expenses of sale, any expense required for the protection and preservation of the Condominium, and reasonable attorneys' fees actually incurred; and the fair rental value of the Condominium from the time of institution of suit until the sale at foreclosure or other satisfaction of any judgment.

Section 5.10 Effect of Non-Payment of Assessments.

(A) At any time after any Assessments levied by the Association affecting any Condominium have become delinquent, and the Association has complied with the pre-lien requirements set forth in *Civil Code* Sections 5660, 5670, and 5673, the Association, upon a vote of a majority of the Board made at an open Board meeting, may file for recording in the Office of the Riverside County Recorder a lien upon the Condominium, pursuant to *Civil Code* Section 5675, which lien shall also secure all other payments and/or Assessments which shall become due and payable with respect to the Condominium following such recording, and all costs (including attorneys' fees), penalties and interest accruing thereon. The lien shall continue until all amounts secured thereby are fully paid or otherwise satisfied.

(B) In the event the delinquent Assessments and all other Assessments which have become due and payable with respect to the same Condominium, together with all costs (including attorney's fees) and interest which have accrued on such amounts, are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien.

Section 5.11 Foreclosure of Assessment Lien. Each Assessment lien may be foreclosed upon as and in the same manner as the foreclosure of a Mortgage upon real property under California laws, or may be enforced by sale pursuant to *Civil Code* Sections 2924, et. seq., and Sections 5705 et seq., of the *Civil Code*, and to that end a power of sale is hereby conferred upon the Association. Suit to recover a money judgment for unpaid Assessments, late fees, interest, attorney's fees and rent shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5.12 Subordination of Lien. The lien of the Assessments shall be subordinate to the lien of any First Mortgage of record made in good faith and for value upon any Condominium, provided that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such First Mortgage. Otherwise, sale or transfer of any Condominium shall not affect the Assessment lien.

Section 5.13 Assignment of Rents. Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or agreement or otherwise for the use or occupation of any or all parts of any Unit owned by the Owner, now existing or hereafter made for the purpose of

collecting all Assessments due the Association pursuant to this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or agreement as they become due and payable, provided that the Association at its sole discretion, may revoke such authority at any time, upon written Individual Notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may collect and retain such rental monies, whether past due and unpaid or current. The Association's rights under this Section shall be subordinate to the rights of any First Mortgagee. Any attempt to collect rents under this Section shall be done after the Owner of the Condominium has been given written Individual Notice and an opportunity to be heard by the Board in accordance with the Governing Documents and current California law.

Section 5.14 Waiver of Exemptions. Each Owner does hereby waive, to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption laws of the State of California in effect at the time any Assessment, or installment, becomes delinquent or any lien is imposed pursuant to the terms of the Governing Documents.

Section 5.15 Uniform Rate of Assessments. Except as otherwise specifically provided in the this Declaration, Regular and Special Assessments, other than Reimbursement Assessments, must be fixed at a uniform rate for all Condominiums.

ARTICLE 6

USE RESTRICTIONS

Section 6.1 Single Family Residential Occupancy/Use.

(A) **Single Family Occupancy.** The Units within the Project are restricted exclusively to residential use, and no Unit shall be occupied by more than a single-family. The term "family" shall be defined in accordance with applicable Federal and California laws, City codes and ordinances. Occupancy and use of a Unit for dwelling purposes shall be in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy residential dwellings.

"Occupancy," for purposes of this Declaration, shall be defined as staying overnight in a Unit for a total of more than sixty (60) days, either consecutive or non-consecutive days, in any one (1) year.

(B) **Residential Use.** Each Unit shall be used for residential purposes. Legal trade or business may be conducted in or from a Unit so long as there is no external evidence of such business and the business use is incidental to the primary purpose of the Units as single family private residences. The Board may establish guidelines in the Rules and Regulations to allow certain home occupations which: (a) are consistent and compatible with the typical residential use of the Project; (b) do not have any detrimental effect on neighboring Units or the Project; (c) are not apparent or detectable from outside the Unit; (d) are in conformance with all applicable governmental ordinances; and (e) which confirm to such other requirements set forth in the Rules

and Regulations. The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary or generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an on-going basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefor.

(C) Lessee/Tenant Bound by Governing Documents. As more particularly set forth in Article 8, each Owner shall have the right to lease his or her Unit and interest in the Common Area together, provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of the Governing Documents.

(D) No camping, whether temporary or permanent, and no temporary structures of any kind shall be permitted on any part of the Project.

(E) Except as authorized, in writing, by the Board, no drilling, refining, quarrying or mining operations of any kind shall be permitted upon the Project.

Section 6.2 Pets.

(A) No more than a reasonable number of pets, as determined by the Board in the Rules may be kept in any Unit. No other animals, livestock, or poultry of any kind shall be raised, bred, or kept on any part of the Project. Pets may be kept provided that they do not endanger or unreasonably threaten the physical or emotional well being of the Owner of any Condominium or any resident. No pet, regardless of size or type, shall be permitted to be kept within any portion of the Project property if it makes excessive noise, creates a nuisance, or otherwise constitutes an annoyance to residents or damages property. Furthermore, each pet owner must immediately clean up after their pet in the Common Area. All dogs must be kept on a leash within the Common Area and under the control of a person capable of controlling the animal.

(B) The keeping of pets and their ingress, egress, and travel upon the Common Area shall be subject to such Rules and Regulations as may be issued by the Board. If an Owner or occupant fails to abide by the Rules and Regulations and/or covenants applicable to pets, the Board may restrict or bar the pet(s) of the Owner or occupant from the Project and/or from use of or travel upon the Common Area.

(C) Any pet which is allowed to unreasonably threaten the physical or emotional well being of any Owner or resident of a Condominium or which is allowed to create a nuisance or disturbance or cause damage to property as may be determined at the sole discretion of the Board, must be permanently removed from the Project. Except in an emergency situation warranting an application for the issuance of a temporary restraining order or preliminary injunction, prior to requiring the permanent removal of a pet, the Owner of the Condominium shall be provided with Individual Notice and an opportunity to be heard by the Board.

Section 6.3 Signs, Flags and Banners.

(A) Commercial Signs. Except as may be required by legal proceedings or authorized by the Association’s Rules, no commercial signs, billboards, real estate flags or advertising of any kind shall be maintained or permitted on any portion of the Project without the prior written approval of the Board, except for one (1) “For Sale” or “For Rent” sign per Unit, not larger than 18-inches by 24-inches.

(B) Non-Commercial Signs, Flags and Banners. Non-commercial signs, flags and banners may be displayed in accordance with current California law and the Association’s Rules and Regulations.

(C) Common Area. No signs shall be erected or displayed on the Common Area, except signs placed by authority of the Board. The Board, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on the Common Area.

Section 6.4 Antennas and Similar Devices. Antennas and satellite dishes that are one (1) meter or less in diameter may be placed within an Owner’s Unit or his or her Exclusive Use Common Area without approval of the Board. However, no such antennas or satellite dishes may be installed on the Common Area, including attaching them to roofs and sides of buildings, without prior written approval of the Board. The Board may require reasonable screening, establish preferred locations, and impose other restrictions as permitted by applicable federal and state law, provided they do not preclude an acceptable signal or unreasonably increase the cost or cause unreasonable delay in the installation of same. These restrictions are subject to change based on federal and state law.

Section 6.5 Vehicles, Parking and Parking Structure. Automobiles must be parked properly within the Project to ensure the following objectives: (1) access to Units by emergency vehicles; (2) adequate parking for visitors; (3) pedestrian and vehicle safety; and (4) preserving the aesthetic quality of Project. The Board may establish Rules and administrative bodies in order to serve those objectives. The following specific restrictions shall apply:

(A) One (1) covered parking space within the Common Area parking structure shall be assigned to each Unit. The Association shall maintain a list of the assigned parking spaces in its records.

(B) Parking spaces shall not be used for storage purposes so as to prevent vehicles from being parked in such space.

(C) No trailer, camper, mobilehome, commercial vehicle, truck (other than standard size pickup truck), inoperable vehicle, boat or similar equipment or vehicle shall be permitted to remain upon any area within the Project, other than temporarily (not exceeding two (2) hours) for the purpose of loading or unloading. Commercial vehicles shall not include sedans or standard size pickup trucks or sport utility vehicles which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board.

(D) Vehicles which have severe dilapidation or other deterioration on the exterior or are in disrepair, inoperable, unlicensed, or vehicles leaking fluids shall not be permitted to park in the Project.

(E) All vehicles operated within the Project shall be operated in a safe manner at a speed not to exceed ten (10) miles per hour on the private drives and not to exceed five (5) miles per hour in the Common Area parking structure

(F) No one other than the Owner of the Unit to which a particular parking space has been assigned (except for persons authorized by such Owner) shall use such parking space. In the event additional parking spaces are added to the Common Area, such parking spaces may be assigned to individual Owners for their exclusive use, in the sole discretion of the Board, as allowed by California law. Parking spaces that have been assigned shall be subject to such terms and conditions as established by the Board, including, without limitation, the right to revoke and/or suspend parking privileges as set forth in this Declaration.

(G) The Board may adopt rules for special use of parking spaces normally reserved for guests (including the right to rent guest parking spaces to Owners), and place reasonable restrictions on the types, condition, and appearance of vehicles that may park in the Common Area.

Section 6.6 Impairment of Units and Easements; Structural Alterations.

(A) An Owner or occupant shall not perform nor commence any work that will impair the structural soundness or integrity or the mechanical systems of another Unit, Common Area or impair any easement, nor do any act nor allow any condition to exist which will adversely affect the other Units or their Owners or occupants. No structural alterations to the interior of any Unit shall be made and no plumbing or electrical work within any bearing or common walls shall be made by any Owner without the prior written consent of the Association.

(B) Nothing shall be done within any Unit, or in, on, or to the Common Area which may impair the structural integrity of any building, or which would structurally change any building. Except as otherwise provided in the Governing Documents, nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Board or an Architectural Committee appointed by the Board.

Section 6.7 Rubbish, Trash, and Garbage. All rubbish, trash and garbage shall be regularly removed from the Unit, and shall not be allowed to accumulate outside of any Unit. Trash, garbage, or other waste, including, receptacles for such trash, garbage and waste, shall not be stored on Balconies or Patios at any time. Owners shall not permit or cause any trash or refuse to be kept on any portion of the Project other than in the Common Area dumpsters and receptacles customarily used therefor. All equipment, garbage cans, wood piles or storage piles shall be kept screened and concealed from view of neighboring Units, private drives and Common Area.

Section 6.8 Nuisance.

(A) No noxious, illegal, or materially offensive activities shall be carried out or conducted within any Unit, Exclusive Use Common Area, Common Area or in any part of the Project, nor shall anything be done within the Project which shall unreasonably interfere with any other residents' right to quiet enjoyment. No Owner or occupant of a Unit may use or allow the use of the Unit or any portion of the Unit in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or occupants of a portion of the Unit; or act in such a way as to constitute, in the sole opinion of the Board, a nuisance. Nothing in this Section, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually against another Owner and/or resident for relief from interference with his or her property or personal rights.

Section 6.9 Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including without limitations, the assembly and/or disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Unit nor on or within any part of the Project which unreasonably interferes with the Common Area. The door to each garage and all gates or other doors to any patio or service areas, enclosures or fences on any part of the Project shall be kept closed at all times when not in use.

Section 6.10 Dangerous Use of Units. No Condominium shall be occupied or used for any purpose or in any manner which shall cause such Condominium to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any such policy or policies representing such insurance to be canceled or suspended, or the company issuing the same to refuse renewal.

Section 6.11 Responsibility for Damage to the Project. Each Owner shall be liable to the Association for all damages to the Common Area or any area in which the Association has the maintenance obligation, including but not limited to the buildings, Common Facilities and landscaping caused by any action, including without limitation, tortious acts by such Owner, his or her licensee(s) or any occupant of such Owner's Condominium. In the event, after written request by the Board, the Owner fails to pay the Association for the damage caused by the Owner, his or her licensee(s) or any occupant of such Owner's Condominium as such liability may be determined under California law, the Board, by majority vote, may impose a Reimbursement Assessment against the Owner in the same manner and with the same remedies as previously described in the Governing Documents.

Section 6.12 Use of Common Area. Except as otherwise provided in the Governing Documents, the Common Area shall be improved and used only for the following purposes:

(A) Affording vehicular passage and pedestrian movement within the Project property, including access to the Units and garages;

(B) Recreational use by the Owners and occupants of Units in the Project and their guests, subject to rules established by the Board;

(C) Beautification of the Common Area and providing privacy to the residents of the Project through landscaping and such other means as the Board shall deem appropriate;

(D) Parking of automotive passenger vehicles in areas provided therefor as may be designated and approved by the Board, upon such terms and conditions and for such fees as may from time to time be determined by the Board;

(E) No part of the Common Area shall be obstructed so as to interfere with the use for the permitted purposes, nor shall any part of the Common Area be used for storage purposes (except as incidental to one of such permitted uses or for storage of maintenance equipment used exclusively to maintain the Common Area);

(F) No Owner shall make any alteration or Improvement to the Common Area, or remove any plants, structure, furnishings or other object therefrom, except with the prior written consent of the Board. Each Owner shall be liable to the Association for all damage to the Common Area and any Improvements, including, but not limited to, buildings, Common Facilities and landscaping, caused by such Owner or any guest or occupant of such Owner's Unit;

(G) No Owner shall use the Common Area in any manner which shall increase the rate of insurance against loss by fire, or the perils of the extended endorsement to the California Standard Fire Policy form, or bodily injury, or property damage liability insurance covering the Common Area and Improvements situated thereon may be obtained, or cause such premises to be uninsurable against such risks or any policy or policies representing such insurance to be canceled or suspended or the company issuing the same to refuse renewal;

(H) Except as otherwise specifically provided in the Governing Documents, no Owner shall have the right to paint, decorate, remodel, landscape or adorn any part or parcel of the Common Area without the written consent of the Board.

Section 6.13 Window Covers. Curtains, drapes, shutters or blinds may be installed as window covers. No window shall be covered with aluminum foil, sheets, etc. The Board shall have the power to make reasonable rules regarding window coverings which are visible from the exterior of the Unit.

Section 6.14 No Timeshare Use.

(A) Use of any Unit in a manner which is consistent with timeshare projects, timeshare estates, timeshare programs and timeshare uses as defined in this Declaration and/or pursuant to *Business and Professions Code* Section 11212 is prohibited.

(B) For the purpose of this Section, the term "timeshare program" shall include and not be limited to any arrangement, plan, scheme, or similar device, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right-to-use agreement, or by any other means, whereby a timeshare interval is created and whereby the use, occupancy or possession of an accommodation, Unit, Improvement, single-family dwelling, within such use, occupancy or

possession circulates among purchasers of the timeshare interval according to a fixed or floating time schedule on a periodic basis occurring annually over any period of time in excess of one (1) year in duration.

(C) For the purpose of this Section, the term “timeshare use” includes, but is not limited to, any contractual right of exclusive occupancy, whether fixed for a specific time period or not, which does not fall within the definition of a “timeshare estate,” including, without limitation, a vacation license, prepaid hotel reservations, club membership, limited partnership, trust agreement, or vacation bond.

(D) Ownership of a Condominium as tenants in common, joint tenants or any other form of multiple ownership by more than four (4) persons or entities is prohibited unless otherwise approved by the Board.

Section 6.15 Exterior Clotheslines/Drying Racks. There shall be no outside drying of clothes or other items on any Balcony, railing, awning, or other exterior portion of the Condominium Building. The Board may adopt further provisions pertaining to exterior clotheslines and drying racks in the Rules.

Section 6.16 Use of Exclusive Use Common Area. The Exclusive Use Common Area Balconies and Patios, shall be reserved for the sole and exclusive use of the appurtenant Unit as indicated in the Condominium Plan. Subject to Rules and Regulations and Architectural Guidelines adopted by the Board, each Owner shall have the right to place furniture and potted plants upon the Balconies and Patios which he or she has the exclusive right to use.

Section 6.17 Code of Conduct. All Owners, their family members, tenants, guests, invitees, outside vendors shall adhere to a code of conduct as may be adopted by the Board in connection with their treatment, actions, language and behavior towards other Owners, Board members, Officers, committee members, Association staff, employees, agents, and vendors. Abusive, harassing and/or disrespectful behavior will not be tolerated. Violations of this Section shall also constitute violations of the Governing Documents.

Section 6.18 Flooring Modifications in Second and Third Floor Units. Hard surface floor covering (e.g., tile, wood, laminate, marble, etc.) in the second or third floor Units may only be located in the kitchen, bathrooms, entryway and utility rooms. Notwithstanding the foregoing, for good cause shown (i.e., health) the Board may, in writing, allow variances to this requirement so long as adequate soundproofing of the hard surface floor material is utilized. There must be padding under all carpeting. Any alteration of floor surfaces in the second and third floor Units shall require prior submission to the Architectural Committee and written approval of the Board in accordance with Article 7 of this Declaration and/or the Architectural Guidelines.

Notwithstanding the foregoing, this Section shall only apply to the modification of floor covering in the second or third floor Units made after the date this Declaration is recorded.

Section 6.19 No Smoking in the Common Area.

(A) No occupant, resident or guest shall smoke cigarettes, e-cigarettes, cigars, or any other tobacco product, marijuana or illegal substance anywhere within the Common Areas and Common Facilities within the Project. For purposes of this section, “smoke” shall include the inhaling, exhaling, burning or carrying of any lighted cigarette, e-cigarette, cigar or other tobacco product, marijuana or other illegal substance.

(B) For purposes of this Declaration, second hand smoke shall be deemed a nuisance which is prohibited.

(C) Any Owner who leases and/or conveys his or her Unit shall specifically disclose to prospective tenants, transferees and real estate agents that smoking is prohibited everywhere within the Project, including within the Units. This disclosure shall be made prior to the lessee or transferee taking possession of the Unit.

ARTICLE 7

ARCHITECTURAL CONTROL

Section 7.1 Architectural Committee. The Board may appoint an Architectural Committee which consists of at least three (3) members, none of whom shall be required to meet any particular qualifications, except that members appointed to the Architectural Committee by the Board shall be Members of the Association. The Board may act as the Architectural Committee.

The Architectural Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified persons who shall have full authority to act on behalf of such Architectural Committee in all matters so delegated.

Section 7.2 Duties of the Architectural Committee. It shall be the duty of the Architectural Committee to consider and make recommendations to the Board upon any and all proposals or plans submitted to it pursuant to the terms of the Governing Documents, to ensure that any Improvements constructed on the property conform to plans approved by the Board, to propose for the Board’s consideration, Architectural Guidelines, and to perform other duties imposed upon it by the Board and this Declaration.

Section 7.3 Approval of Improvements.

(A) Notwithstanding anything contained in this Declaration expressly or impliedly to the contrary, no building, fence, wall, balcony, patio or balcony screen, cover, tent, awning or other structure or Improvement shall be constructed or maintained upon the Project, nor shall any exterior addition, change or alteration be made in, on or to any part of the Project until the plans and specifications showing the nature, shape, dimensions, materials and location of the same shall be submitted to the Architectural Committee and approved in writing as to the harmony of design and location in relation to surrounding improvements and topography by the Board.

(1) With respect to minor additions to or alterations of the exterior of a Unit, such as decorative items, wiring, or other non-structural items, the Architectural Committee and Board shall exercise its discretion liberally with a view towards promoting uniformity and thereby enhancing the attractiveness of the property as a whole.

(2) The Architectural Committee shall recommend to the Board whether or not the prevention or removal of any unauthorized and unapproved constructions of Improvements should be undertaken. The Board, on behalf of the Association, may then exercise all available legal and equitable remedies to prevent or remove any unauthorized and/or unapproved construction of Improvements on the Project.

(3) For purposes of this Declaration, the term “Improvement” includes, without limitation, the construction, installation, alteration, or remodeling of any buildings, walls, Patios, Balconies, fences, landscaping, landscape structures, solar heating equipment, spas, antennas, utility lines, or any structure of any kind. The term “Improvement” shall not be interpreted to include construction, installation, alteration, or remodeling projects which are restricted to the Unit interior so long as such projects do not involve the roof or load bearing walls.

(B) The Board shall approve or disapprove plans submitted to it, in writing, within forty-five (45) days. If a plan is disapproved, the disapproval must include a description of why the plan was disapproved. The Board can condition its approval of an Improvement subject to certain conditions being met, including, but not limited to, requiring the Owner to enter into a separate agreement for an easement, license, maintenance and/or indemnification. In the case of such “conditional” approval, the Improvement will not be considered approved unless or until all stated conditions have been met. In the event the Board fails to respond to the submitted plans within forty-five (45) days, the applicant may send written notice, advising the Board that the plans will be deemed approved if not disapproved forty-five (45) days from the receipt of such notice if such Improvements conform and are in harmony with the overall design and style of the Association. Notwithstanding the provisions of Article 17, Section 17.3 of this Declaration, such notice to the Board must be made by personal delivery or certified mail, return receipt requested.

(C) Once a work of Improvement has been duly approved by the Board, no material modifications shall be made in the approved plans and specifications and no subsequent alteration, relocation, addition or modification shall be made to the Improvement, as approved, without a separate submittal to the Architectural Committee, and review and approval by, the Board. If the proposed modification will have, or is likely to have, a material affect on other aspects or components of the work, the Board, at its discretion, may order the Owner, his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

(D) An Owner will obtain the approval of the Board with respect to such Owner’s plans, specifications, plats and schemes pursuant to this paragraph before submitting the same to the City for a building permit or other approval of any kind that may be required. Notwithstanding the foregoing, prior to an Owner submitting plans, specifications, plats and/or schemes to the

Architectural Committee pursuant to this Article, such Owner shall consult the City's staff to identify and determine all regulations, standards, guidelines and other criteria that will be applicable to such Owner and the approval which such Owner intends to request of the Board. No approval by the Board shall be deemed to excuse an Owner from compliance with any and all applicable laws, ordinances, rules, codes or regulations of all governmental agencies having jurisdiction. Approval by the Board shall not constitute a representation by the Board that the proposed Improvements comply with laws, ordinances, rules, codes or regulations and it shall be the responsibility of each Owner to determine such compliance and to take all steps and acquire all permits at the Owner's sole expense as may be required to properly and legally complete such Improvements. In the event of any conflict in the conditions of approval of any proposed Improvements imposed by the City and the Association, the more restrictive of such conditions shall be controlling. Further, nothing in the Governing Documents shall limit the Association from imposing conditions of approval of any proposed Improvements which are more restrictive than conditions as may be imposed by the City.

Section 7.4 Meetings. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the Architectural Committee members, at a meeting or otherwise, shall constitute the act of the Architectural Committee unless the unanimous decision of the Architectural Committee is required by any other provision of this Declaration. The Architectural Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Committee shall not receive any compensation for services rendered.

Section 7.5 Architectural Guidelines. The Architectural Committee may, from time to time, make recommendations to the Board for the adoption, amendment or repeal of rules and regulations, to be known as "Architectural Guidelines." The Board's approval, amendment or repeal of Architectural Guidelines which pertain to procedures for reviewing and approving/disapproving proposed architectural changes shall be made subject to *Civil Code* Sections 4340 - 4370, by a decision of a majority of the entire Board. The Architectural Guidelines shall interpret and implement this Declaration by setting forth the standards and procedures for Board and Architectural Committee review and the guidelines for design and placement of Improvements and/or alterations. The Governing Documents may not prohibit, or include conditions that have the effect of prohibiting, the use of low water-using plants as a group. The Association is prohibited from adopting regulations that would prohibit or restrict compliance with water efficient landscape ordinances and regulations or restrictions on use of water adopted pursuant to the *Water Code*.

Section 7.6 Waiver. The approval by the Board of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the Board shall not be deemed to constitute a waiver of any right to withhold approval of any similar plans, drawings, specifications or matters subsequently submitted for approval.

Section 7.7 Liability. Neither the Association, nor the Board, Architectural Committee (or any member of such entity) shall be liable to any Owner, occupant or to any other party, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; provided that with respect to the liability

of a member, such member has acted in good faith on the basis of actual knowledge possessed by him or her.

Section 7.8 **Variances.** Where circumstances such as topography, location of property lines, location of trees, configuration of Condominium Buildings, or other matters require, the Board, by the vote or written assent of a majority of its members, may allow reasonable variances as to any of the covenants, conditions and restrictions contained in this Declaration, on such terms and conditions as it shall require; provided, however that all such variances shall be in keeping with the general plan for the improvement and development of the Project.

Section 7.9 **Approval of Individual Director.** There shall be no approval of plans and specifications by any individual Director. In the event an individual Director approves architectural plans and specifications, such approval should not be relied upon and shall not be deemed approval by the Board.

Section 7.10 **Completion of Improvements.** Unless expressly extended in writing by the Board or Architectural Committee, all Improvements must be completed within one (1) year from the commencement of construction of any approved Improvement.

Section 7.11 **Inspection.** Any member or agent of the Architectural Committee or Board may, from time to time, at any reasonable hour or hours and upon reasonable Individual Notice, enter and inspect any Unit for the purpose of carrying out its duties, in accordance with Architectural Guidelines adopted by the Board.

Section 7.12 **Compliance with Master Lease.** So long as the Master Lease is in effect, architectural Improvements to the Condominium Buildings as originally constructed, whether by the Association or an Owner, involving an expenditure in excess of the limitations described in the Master Lease or removal or demolition of Improvements shall require the prior written consent of the Secretary and the Lessors under the Master Lease, as more fully set forth in the Master Lease.

ARTICLE 8

RENTING/LEASING OF CONDOMINIUMS

Section 8.1 **Definition.** “Renting” or “leasing,” for purposes of this Declaration, is defined as regular occupancy of a Condominium by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

Section 8.2 **Leasing Provisions.** All leasing within the Project shall be in writing and shall be governed by the following provisions:

(A) **Leases Subject to Governing Documents.** All leases shall be subject in all respects to the provisions of the Governing Documents and the Master Lease, and any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be

in writing, shall be subject to the provisions of the Governing Documents and shall include the following language: **“THIS LEASE IS SUBJECT IN ALL RESPECTS TO THE PROVISIONS OF THE GOVERNING DOCUMENTS OF VILLA CABALLEROS HOMEOWNERS ASSOCIATION, AND ANY AMENDMENTS TO THOSE DOCUMENTS. THE FAILURE OF LESSEE TO COMPLY WITH THE TERMS OF THE AFOREMENTIONED DOCUMENTS SHALL BE CONSIDERED A DEFAULT UNDER THIS LEASE.”** Failure of the Owner to include the above language in the lease shall not be a defense to the Owner’s or tenant’s violation of the Governing Documents.

(B) Owners to Provide Copies. The Owner must make available to the tenant copies of the Governing Documents. However, the failure of the Owner to provide his or her tenant with current copies of the Governing Documents shall not be a defense to any violation of the Governing Documents by the tenant.

(C) No Severability. No Owner shall lease his or her interest in the Common Area separate and apart from his or her Unit, nor his or her Unit separate and apart from his or her interest in the Common Area. All leases must be for the entire Condominium, and not merely parts of such Condominium, unless the Owner remains in occupancy. No lease, including where the Owner remains in occupancy, shall be for hotel or transient use.

(D) Tenant/Owner Contact Information. Within fourteen (14) days after entering into the lease of a Unit, the Owner shall provide the Board with the name, telephone number and address of the lessee, the name, telephone number and address of the Owner, and such other information as the Board may reasonably require.

(E) No Subletting; Minimum Lease Term. There shall be no subletting of Units or assignment of subleases unless approved in writing by the Board. All subleases, including those where the Owner remains in occupancy, must be for a term of no less than thirty (30) consecutive days.

(F) Liability for Delinquent Assessments. In the event any Owner is delinquent in the payment of any Assessment, upon written request by the Board, the tenant shall pay to the Association the rental payments due to the Owner, but not to exceed the total amount of delinquent Assessments, late fees, interest, costs of collection and attorneys’ fees and costs unpaid at the time of the Association’s request. Payment of Assessments shall be deemed necessary for maintenance of the habitability of the Unit. Prior to informing the tenant of his or her obligation to remit rental payments to the Association, the Owner shall be given Individual Notice and an opportunity to be heard before the Board, in compliance with the provisions of the Governing Documents and current California law.

(G) Compliance with Governing Documents. Lessee and lessee’s guests, residents, and occupants shall abide by and comply with all provisions of the Governing Documents, as they may be amended from time to time, and the violation of same shall constitute a default under their lease. Each Condominium Owner shall be liable to the Association for damages arising from all actions, including without limitation, tortious acts of his or her lessees, their guests and invitees. The

residency limitations governing all leases shall be set forth by the policy of the Board. If a tenant or an occupant violates the Governing Documents for which a Reimbursement Assessment is imposed, such Reimbursement Assessment shall be the joint responsibility of the Owner and/or tenant. Unpaid Reimbursement Assessments may constitute a lien against the Condominium, as allowed by law.

(H) Enforcement Against Tenant by Association. The Owners hereby delegate and assign to the Association, acting through the Board, the power and authority of enforcement against the tenant for breaches resulting from the violation of the Governing Documents including the power and authority to evict the tenant on behalf of and for the benefit of the Owner, in accordance with the terms of the Governing Documents. In the event the Association proceeds to evict the tenant, any costs, including attorneys' fees and court costs, associated with the eviction shall be assessed against the Lot and the Owner, as a Reimbursement Assessment, such being deemed hereby as an expense which benefits the leased Condominium and the Owner. The power and authority assigned pursuant to this subsection shall not be construed to obligate the Association to exercise such power and authority.

(I) Use of Common Elements. The Owner transfers and assigns to the tenant, for the term of the lease, any and all rights and privileges that the Owner has to use the recreational areas of the Common Area, including, but not limited to, the use of any and all Common Facilities and other amenities.

(J) Existing Leases. Leases existing on the effective date of this Declaration shall be permitted to continue in accordance with the terms of the Governing Documents as it existed prior to the effective date of this Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Article.

ARTICLE 9

MAINTENANCE RESPONSIBILITIES

Section 9.1 Maintenance Matrix. A listing of the items within the Project, the routine maintenance, repair and replacement duty for which the Owners and Association are responsible is contained in the "Maintenance Matrix" attached as Exhibit "B" to this Declaration. If an item is not specifically addressed in the Maintenance Matrix, the principles in the Sections below will be used to determine maintenance, repair and replacement responsibility.

Section 9.2 Common Area and Common Facilities. Except for Exclusive Use Common Area, the Association shall be solely responsible for all maintenance, repair, upkeep and replacement of facilities within the Common Area, including the Common Facilities, private streets, curbs, swales, the parking structure, parking areas, mailbox structures, landscaping, private water and sewer systems, and monument sign.

No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. Any item placed on the Common Area without the permission of the Board will be subject to disposition as the Board, at its sole discretion, deems necessary. Any costs incurred in removing any unauthorized object from the Common Area will be imposed as a Reimbursement Assessment on the responsible Owner pursuant to the provisions of Article 5 of this Declaration.

Section 9.3 Association Maintenance Responsibility With Respect to Condominium Buildings.

(A) As more specifically set forth on the Maintenance Matrix, the Association shall provide maintenance of the Condominium Buildings as follows: paint, maintain, repair and replace roofs, exterior building surfaces, and structural elements of the Condominium Building.

The Association's maintenance shall not include any alterations or additions to the Common Area made by the Owner of the Unit, nor repair or replacements arising out of, or caused by, the willful or negligent act of the Owner, his/her family, guests, invitees, tenants, subtenants, or other occupants of the Owner's Unit. Such excluded items shall be the responsibility of each Unit Owner, provided, however, that if an Owner shall fail to maintain or make the repairs or replacements which are the responsibility of such Owner (or his or her tenant, subtenant, etc.) as provided above, then, upon a vote of a majority of the Board, and after not less than ten (10) days' Individual Notice to an Owner, the Association shall have the right (but not the obligation) to enter the Unit and provide such maintenance or make such repairs or replacements, and the cost shall be added to the Assessments chargeable to such Condominium and shall be payable to the Association by the Owner of such Condominium.

(B) The Association shall not be responsible for the maintenance (including inspection and treatment), repair or replacement caused by pests and organisms, including wood destroying pests and organisms, within the individual Units but shall provide for the repair and maintenance of any portion of the Common Area, including Exclusive Use Common Area Balconies and Patios damaged by the presence and/or actions of wood-destroying pests or organisms.

(C) The Association may cause the temporary removal of any occupant for such periods and at such times as are necessary for prompt, effective treatment of wood-destroying pests or organisms. The cost of the temporary relocation is to be borne by the Owner of the separate interest affected. Not less than fifteen (15) days nor more than thirty (30) days notice of the need to temporarily vacate shall be given occupants and to the Owners. The notice shall state: (1) the reason for the temporary relocation; (2) the date and time of the beginning of the treatment; (3) the anticipated date and time of termination of treatment; and (4) that the occupants will be responsible for their own accommodations during the temporary relocation. Notice is deemed complete upon either personal delivery or Individual Delivery of a copy of the notice to the occupants, and if an occupant is not the Owner, by Individual Delivery of a copy of the notice to the Owner.

(D) The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the Association shall be borne by the Owner of the Condominium.

Section 9.4 Owner Maintenance Responsibilities.

(A) Unit Interior. As more specifically set forth on the Maintenance Matrix, each Owner shall be responsible for the maintenance, repair, painting and replacement of the interior surfaces of his or her Unit, including without limitation, the equipment and fixtures in the Unit, ceilings, windows, doors, showers, baths, plumbing, sinks, toilets, appliances, electrical sockets, switches, wiring, ducts, outlets, fans, window and door screens (interior and exterior), patio coverings, carpeting, interior floor surfaces, and lighting installations.

(B) Exclusive Use Common Area. As more specifically set forth on the Maintenance Matrix, Owners shall also be responsible for the maintenance of the Exclusive Use Common Area Balconies and Patios in a clean, sanitary, workable and attractive condition. Owners are responsible to maintain, repair and replace the Exclusive Use Common Area Balcony and Patio ceilings, doors, door frames, window frames, window tracks, floor surfaces, and lighting fixtures.

(C) Utilities. Each Owner shall be responsible for the maintenance, repair and replacement of all pipes, ducts, drains, flues, chutes, conduits, wires, cables and systems that solely supply plumbing, electrical, cable, HVAC or other utility/convenience services (“Utilities”) to his or her Condominium (i.e., Unit and Exclusive Use Common Area Balconies and Patios, wherever located within the outside perimeter of the exterior bearing walls of the Condominium, within or underneath the floor/slab of the Condominium, above the ceiling of the Condominium, and within the non-bearing separation walls within the Condominium. The foregoing Utilities and components shall be the responsibility of the Owners to maintain, repair and replace, notwithstanding that such components may be located outside the physical boundaries of the Condominium (i.e., in the Exclusive Use Common Area or Common Area) and may, at other locations, connect to systems supplying Utilities to other Condominiums. The Association shall maintain, repair and replace all Utilities that are located within the outside perimeter of the exterior bearing walls of the Condominium, within or underneath the floor/slab of the Condominium, or above the ceiling of the Condominium, which do not solely service an Owner’s Condominium.

(D) Appliances. Each Owner shall also be responsible to maintain, repair and replace all appliances (e.g., water heaters, HVAC) that exclusively serve his or her Condominium and all equipment and components of such appliances, including, but not limited to, pipes, wires, conduits, wherever the appliances and related equipment and components are located, even if in the Exclusive Use Common Area and/or Common Area.

(E) Metered Services. Owners shall pay for their own gas, water, electricity and telephone/cable/satellite service where individually metered.

(F) Interior Damage. Each Owner shall be responsible for the maintenance, repair and/or replacement of items within the interior of his or her Unit and Exclusive Use Common Area, including, but not limited to cabinets, fixtures, appliances, flooring, and personal property, that may

be damaged from water that may leak or flow into the Unit or Exclusive Use Common Area from within the Unit, the Common Area, Exclusive Use Common Area or any part of the Condominium Building, unless such damage is determined by a court, arbitrator or other tribunal to be caused by the gross negligence of the Association, its Board, Officers, or designated agents. The foregoing shall not preclude any Owner from seeking compensation or recovery from another Owner for damage caused by such Owner's Unit or Exclusive Use Common Area components.

Each Owner shall promptly make repairs to the Unit and/or any Exclusive Use Common Area components that result from water damage, including performing remediation to prevent and/or remove mold. Each Owner shall be responsible for any and all damage to the Common Area or other Units due to the Owner's failure to promptly perform such work. The Association reserves the right to enter the Unit and/or Exclusive Use Common Area, in accordance with the provisions of Article 4, Section 4.9, to perform repairs and/or remediation in order to protect the Common Area and Condominium Building, from any resultant damage from water and/or mold.

(G) Decorate. Each Owner shall have the right, at his or her sole cost and expense, to paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, trim and perimeter walls of the Unit and the surfaces of the bearing walls and partitions located within the Unit.

(H) Common Fences/Walls. The repair of any wall separating neighboring Condominiums shall be the joint responsibility of the Owners whose Condominiums are separated by such wall, notwithstanding that such wall may consist in part of Common Area. Such adjoining Owners shall share the expense of such repair equally, but if one such Owner refuses to join in such repair, the Owner may undertake such repair himself or herself and shall receive contribution from his or her neighbor for his or her neighbor's share of the cost. In the event that such repair is required because of the acts or negligence of one of such adjoining Owners, such repair shall be accomplished by such Owner at his or her sole expense.

Section 9.5 Failure of Owner to Carry Out Maintenance Responsibilities. In the event the Owner of a Condominium fails to perform his or her maintenance responsibilities, the Board shall have the right, but not the obligation, through itself or its agents, to exercise the right of entry pursuant to Article 4, Section 4.9, and perform appropriate maintenance and/or repairs at the expense of the Owner. In such event, in addition to other penalties and disciplinary measures imposed, the Board may levy a Reimbursement Assessment against such Owner in the amount equal to all direct and indirect costs and expenses incurred by the Board in its performance of such maintenance and/or repairs. Any claim that the Owner may assert or have against the Board shall not constitute a defense or offset in any action of the Board for nonpayment of any amounts which may have been assessed pursuant to this Declaration.

Section 9.6 Liability for Damage.

(A) Should any damage to the Common Area or any Unit result from the willful or negligent act or neglect of any Owner, or such Owner's tenants, guests, invitees, pets or other person or entity deriving any interest through such Owner, or from any item the maintenance, repair or

replacement of which an Owner is responsible, the cost of all repairs shall be borne solely by the responsible Owner.

(B) The Association shall be responsible for performing the repair of any damage to the Common Area or items over which the Association has control at the responsible Owner's expense. The responsible Owner shall perform the repair of any damage to his or her own property. The Owner of any other property which sustained damage shall perform the repair of any such damage, and may charge the cost of repairs and any relocation costs to the responsible Owner.

(C) If the responsible Owner disputes or refuses to pay any repair costs incurred by the Association, the Association, after providing the Owner with Individual Notice of an opportunity for a hearing, may charge the cost of those repairs to such Owner as a Reimbursement Assessment, with the full authority to lien on such amount in the event of non-payment.

(D) If the damage is such as may be covered by any insurance carried by the Association, the Board may, in its sole discretion, elect to submit the claim for the cost of repairs to its insurance carrier. Provided the submitted claim is covered by the Association's insurance, the responsible Owner shall pay the cost of any deductible applicable to the covered claim. If the submitted claim is not covered by the Association's insurance, or the Board elects not to submit the claim, the responsible Owner shall be responsible for the total cost of repair.

(E) 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.

Section 9.7 Cooperative Maintenance Obligations; Easements.

(A) To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate, and shall not hinder, impede or interfere with the Association and its agents and maintenance personnel in the prosecution of its work. Cooperation shall include promptly and voluntarily providing entry and access into the Owner's Unit and/or Exclusive Use Common Area, if necessary, to perform such work. While the Association shall make reasonable attempts to communicate with the Owner and to obtain the Owner's voluntarily access, permission of the Owner shall not be required in order for the Association to gain access to perform its maintenance or repair obligations.

(B) Each Owner hereby grants to other Owners and the Association, easements to enter into each Unit and to have the utility companies enter into Units to repair the plumbing and electrical systems located thereon, subject to the provisions of Article 4, Section 4.9.

Section 9.8 No Liability. The Association shall not be liable to any Owner or his or her tenants, guests or others, for damage to or loss of any property, or the cost of repair or replacement of any damaged property or portions of such Owner's Condominium unless such damage is caused by the gross negligence of the Association, its Board, Officers, agents or employees.

Section 9.9 Owner Notification to Association. Each Owner has the obligation to routinely and diligently inspect the elements and components of the Unit, Exclusive Use Common Area and Common Area for which the Owners are obligated to maintain, to ensure they are in good condition and operating properly. An Owner's long or short term absence from the Project, due to any reason, shall not excuse this obligation. If, at any time, an Owner discovers, or otherwise becomes aware of, any condition within his or her Unit, Exclusive Use Common Area or the Common Area that may constitute a risk to the health, safety or welfare of the Owners, their family members, tenants, and any other persons entering the Project, the Owner shall notify Association's representatives of the condition as soon as possible.

ARTICLE 10

INSURANCE

Section 10.1 Types of Insurance Coverage. The Association shall obtain and continue in effect the following:

(A) **Property Damage Insurance.** A policy of fire and casualty insurance naming as parties insured the Association and any mortgagee of the Common Area, and containing the standard extended coverage and replacement cost endorsements and for such other or special endorsement as will afford protection and insure, for the full insurable current replacement cost (excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, for the Project, including all Units and the personal property of the Association, for or against the following:

- (1) Loss or damage by fire or other risks covered by the standard coverage endorsement;
- (2) Loss or damage from theft, vandalism or malicious mischief; and
- (3) Such other risks, perils or coverage as the Board may determine.

Such policy or endorsement, shall, to the extent available, provide that the insurer issuing the policy agrees to abide by decisions of the Association made in accordance with the provisions of Article 11 of this Declaration as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

The Board shall have the right, subject to the requirements of the Secretary, if any, to limit the scope of coverage under the Association's property damage insurance policy to what is commonly referred to as "bare walls" so that such insurance policy excludes all personal property within the Unit and Exclusive Use Common Area, including, but not limited to, floor, wall and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, and any betterments and improvements made by the Owners or replacements of any of the foregoing.

(B) General Liability. A general liability policy for full extended coverage, including but not limited to, vandalism, malicious mischief, public liability with a cross-liability endorsement. The limits of such insurance shall not be less than \$2,000,000.00 or any amount greater as determined by the Board from time to time.

(C) Directors and Officers Insurance. The Association shall obtain directors and officers insurance covering errors and omissions for the Directors and Officers, and if desirable, committee members of the Association, in an amount of at least \$500,000.00 per occurrence.

(D) Fidelity Bond/Insurance. The Association shall obtain a fidelity bond or insurance insuring the Association against dishonest acts on the part of Directors, Officers, managers and employees, and employees of any manager or managing agent, naming the Association as obligee and written in an amount not less than three (3) times the monthly maintenance fees plus all reserves and shall contain an endorsement of any person who may serve without compensation. Such bond/insurance shall include a provision that calls for ten (10) days written notice to the Association or insurance trustee before the same can be canceled or substantially modified for any reason.

(E) Workers Compensation. The Association shall obtain workers compensation coverage in and for amounts satisfactory to the Board, to the extent required by law, for all employees of the Association.

(F) Other Insurance. The Board shall have the discretion to obtain any other insurance, such as earthquake and flood, as it deems appropriate.

Insurance premiums for the master policy shall be a Common Expense to be included in the monthly Assessments levied by the Association.

Each Owner appoints the Board to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including, without limitation, representing the Owners in any proceeding, negotiation, settlement or agreement.

Section 10.2 Owner's Insurance. Each Owner shall obtain and maintain at his or her sole expense, insurance to protect against any damage to, or loss of the Owner's personal property and upon all other property and improvements within the Unit for which the Association has not purchased insurance including, without limitation, built-in cabinets, decorations, floor and wall coverings, appliances, fixtures and any betterments and improvements. The Owner's policy shall be the primary policy for any claims for damages or loss of Owner's property. The Association shall not be liable to any Owner or his or her tenants, invitees, 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 Owner's Unit, unless such damage is caused by the gross negligence of the Association, its Board, Officers, agents or employees.

Owners failing to obtain or maintain insurance as required by this Section shall be responsible for all damages to the Association caused by the failure to obtain or maintain such insurance. The

damages may include, but are not limited to, cancellation of Association's insurance policy, increase in premiums, out of pocket payments, etc.

The Board shall have the right, but not the duty, to require an Owner to provide the Board, within fifteen (15) days of the Board's request, reasonable evidence that the Owner has complied with the requirements of this Section.

Section 10.3 Waiver of Claims Against Association and Others. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association, the Owners and the Mortgagees as their interests may appear. As to each of such policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Association, the Board, and agents and employees of each of the foregoing, with respect to any loss covered by such insurance whether or not caused by negligence of or breach of any agreement by such persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 10.4 Making Claims to the Association's Insurance. Only the Association, acting through its Board, or designated agent, is authorized to present claims to any of the Association's insurance agents. Owners shall not make claims directly to any of the Association's insurance agents, insurers or policies. In the event the Association incurs any cost or damage by an Owner's violation of this Section, the Association will levy a Reimbursement Assessment against such Owner in the amount equal to all direct and indirect costs and expenses incurred by the Association.

Section 10.5 Insurance Policy Deductibles. The Board 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 coverage is used, the following shall apply:

(A) If the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, the responsible Owner shall be liable for all costs not covered due to the deductible.

(B) In the event damage or loss originates from an item or element that is within an Owner's responsibility to maintain, the Owners shall be responsible for the portion of costs not covered due to the deductible for damage or loss that is attributable to the Owner's Condominium or personal property.

(C) In the event damage or loss originates from an item or element that is within the Association's responsibility to maintain, the Association shall be responsible for any costs not covered due to the deductible.

(D) If the damage or loss originates from an item or element that is within another Owner's Condominium, any affected parties shall be responsible for the portion of costs not covered due to the deductible on the basis of the ratio of each parties' cost of repair to the total costs of repair.

Section 10.6 Notification of Lapse, Cancellation or Change. Notwithstanding the provisions of Section 10.8, the Association shall, as soon as reasonably practicable, provide Individual Notice to all Owners if any of the Association's insurance policies described in Section 10.1 or the Annual Budget Report have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, as to any of those policies. If the Association receives any notice of non-renewal of a policy described in the Annual Budget Report, the Association shall immediately notify the Owners if replacement coverage will not be in effect by the date the existing coverage will lapse.

Section 10.7 Board's Authority to Revise Insurance Coverage. Subject to the provisions of Section 10.1, the Board shall have the power and right to deviate from the insurance requirements contained in this Article in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Article, the Board shall make all reasonable efforts to notify the Owners of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction. The Association, and its Directors and Officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available, or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or the Owners fail to approve any Assessment increase needed to fund the insurance premiums.

Section 10.8 Trustee for Policies. The Association, acting through its Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Section 10.1 of this Article shall be paid to the Board as trustees. The Board shall have full power to receive the proceeds and to deal therewith as provided in this Section. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in Article 11 of this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) Officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. Notwithstanding the foregoing, there may be named as an insured a representative chosen by the Board, including a trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

Section 10.9 Approval By Secretary. So long as the Master Lease is in effect, the Board shall provide to the Secretary evidence of the insurance coverage required herein, which coverage shall not be less than that required by the Master Lease. In the event of a loss and payment of insurance proceeds, such proceeds shall be deposited in escrow with an institution approved by the Secretary. All reconstruction utilizing insurance proceeds shall be undertaken with the necessary approval of the Secretary as described in the Master Lease.

ARTICLE 11

DESTRUCTION OF IMPROVEMENTS

Section 11.1 Insurance Proceeds Sufficient. In the event of a total or partial destruction of the Common Area, if the available insurance proceeds are sufficient to cover not less than ninety percent (90%) of the cost of repair or reconstruction, the damaged or destroyed Common Area shall be promptly repaired and rebuilt unless, within ninety (90) days from the date of such damage or destruction, at a duly constituted meeting of the Association, Owners representing seventy-five percent (75%) of the Voting Power of the Association determine that such repair and reconstruction shall not take place.

Section 11.2 Insurance Proceeds Insufficient. If the available proceeds of such insurance are less than ninety percent (90%) of the cost of repair or reconstruction, such repair or reconstruction may nevertheless take place if, within ninety (90) days from the date of such damage or destruction, Owners representing a majority of the Voting Power of the Association so elect to rebuild at a duly constituted meeting of the Association. If the Board is unable to obtain sufficient participation at such meeting, the Board shall have the right to petition the Superior Court of Riverside County to allow it to rebuild without approval of a majority of the Owners.

Section 11.3 Assessments. If the Owners determine to rebuild, each Owner shall be obligated to contribute such funds as may be necessary to pay his or her proportionate share of the cost of construction, over and above the insurance proceeds, and the proportionate share of each Owner shall be based on the proportion of square footage of each Unit to the total square footage to be reconstructed at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds. In the event of the failure or refusal of any Owner to make his or her proportionate contribution, the Board may levy a Special Assessment against such Owner, and enforce such Assessment as provided in Article 5.

Section 11.4 Determination Not to Rebuild. If a majority of the Owners do not agree to the repair or rebuilding of the Common Area, then each Owner (and his or her Mortgagee(s) as their respective interests shall then appear) shall be entitled, subject to the terms and conditions of the Master Lease and any decision of the Secretary concerning the disposition of such insurance proceeds, to receive that portion of insurance proceeds equal to the proportion of the decrease in fair market value of his or her Unit as compared to the aggregate decrease in fair market values of all the Units caused by such damage or destruction. For purposes of this Article, fair market value shall be determined by a qualified real estate appraiser selected by the Board and hired by and at the expense of the Association. Should a dispute arise as to the distribution of insurance proceeds, the dispute shall be decided by arbitration.

Section 11.5 Interior Repairs. Any reconstruction undertaken pursuant to the foregoing provisions shall cover only the exterior and structural components of the damaged or destroyed Units, and such other damage to such Units as may be covered by insurance and maintained by the Association. If a destroyed Unit is so rebuilt, the Owner of such Unit shall be obligated to repair and rebuild the damaged portions of the interior of his or her Unit in a good and workmanlike manner

at such Owner's expense substantially in accord with the original plans and specifications therefor; provided, however, that any such Owner may, with the written consent of the Board, reconstruct or repair the same pursuant to new or changed plans and specifications. In the event the Board fails to approve or disapprove such changed plans and specifications within sixty (60) days of receipt, they shall be deemed to have been approved.

ARTICLE 12

CONDEMNATION

Section 12.1 Condemnation. If any portion of the Project is taken by condemnation, eminent domain or any other proceeding, then:

(A) In the event of any taking of a Unit, the Owner (and his or her Mortgagees as their interest may appear) of the Condominium shall be entitled to receive the award for such taking and after acceptance, such Owner and his or her Mortgagee shall be divested of all further interests in the Condominium property if such Owner shall vacate his or her Unit as a result of such taking. In such event the Owner shall grant his or her interest in the Common Area, if any, to the other Owners owning a fractional interest in the same Common Area, such grant to be in proportion to the fractional interest in the Common Area then owned by each.

(B) In the event of any taking of the Common Area, the Owners of the Common Area, and their Mortgagees, shall be entitled to receive the award for such taking in proportion to the interest of each in the Common Area; provided, however, that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in Article 11 for repairing damaged or destroyed portions of the Common Area. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in Article 11 for determining whether to rebuild or repair following damage or destruction.

(C) In the event of any taking of a Unit or the Common Area, timely notice shall be given to the holder of the first Mortgage on the Unit, or all holders of first Mortgages in the case of the Common Area.

(D) Any award from condemnation, eminent domain or any other proceeding shall be subject to the rights of the Lessor under the Master Lease and/or the Secretary.

ARTICLE 13

PARTITION PROHIBITED

Section 13.1 Partition. Each of the Owners of a Condominium is prohibited from participating or in any other way severing or separating such Ownership from any of the other ownerships in the Common Area, except upon a showing that:

(A) More than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part was rendered unfit for its prior use, and the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or

(B) That three-fourths (3/4) or more of the Project has been destroyed or substantially damaged, and that Owners holding in aggregate more than fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project, or

(C) That the Project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project.

Notwithstanding the foregoing, if any Condominium shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing in this Article shall be deemed to prevent a judicial partition by sale as between such co-tenants.

Section 13.2 Power of Attorney. The Association is hereby granted an irrevocable power of attorney to sell the Project for the benefit of all the Owners when partition of the Owners's interest in the Project may be had pursuant to this Article. The power of attorney granted may be exercised upon the vote or written consent of Owners holding in the aggregate at least two-thirds (2/3) of the interest in the Common Area by any three (3) members of the Board who are hereby authorized to record a certificate of exercise in the Office of the Riverside County Recorder, which certificate shall be conclusive evidence in favor of any person relying in good faith.

ARTICLE 14

PROTECTION OF MORTGAGEES

The following provisions are for the benefit of Mortgagees and shall apply notwithstanding any provision to the contrary set forth elsewhere in this Declaration or the Bylaws. These provisions apply only to Eligible Mortgage Holders.

Section 14.1 Notices of Actions. Any Eligible Mortgage Holder will be entitled to timely written notice of:

(A) Any default by the Owner of such Condominium in the performance of such Owner's obligations under the Declaration or Bylaws which is not cured within sixty (60) days from the date of such default;

(B) Any condemnation proceedings affecting the Project;

(C) Any substantial damage to or destruction of the secured Condominium or any portion of the Common Area;

(D) Any proposed termination of the Association;

(E) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; or

(F) Any proposed action which would require the consent of Eligible Mortgage Holders as further described in this Article.

Section 14.2 Rights of Mortgagees Upon Foreclosure. Any Mortgagee which comes into possession of a Condominium pursuant to judicial foreclosure or foreclosure by power of sale shall:

(A) Acquire title in such Condominium free of any claims for unpaid assessments or charges against the Condominium accruing prior to the Mortgagee's acquisition of title;

(B) Not be obligated to cure any breach of this Declaration which is noncurable or of a type which is not practical or feasible to cure and which took place prior to acquisition of title to the Condominium by the Mortgagee; and

(C) Be exempt from any right of first refusal contained in this Declaration or any amendment hereto, and such right of first refusal shall not impair the rights of a Mortgagee to:

(1) Foreclose or acquire title to a Condominium pursuant to the remedies provided in the Mortgage;

(2) Accept an assignment in lieu of foreclosure in the event of default by the mortgagor; or

(3) Sell or lease a Condominium acquired by the Mortgagee.

Section 14.3 Consent of Mortgagees. The consent of Mortgagees shall be required in order to take the following actions with respect to the Association and rights and obligations of Members and Mortgagees:

(A) Any restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders is obtained;

(B) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of at least fifty-one percent (51%) of the Eligible Holders;

(C) Unless at least seventy-five percent (75%) of the Owners have given their prior written approval, the Association and the Owners shall not be entitled to:

(1) Change the pro-rata interest or obligations of any Condominium for the purposes of levying assessments and charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(2) Partition or subdivide any Unit or the Common Area;

(3) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area of the Project shall not be deemed a transfer with the meaning of this provisions);

(4) Use hazard insurance proceeds for losses to any portion of the Project (whether to Units or the Common Area) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the Units and/or Common Area of the Project.

Section 14.4 Additional Rights of Mortgagees. Any Mortgagee will, upon request, be entitled to:

(A) Inspect the books and records of the Association during normal business hour; and

(B) Receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association; provided, however, that such audited statements shall be made available only if they have been prepared by the Association in the regular course of business; and

(C) Receive written notice of all meetings of Owners and be permitted to designate a representative to attend all such meetings.

Section 14.5 Information. Any Mortgagee is authorized to furnish information to the Board concerning the status of any loan encumbering a Condominium.

Section 14.6 Priority of Mortgage Lien. No breach of covenants, conditions or restrictions contained in this Declaration, nor the enforcement of any lien provisions created herein, shall affect, impair, defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title to a Condominium is derived through foreclosure, trustee's sale or otherwise.

Section 14.7 Insurance. The Owners and the Association shall procure and maintain fire and liability insurance and such other insurance as may from time to time be required by Mortgagees. All such insurance shall contain loss payable clauses naming the Mortgagees, as their interests may appear.

Section 14.8 Priority on Distribution of Proceeds. Except as otherwise provided by the Master Lease, no Owner or any other party shall have priority over a Mortgagee in the case of a distribution

of insurance proceeds or condemnation awards for losses to or a taking of the Condominium or Common Area.

Section 14.9 Special FNMA-FHLMC Provisions. So long as required by The Federal National Mortgage Association or the Mortgage Corporation, the following provisions shall apply in addition to and not in lieu of the foregoing provisions contained in this Article.

(A) Unless two-thirds (2/3) of the Mortgagees or Owners of Condominiums subject to such encumbrances give their consent, the Association shall not:

(1) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area which the Association owns, directly or indirectly;

(2) Change the method of determining the obligations, assessments, due or other charges which may be levied against an Owner;

(3) By act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of the Condominium Buildings and the Common Area;

(4) Fail to maintain fire or extended coverage insurance, as required by this Declaration; or

(5) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such Property.

(B) The Association agrees to give written notice to the Federal Home Loan Mortgage Corporation (“FHLMC”) or its designated representative of any loss to, or taking of, the Common Area if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00) or damage to a Condominium covered by a Mortgage purchased in whole or in part by the FHLMC which damage exceeds One Thousand Dollars (\$1,000.00).

(C) If any loan secured by a Mortgage encumbering a Condominium is owned by the FHLMC, its successors or assigns for purchase, the Association and the Owners shall obtain and maintain in full force and effect all insurance coverages which may at any time be required by FHLMC, its successors or assigns and shall otherwise comply in all respects with all insurance requirements of FHLMC which may be in effect at any time.

ARTICLE 15

ENFORCEMENT

Section 15.1 Enforcement. Each Owner, lessee, licensee, guest, resident and occupant of a Condominium shall comply with the provisions of this Declaration, the Bylaws, the Rules and Regulations and decisions and resolutions of the Association or its duly authorized representative.

Owners are responsible for the actions of their tenants, guests, family members, invitees, residents and occupants of their Condominiums. Failure to comply with any such provisions, decisions or resolutions shall be grounds for enforcement action by the Association, or any Owner, which may include but not be limited to the remedies set forth in this Article, in addition to other remedies afforded by law. Nothing in this Declaration shall be construed to obligate the Association, acting through the Board, to enforce the Governing Documents, but rather is a right conferred onto the Association.

(A) Suspension of Rights. The Association may temporarily suspend the voting rights and right to use the recreational areas of the Common Area by an Owner for any period during which any Assessments remain unpaid. Additionally, the Association may suspend the voting rights and right to use the recreational facilities within the Common Area for up to thirty (30) days due to a violation of the Governing Documents by any Owner, or his or her guests, tenants, or family members. No suspension shall take place unless the procedures set forth in subsection (D) have been taken.

(B) Fines/Monetary Penalties. The Board may impose fines and/or monetary penalties against an Owner for Owner's or his or her family members', guests', tenants' or agents' violation of the Governing Documents, after due process, as set forth in subsection (D). Prior to imposing any such penalties, the Board shall adopt and distribute to each Owner by Individual Notice in the Annual Policy Statement prepared pursuant to *Civil Code* Section 5310, a schedule of the penalties that may be imposed. New or revised schedules of monetary penalties adopted after distribution of the Annual Policy Statement will be provided to the Members by Individual Notice. A monetary penalty for a violation of the Governing Documents shall not exceed the monetary penalty stated in the schedule in effect at the time of the violation.

(C) Reimbursement Assessments. The Board may levy Reimbursement Assessments, for damage to the Common Area or to reimburse the Association for costs incurred to bring an Owner into compliance with the Governing Documents, as set forth in Article 5, Section 5.6.

(D) Due Process. If the Board decides to impose a fine, penalty, Reimbursement Assessment, suspension or any other disciplinary action, such action shall only be valid after notice has been provided to the Owner by personal delivery or Individual Delivery at least ten (10) days prior to the date of the Board meeting where such action will be considered, in accordance with the provisions of the Governing Documents and *Civil Code* Section 5855. The notice shall contain, at a minimum, the following: the date, time, and place of the meeting, the nature of the alleged violation for which the Owner may be disciplined or the nature of the damage to the Common Area and Common Facilities for which a monetary charge may be imposed, and a statement that the Owner has a right to attend and may address the Board at the meeting.

If the Board decides to impose a penalty or suspension, written notice of the penalty or suspension shall be provided to the Owner by personal delivery or Individual Delivery within fifteen (15) days after the date of the hearing in accordance with *Civil Code* Section 5855.

(E) Internal Dispute Resolution Procedures (IDR). Where there is a dispute between the Association and an Owner involving their rights, duties, or liabilities under California law or the Governing Documents, the Association shall provide a fair, reasonable and expeditious procedure for resolving the dispute as set forth in *Civil Code* Sections 5900-5920.

(F) Alternative Dispute Resolution (ADR). Where required by *Civil Code* Sections 5925 - 5965, prior to the Association or any Owner bringing a civil action for declaratory relief or injunctive relief, or for such claims in conjunction with a claim for damages not in excess of the jurisdictional limits stated in *Code of Civil Procedure* Sections 116.220 and 116.221, related to the enforcement of the Governing Documents, such party shall offer alternative dispute resolution to the other party, as set forth in *Civil Code* Sections 5925 - 5965.

(G) Towing of Vehicles. The Association shall have the power to tow vehicles from the Common Area, including private streets and driveways, which are parked in violation of the Association's Governing Documents or California law, pursuant to *Vehicle Code* Section 22658. The Association may also use booting or other legal methods to enforce parking restrictions and rules.

(H) Right of Entry. The Board shall have the right of entry into a Unit and Exclusive Use Common Area to remedy violations of the Governing Documents, and where necessary to protect, preserve and maintain the Common Area, as set forth in Article 4, Section 4.9.

(I) Legal Action. The Board shall have the power and duty to enforce the Governing Documents by all legal means available, and bring an action in law or in equity, and to utilize any lawful enforcement remedy.

(J) Lien and Foreclosure. The Association shall have the lien and foreclosure rights as set forth in Article 5 to enforce the obligation to pay Assessments and related charges.

(K) Other Remedies. The Association shall have all other remedies provided by law or otherwise to remedy violations, and to enforce the Declaration.

Section 15.2 Nuisance. Failure to comply with the provisions of the Governing Documents and decisions and resolutions of the Association is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance shall be applicable against every such result and may be exercised by any Owner, or the Board.

Section 15.3 Violation of Law. Any violation of any state, municipal or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any part of the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in the Governing Documents.

Section 15.4 No Waiver. The failure of the Board, or any Owner to enforce any of the provisions contained in the Governing Documents shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability on the Association or the Board.

Section 15.5 Attorneys' Fees. In the event the Association, or any Owner, shall commence litigation to enforce any of the covenants, conditions or restrictions of this Declaration or any other Governing Document, the prevailing party in such action shall be entitled to actual attorneys' fees and costs reasonably incurred.

Section 15.6 Cumulative Remedies. Each and all legal or equitable remedies provided for in the Governing Documents shall be deemed to be cumulative.

ARTICLE 16

AMENDMENTS

Section 16.1 General. This Declaration may be amended at any time and from time to time by the vote or written consent of a majority of the Voting Power of the Association. So long as required by California law, the vote will be conducted by a secret ballot in accordance with the requirements of California law. The initial deadline may be extended if an insufficient number of ballots, as determined by the Board, has been received. Thereafter, the deadline to return ballots may be extended for such periods of time as the Board may set. 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 and Secretary of the Association and (c) the document has been recorded in the Office of the County Recorder of Riverside County, California.

So long as the Master Lease is in effect, no amendment to this Declaration which would adversely affect the rights of the Secretary to enforce the terms and provisions of this Declaration as they relate to the maintenance of the Common Area, structures and landscaping within the Project or terminate or materially impair the powers and duties of the Association as set forth in this Declaration, shall be effective without the prior written consent of the Secretary.

Section 16.2 Amendments Requiring Approval of Mortgagees. The following provisions contained in this *Section* do not apply to amendments to the Bylaws or this Declaration or termination of the Association made as a result of destruction, damage or condemnation pursuant to subsections (A) and (B) of Section 14.3 above, or to the addition of land and a reallocation of interests in the Common Area which might *occur* pursuant to any plan of expansion or phased development previously approved for the Project.

(A) The approval of at least sixty-seven percent (67%) of the Eligible Mortgage Holders shall be required to terminate the Association.

(B) The consent of at least fifty-one percent (51%) of the Eligible Mortgage Holders shall be required in order to materially amend any provision of the Declaration, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

(1) Voting;

- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of the Common Area;
- (4) Insurance or fidelity bonds;
- (5) Rights to use the Common Area;
- (6) Responsibility for maintenance and repair of the Project;
- (7) Expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Association;
- (8) Boundaries of any Condominium Building or Unit;
- (9) Leasing of Condominiums;
- (10) Imposition of any right of first refusal or similar restrictions of the right of any Owner to sell, transfer or otherwise convey his Condominium;
- (11) Establishment of self-management by the Association where professional management has previously been required; or
- (12) Any provisions included in the Declaration, Bylaws, Articles which are for the express benefit of Mortgagees.

An Eligible Mortgage Holder who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved the request, provided that the request was delivered by certified mail or registered mail, with a “return receipt” requested. An addition or amendment to the Declaration shall not be considered “material” if it is for the purpose of correcting technical errors, or for clarification only.

ARTICLE 17

GENERAL PROVISIONS

Section 17.1 General Delivery/General Notice. Documents or information required to be provided by General Delivery or General Notice from the Association to the Owners shall be provided by one or more of the following methods:

- (A) Any method provided for delivery of an Individual Notice pursuant to Section 17.2;
- (B) Inclusion in a billing statement, newsletter, or other document that is delivered by one of the methods provided in this Section 17.1;

(C) Posting the printed document in a prominent location that is accessible to all Owners, if the location has been designated for the posting of General Notices by the Association in the Annual Policy Statement, prepared pursuant to Article 10 of the Bylaws and *Civil Code* Section 5310; or

(D) If the Association broadcasts television programming for the purpose of distributing information on Association business to the Owners, by inclusion in the programming.

Notwithstanding the foregoing, if an Owner requests to receive General Notices by Individual Delivery, all General Notices to that Owner, given under this Section 17.1, shall be delivered pursuant to Section 17.2. The option provided in this Section 17.1 shall be described in the Annual Policy Statement, prepared pursuant to Article 10 of the Bylaws and *Civil Code* Section 5310.

Section 17.2 Individual Delivery/Individual Notice. Documents required to be provided by Individual Delivery or Individual Notice from the Association to the Owners shall be delivered by one of the following methods:

(A) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier. The document shall be addressed to the recipient at the address last shown on the books of the Association; or

(B) E-mail, facsimile, or other electronic means, if the recipient has consented, in writing, to that method of delivery. The consent may be revoked, in writing, by the recipient.

Section 17.3 Delivery of Documents to Association. Any documents that are required by the Governing Documents or California law to be delivered by Owners to the Association shall be delivered to the person designated in the Annual Policy Statement, to receive documents on behalf of the Association. If no person has been designated, the documents shall be delivered to the president or secretary of the Association. A document delivered pursuant to this subsection (A) may be delivered by any of the following methods:

(A) By e-mail, facsimile, or other electronic means, if the Association has assented to that method of delivery;

(B) By personal delivery, if the Association has assented to that method of delivery. If the Association accepts a document by personal delivery it shall provide a written receipt acknowledging delivery of the document; or

(C) By first class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service center.

(D) Any of the following requests shall be delivered in writing to the Association, in the manner set forth in this Section 17.3:

- (1) A request to change the Owner's information in the Association's membership list;
- (2) A request to add or remove a second address for delivery of Individual Notices to the Owner, pursuant to *Civil Code* Section 4040(b);
- (3) A request for Individual Delivery of General Notices to the Owner, or a request to cancel a prior request for Individual Delivery of General Notices;
- (4) A request to opt out of the membership list pursuant to *Civil Code* Section 5220, or a request to cancel a prior request to opt out of the membership list;
- (5) A request to receive a full copy of a specified Annual Budget Report or Annual Policy Statement pursuant to *Civil Code* Section 5320; or
- (6) A request to receive all reports in full, pursuant to *Civil Code* Section 5320(b), or a request to cancel a prior request to receive all reports in full.

Section 17.4 Completion of Delivery of Documents. If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail. If a document is delivered by electronic means, delivery is complete at the time of transmission.

Section 17.5 Extension of Declaration. Each and all of these Covenants, Conditions and Restrictions shall terminate on the expiration of the Master Lease after which date they shall automatically be extended for successive periods of ten (10) years unless an instrument in writing, signed by at least a majority of the Owners of Condominiums in the Project, has been recorded within the six (6) months immediately preceding the beginning of any such successive period, agreeing to terminate the Declaration.

Section 17.6 Limitation of Liability. In discharging its duties and responsibilities, the Board acts on behalf of and as representative of the Association which acts on behalf of and as representative of the Owners of Condominiums. No member of the Board shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he or she fails to act in good faith.

Section 17.7 Liberal Interpretation of Declaration. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Project for the mutual benefit of all Owners.

Section 17.8 Indemnification.

(A) Every Director and every Officer past or present of the Association shall be indemnified by the Association against expenses and liabilities, including reasonable attorney's fees and cost incurred or imposed upon him or her in connection with any proceeding in which such Director or Officer may be a party, or in which such officer or Director may become involved, by

reason of his or her being, or having been, a Director or an Officer of the Association, or any settlement, except if the Director or Officer is adjudged guilty of gross negligence or malfeasance in the performance of his or her duties.

(B) Indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

Section 17.9 Partial Invalidity. Invalidation or reformation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstance(s) or any other provision(s) which shall remain in full force and effect.

Section 17.10 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

Section 17.11 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of all heirs, personal representatives, successors, assigns, grantees, lessees, licensees and renters of Owners.

Section 17.12 Joint and Several Liability. In the case of joint Ownership of a Condominium, the liability of each Owner in connection with the liabilities and obligations of the Governing Documents, shall be joint and several.

Section 17.13 Conflicts.

(A) To the extent of any conflict between the Governing Documents and the law, the law shall prevail.

(B) To the extent of any conflict between the Articles and the Declaration, the Declaration shall prevail.

(C) To the extent of any conflict between the Bylaws and the Articles or Declaration, the Articles or Declaration shall prevail.

(D) To the extent of any conflict between the Rules and Regulations and the Bylaws, Articles, or Declaration, the Bylaws, Articles, or Declaration shall prevail.

Section 17.14 References to Code Sections. In the event any of the statutes or laws referenced in the Governing Documents are amended, modified, re-numbered or otherwise changed, the references shall be deemed to refer to the statutes or laws as amended, modified, re-numbered or otherwise changed. If a statute or law is repealed or deleted, any reference shall be deemed to refer to any successor statute or law.

CERTIFICATE OF AMENDMENT

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of VILLA CABALLEROS HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation;

2. That the foregoing FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS comprising 56 pages plus exhibits, was duly adopted by a vote of at least seventy five percent (75%) of the voting power of the Association.

3. That there are no Eligible Holders on Condominiums within the Project.

4. That there are no amendments requiring approval of the Secretary of the Interior of the United States of America.

IN WITNESS WHEREOF I hereunto subscribe my name this ____ day of _____, 2017.

VILLA CABALLEROS HOMEOWNERS ASSOCIATION

By: _____, Secretary

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

State of California)
County of Riverside)

On _____ before me _____ a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(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.

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

WITNESS my hand and official seal.

Signature _____

(seal)

CERTIFICATE OF AMENDMENT

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of VILLA CABALLEROS HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation;

2. That the foregoing FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS comprising 56 pages plus exhibits, was duly adopted by a vote of at least seventy five percent (75%) of the voting power of the Association.

3. That there are no Eligible Holders on Condominiums within the Project.

4. That there are no amendments requiring approval of the Secretary of the Interior of the United States of America.

IN WITNESS WHEREOF I hereunto subscribe my name this ____ day of _____, 2017.

VILLA CABALLEROS HOMEOWNERS
ASSOCIATION

By: _____
_____, President

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

State of California)
County of Riverside)

On _____ before me _____ a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(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.

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

WITNESS my hand and official seal.

Signature _____

(seal)