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**SECOND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE FAIRWAYS HOMEOWNERS ASSOCIATION
CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE
STATE OF CALIFORNIA**

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. 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

SECOND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE FAIRWAYS HOMEOWNER'S ASSOCIATION

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
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The First Restated Declaration of Covenants, Conditions and Restrictions of THE FAIRWAYS HOMEOWNER'S ASSOCIATION recorded in the official records of Riverside County, California, on May 24, 2008, as Document No. 2007-0343453, the First Amendment to First Restated Declaration of Covenants, Conditions and Restrictions recorded in the official records of Riverside County, California, on April 12, 2011, as Document No. 2011-0160491 (collectively, "First Restated Declaration"), and any other amendments not specifically set forth but recorded prior to the date of the recording of this instrument, are hereby superseded, amended and restated in its entirety to read as follows:

RECITALS

(A) The Declaration of Covenants, Conditions and Restrictions recorded in the Riverside County Recorder's Office on June 26, 1974, as Document No. 79474 ("Original Declaration") established THE FAIRWAYS HOMEOWNER'S ASSOCIATION ("Association") to oversee, manage, maintain and operate the real property ("Project") subject to the Original Declaration, plus all annexations to the Project. The Project subject to this Declaration is legally described in Exhibit "A" to this Second Restated Declaration.

(B) The Original Declaration was amended by: (1) a Certificate of Amendment recorded in the official records of Riverside County on September 30, 1976, as Document No. 146406; (2) Certificate of Annexation for The Fairways recorded in the official records of Riverside County on October 4, 1976, as Document No. 148150; (3) Amendment to The Fairways Declaration of Covenants, Conditions and Restrictions recorded in the official records of Riverside County on April 4, 1984, as Document No. 69083; (4) Addendum to Declaration of Covenants, Conditions and Restrictions for The Fairways Homeowner's Association recorded in the official records of Riverside County on October 10, 1987, as Document No. 349325; and (5) Third Amendment to the Declaration of Covenants, Conditions and Restrictions of The Fairways Homeowner's Association recorded in the official records of Riverside County on May 17, 1996, as Document No. 184080, and recorded on July 31, 1996, as Document No. 285565.

(C) The First Restated Declaration entirely replaced and supplanted the Original Declaration and the foregoing documents set forth in Recitals (A) and (B).

(D) The Project is subject to Business Lease No. PSL-147, dated March 23, 1972, and approved by the Area Director, Sacramento Area Office, Bureau of Indian Affairs on June 26, 1972, together with Supplemental Agreement No. 1, approved by the Area Director, Sacramento Area Office, Bureau of Indian Affairs on August 10, 1972, and Business Lease No. PSL-150, dated

March 28, 1972, and approved by the Area Director, Sacramento Area Office, Bureau of Indian Affairs on June 26, 1972.

(E) The Association is the Lessee under that certain sublease ("Sublease"), a Memorandum of which was recorded with the Riverside County Recorder's office on June 8, 1973, in Book 1973, Page 74749, and approved by the Area Director of the U.S. Department of the Interior, Bureau of Indian Affairs, on June 21, 1973, which Sublease covers the real property more particularly described in Exhibit "A" hereto. The Sublease constitutes a sublease of the interests of the Lessor thereunder as Lessee under the certain Business Lease Number 584-78 and Business Lease Number 584-97, which Business Leases were approved by the Area Director and recorded in the Bureau of Indian Affairs on June 26, 1972, as Instrument Nos. 584-881 and 584-888, respectively.

(F) 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.

(G) It was further intended that the Project consist of a "Condominium Project," as defined in *Civil Code* Section 4125 and the Condominiums sold and 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.

(H) The Association now desires to amend and restate the First Restated Declaration and replace it in its entirety with this Second 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 Second 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 THE FAIRWAYS HOMEOWNER’S 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 1.23, 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.

(F) All expenses, costs and fees incurred by or on behalf of the Association in relation to the negotiation, investigation and execution of a new land lease, land lease extension, or lease/land purchase related to the Leasehold Interests.

Section 1.13 "Common Facilities" include, but are not limited to, the swimming pools, spas, tennis court, parks, open spaces, parking spaces, private streets, trees, hedges, plantings, lawns, shrubs, landscaping, fences, utilities, lighting fixtures, structures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

Section 1.14 "Common Maintenance Area" means certain easement areas providing access to the Common Area over adjacent areas.

Section 1.15 "Condominium" means an estate in real property as described in *Civil Code* 4125(b) consisting of a subleasehold interest in a Unit, and an undivided fractional leasehold interest as a tenant in common in all or any portion of the Common Area.

Section 1.16 "Condominium Building" shall mean and refer to a separate residential building containing one or more Units.

Section 1.17 "Condominium Plan" means any condominium plan and amendments recorded for any phase of the Project, pursuant to *Civil Code* Section 4285, including the Condominium Plan recorded on June 26, 1974, as Document No. 79473, in the official records of Riverside County.

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, encumbering a Condominium.

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 as **“Limited Common Area”** 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. 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, 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” 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 “Leasehold Interests” means the interests of Lessor and Lessee under Business Lease No. PSL-147, dated March 23, 1972, and approved by the Area Director, Sacramento Area Office, Bureau of Indian Affairs on June 26, 1972, together with Supplemental Agreement No. 1, approved by the Area Director, Sacramento Area Office, Bureau of Indian Affairs on August 10, 1972, and Business Lease No. PSL-150, dated March 28, 1972, and approved by the Area Director, Sacramento Area Office, Bureau of Indian Affairs on June 26, 1972. The “Leasehold Interests” further include any and all interests and/or subleasehold interests under the above described Business Leases, including but not limited to the interests of Lessor and Lessee under the Ground

Sublease dated May 22, 1973, and recorded by Memorandum dated June 8, 1973, in Book 1973, Page 74749 of the Official Records of Riverside County, California.

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 an Owner's leasehold interest in a Condominium 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 or 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 in which a leasehold title to a Condominium is vested as recorded in the official records of the Office of the Riverside County Recorder, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.32 "Patio" means patios on sun patios, garden courts, and Limited Common Area.

Section 1.33 "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 1.34 "Recreation and Street Area" means that portion of the Common Area described as Lots D and E of Tract 4861.

Section 1.35 "Regular Assessment" means an Assessment levied against an Owner and his or her Condominium in accordance with Article 5, Section 5.3.

Section 1.36 "Reimbursement Assessment" means an Assessment levied against an Owner and his or her Condominium in accordance with Article 5, Section 5.6.

Section 1.37 "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 1.38 "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 Condominiums in the Project. Such Units and the respective boundaries are shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this

Declaration, provided that all doors and windows of a Unit and all fixtures, utility installations located therein, including, without limitation, hot water heaters, space heaters, and kitchen, bathroom and lighting fixtures, shall be a part of such Unit.

Each Unit is composed of four (4) or more air space parcels as set forth on the Condominium Plan as follows: One (1) dwelling area, one (1) or more sun patios, one (1) garden court (except Units 21, 22 and 29 through 40, 62 and 63, which have none), one (1) open parking space and one (1) or two (2) carports or garage spaces.

"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 air space component elements.

The following are not part of any Unit: Bearing walls, columns, vertical supports, floors, roofs and roof support beams, foundations, patio walls and fences, patio gates, carport shear walls, central services, pipes, ducts, flues, fireplaces and fireplace chimneys, conduits, wires and other utility installations, wherever located, except the outlets thereof when located in the Unit. 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 "Unit Patios" means the sun patios and garden courts that are defined as part of the Unit in the Condominium Plan.

Section 1.41 "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 leasehold interest to 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. 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. For purposes of this Declaration, the term "sale" shall mean and refer to the assignment, or other instrument of conveyance conveying a leasehold interest to a Condominium. The transfer of title to a Condominium or the 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 a leasehold interest in each Condominium within the Project shall include a Unit, including its air space component elements, an undivided fractional leasehold 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 or other charges (e.g., fines, late fees, etc.) 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 monetary charge or take other disciplinary action, written notice of the monetary charge and/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 Limited Common Area. Each Limited Common Area (i.e., areas designated as Limited Common Area on the Condominium Plan) shall be: (1) appurtenant to the adjacent Unit and (2) used only for the purposes set forth in this Declaration. The right to use a Limited Common Area shall be exercisable only by the Owner(s) of the adjacent Unit and/or the Owner's tenants and licensee(s). Conveyance of a Condominium shall effect conveyance of appurtenant Limited Common Area and transfer all rights to the vested Owner of the Condominium. Any license(s) shall be terminated upon such conveyance. No Limited 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 Limited 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 a deed to any Condominium, the entering into a lease, sublease or contract of sale 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 community manager, if any, of the names of any contract purchaser or tenant of the Owner's Condominium. Each Owner, contract purchaser or tenant shall also notify the Association's community manager, if any, or 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 conveyance, sale, 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 same to a contract purchaser 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, tenant or renter. As specifically set forth in Article 8 of this Declaration, each Owner shall notify the Association of the names of any contract purchasers, 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 sell, assign, lease or convey his or her leasehold 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 such Director or committee member;

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

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

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

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

(F) Granting a portion of the Common Area to such 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 vehicles and 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 twenty-eight (28) 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 provide General Notice of the Rule change to every Owner.

The requirement that Owners be provided with 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, or for costs, fees or expenses relating to the negotiation, investigation and execution of a new land lease, land lease extension, or lease/ land purchase related to the Leasehold Interests.

(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.

(K) Leasehold Interests. On behalf of the Members, the Board has the power and authority to negotiate, investigate and execute a new land lease, land lease extension, or lease/ land purchase, and to incur expenses necessary to facilitate and consummate this negotiation, investigation, and execution/ acquisition related to the Leasehold Interests.

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, waste disposal, janitorial and gardening service for the Common Area. The Association may make trash service, 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 more than 450 square feet of the Common Area. 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 up to 450 square feet of the Common Area (which includes the square

footage of the existing patio, if any) to an Owner for the purpose of extending a Unit Patio or extending/ constructing a patio on the Limited Common Area. By way of example, if an Owner's existing patio is 200 square feet in size, the Board may only grant exclusive use of up to 250 additional square feet of Common Area. How much square footage (if any) may be granted will depend upon the size of the existing patio and the location and configuration of the particular Unit and may be impacted by setback and other requirements. Notwithstanding the provisions of this subsection, 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.

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.

(D) Agreements for cable television services and equipment, internet services and equipment, or satellite dish television services and equipment not to exceed five (5) years duration;

(E) Agreements for sale or lease of burglar alarm, fire alarm and/or smoke detection equipment, installation and services not to exceed a five (5) year duration.

(F) Agreements for repairs, renovations, improvements or maintenance services that cannot, due to the nature of the work required to be performed, be completed in one (1) year, e.g., ongoing maintenance service pursuant to warranty requirements, which agreements shall not, in any event, exceed a five (5) year duration.

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 Board, 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. This right may be exercised by the Association's Board, Officers, agents, employees, managers, contractors, insurers and vendors, and all law enforcement, 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 or assignment of leasehold interest to a Condominium, 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; and (3) Reimbursement Assessments against any particular Condominium; which Assessments are to be established and collected pursuant to the terms of the Association's Governing Documents.

(A) All such Assessments, together with late charges, interest, costs, and all attorneys' 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, payment of any costs and expenses associated with the negotiation, investigation, purchase or extension relating to the negotiation, investigation and execution of a new land lease, land lease extension, or lease/ land purchase related to the Leasehold Interests, 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 Owner 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 Individual Notice of the Reimbursement Assessment. The Reimbursement Assessment may be collected in the same manner as Regular and Special Assessments as allowed by California law.

Section 5.7 Roof Assessment. In the event it is necessary for the Association to impose a Special Assessment to make repairs and/or perform maintenance to the Condominium Building roofs ("Roof Special Assessment"), the Roof Special Assessment shall be calculated as follows: The proportionate share of any Roof Special Assessment attributable to each Unit and charged to each Unit Owner shall be determined by multiplying the total of said Assessment by a fraction,

the numerator of which is the square footage of the dwelling area element of the Unit in question and the denominator of which is the total square footage of the dwelling areas elements of all Units within the Project.

Section 5.8 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 5.9 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 5.10 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 5.11 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 5.12 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 5.13 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 5.14 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 5.15 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 5.16 Uniform Rate of Assessments. Except as otherwise specifically provided in this Declaration, Regular and Special Assessments, other than Reimbursement Assessments, must be fixed at a uniform rate for all Condominiums.

Special Assessments may be levied at a non-uniform rate as determined by the Board. Special Assessments that are levied at a non-uniform rate will be based upon the square footage of the Unit.

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 laws, California laws, and 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 thirty (30) 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, the business use is incidental to the primary purpose of the Units as single family private residences, and there is no material impact on the Common Area due to the operation or conduction of such trade or business. 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. The Board may establish guidelines in the Rules and Regulations to allow certain home occupations which are consistent and compatible with the typical residential use of the Project, do not have any detrimental effect on neighboring Units or the Project, do not materially impact the Common Area, are not apparent or detectable from outside the Unit, are in conformance with all applicable governmental ordinances, and which confirm to such other requirements set forth in the Rules and Regulations.

(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, or any 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 pets 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, Garages and Carports. 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. For the purposes of this Section, a "resident" is defined as an individual who is residing in any Unit for more than thirty (30) days in a calendar year. Also, for the purposes of this Section, the "carport" is defined as the covered area of the driveway. The following specific restrictions shall apply:

(A) Only one (1) vehicle may be parked in a garage or carport. Except as provided herein, Owners, tenants, family members and other residents of the Unit must park a vehicle in their garage and a vehicle in their carport before they may park additional vehicles in the unmarked parking stalls in the Common Area, which are available on a first-come, first-served basis. Garages shall not be used for storage purposes so as to prevent a vehicle from being parked in them. Carports shall not be used for storage purposes whatsoever. Vehicles may be parked in front of the garage or carport as long as they are parked perpendicular to the garage and in the same direction as the vehicle in the carport (i.e., not sideways on the driveway) and do not overhang the street. Otherwise, there shall be no parking in front of the garages. Subject to subsection (B) below, Owners, tenants, family members and other residents of the Unit may park oversized vehicles that

do not fit within the garage or carport in the unmarked parking stalls in the Common Area. If a garage has been converted to living use and such conversion has been approved by the Association, Owners, tenants, family members and other residents of the Unit must park a vehicle in the carport before they may park additional vehicles in the unmarked parking stalls in the Common Area.

(B) No trailer, camper, mobile home, recreational-type vehicle, 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 per day) for the purpose of loading or unloading. Notwithstanding the foregoing, Recreational Vehicles ("RVs")/ motorhomes may be parked within the Project for the purpose of loading or unloading for a single 24-hour period each month. 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. The Board may designate other "commercial" and "recreational" vehicles in the Rules and Regulations and such vehicles shall be subject to this subsection (B).

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

(D) All vehicles operated within the Project shall be operated in a safe manner at a speed not to exceed fifteen (15) miles per hour.

(E) Those parking spaces in the Common Area which are subject to assignment shall be assigned as shown on the Condominium Plan. No one other than the Owner 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. No one other than the Owner to which a particular parking space has been assigned (except for persons authorized by such Owner) shall use such parking space. 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.

(F) Owners, tenants and residents shall not park on the streets. Guests shall be permitted to park on the streets. 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.

(G) No garage doors shall be permitted to remain open except for a temporary purpose. The Board shall have the power to make reasonable Rules regarding the use of and storage in garages. For purposes of this Section, "temporary purpose" shall be defined as permitting reasonable work to be performed in the garage during normal daytime/evening hours. No Owner

shall convert or otherwise remodel the garage portion of the Unit so that it constitutes a bedroom, office, family room, den or similar living facility.

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, 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 or under the foundation 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 shall be kept only in sanitary containers. No Owners of a Condominium shall permit or cause any trash or refuse to be kept on any portion of the Project subject to this Declaration other than in the receptacles customarily used therefor. All equipment, garbage cans, wood piles or storage piles shall be kept screened and concealed from view of neighboring Units, garages, streets and Common Area.

Section 6.8 Nuisance. 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 limitation, 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 Condominium 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 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 Limited Common Area. The Limited Common Area, i.e., those areas designated as Limited Common Area on the Condominium Plan, 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 construct a patio or fence on their Limited Common Area. No portion of the Limited Common Area shall be modified, altered or improved except subject to the terms of Article 7 of this Declaration.

Section 6.17 Use of Patios. A limited number of pots, plants, and ornaments may be placed on patios as further specified in the Rules and Regulations. In addition, only patio furniture specifically designed for outdoor use may be placed on Patios. Owners shall not use the Patios for storage of any cleaning materials, boxes, non-patio type furniture, or similar items as per the Rules and Regulations.

Section 6.18 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 and/or harassing behavior will not be tolerated. Violations of this Section shall also constitute violations of the Governing Documents.

Section 6.19 No Smoking within Common Area.

(A) No Owner, tenant, resident, invitee or guest shall smoke cigarettes, cigars, or any other tobacco product, marijuana or illegal substance within the Common Area. This prohibition shall include the Common Facilities. For purposes of this section, "smoke" shall include the inhaling, exhaling, burning or carrying of any lighted 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 that is prohibited.

(C) Any Owner who leases and/or sells his or her Unit shall specifically disclose to prospective tenants, purchasers and real estate agents that smoking is prohibited within the Common Area. This disclosure shall be made prior to the lessee or purchaser taking possession of the Unit.

(D) The Board of Directors may adopt further Rules and Regulations regarding smoking within the Project.

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 major 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. In addition, the Architectural Committee shall have the power and authority to review and make decisions on minor proposals and plans submitted for approval.

For the purposes of this Article, major proposals and plans are those that alter the size, physical configuration or function of a component or impacts the structural integrity of the Common Area. Minor proposals include direct one-for-one replacements with no change in the size, physical configuration or function of the component. The Rules and Regulations may provide further elaboration and examples of major and minor proposals.

Section 7.3 Approval of Improvements.

(A) Notwithstanding anything contained in this Declaration expressly or impliedly to the contrary, no building, fence, wall, patio, 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 or Architectural Committee as indicated above.

(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 Board, on behalf of the Association, may 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, garages, fences, gates, landscaping, landscape structures, skylights, 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 Architectural Committee or 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 Architectural Committee or 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 Architectural Committee or Board fails to respond to the submitted plans within forty-five (45) days, the applicant has twenty (20) days from the expiration of the initial 45-day review period to send written notice, advising the Architectural Committee or 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. In the event that the applicant fails to send this notice within twenty (20) days from the expiration of the initial 45-day review period, the plans will be deemed disapproved. Notwithstanding the provisions of Article 17, Section 17.3 of this Declaration, such notice to the Architectural Committee or 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 Architectural Committee or 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 Architectural Committee or Board. If the proposed modification will have, or is likely to have, a material effect 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 Architectural Committee or Board with respect to such Owner's plans, specifications, plats and schemes pursuant to this Section 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 Architectural Committee or 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 Architectural Committee or Board shall not constitute a representation by the Architectural Committee or 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 Committee Member/ Director. There shall be no approval of plans and specifications by any individual Committee Member or Director. In the event an individual Committee Member or Director approves architectural plans and specifications, such approval should not be relied upon and shall not be deemed approval by the Architectural Committee or Board.

Section 7.10 Completion of Improvements. Unless expressly extended in writing by the Board or Architectural Committee, all Improvements must be completed within six months of the written approval of an Improvement. Notwithstanding the foregoing, the Architectural Committee or Board can specify a shorter time period in which any Improvement needs to be completed, depending on the scope of the construction.

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 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 Appeal. In the event minor plans and specifications submitted to the Architectural Committee are disapproved, then the Owner may appeal in writing to the Board. The written request must be received by the Board not more than forty-five (45) days following the final decision of the Architectural Committee. Within forty-five (45) days following receipt of the request for appeal, the Board shall hold an open meeting to consider the appeal and make a decision regarding the appeal. Failure of the Board to render a decision within the forty-five (45) day period shall be deemed a disapproval of the minor plans and specifications.

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 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 THE FAIRWAYS HOMEOWNER'S 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 leasehold 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 leasehold 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 a copy of the lease agreement, the name, telephone number and address of the lessee (if not included in the lease agreement), 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 leases unless approved in writing by the Board. For purposes of this Article 8, the term "sublease" or "subletting" means and refers to Owner's tenant subletting to a sub-tenant and does not refer to the Owner's assignment of the Owner's leasehold interest in the Unit pursuant to the Master Lease referenced in Recitals (D) of this Declaration.

All leases, including those where the Owner remains in occupancy, must be for a term of no less than thirty (30) consecutive days. No lease shall be for transient or hotel purposes. Any lease which is either for a period of less than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel shall be deemed to be for transient or hotel purposes.

(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 Unit 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, Recreation and Street Area, private streets, curbs, parking areas, mailbox structures, landscaping, private water and sewer systems, monument sign, paths, walks, and all other portions of the Common Area.

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) Maintenance of Condominium Buildings. 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, 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, 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) Treatment for Pests/Rodents. The Association shall be responsible for the inspection, treatment, cleaning and ordinary maintenance, and repair of the Common Area (except Limited Common Area) damaged by the presence and/or actions of termites or any other wood-destroying pests or organisms. The Association shall not be responsible for the cleaning and ordinary maintenance, including the inspection and treatment of termites or any other wood destroying pests and organisms, within the individual Units and Limited Common Area. The Association shall not be responsible for the cleaning and ordinary maintenance, including the inspection and treatment of insects, rodents, and other pests within the individual Units, Condominium Buildings (including but not limited to inside the walls, attics, crawlspaces, etc.) and Limited Common Area. This shall be the responsibility of the Owners.

(C) Temporary Removal. 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. 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, repair and replacement of the Exclusive Use Common Area (including, but not limited to, areas designated as Limited Common Area on the Condominium Plan), and all Improvements constructed or installed thereon, in a clean, sanitary, workable and attractive condition. The Owners' responsibility to maintain, repair and replace the Exclusive Use Common Area includes, without limitation, patios, decks, ceilings, doors, door frames, window frames, window tracks, flooring surfaces, fences, gates, and all Improvements constructed and installed in the Limited Common Area. Each Owner shall also be responsible for the maintenance and repair and treatment of pests (insects, rodents, etc.) or organisms, including wood destroying pests or organisms in the Unit and Limited Common Area.

(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) which are 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 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.

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 or fence separating neighboring Condominiums shall be the joint responsibility of the Owners whose Condominiums are separated by such wall or fence, notwithstanding that such wall or fence 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 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.

(I) Modifications. Owners shall be responsible for maintaining, repairing and replacing any modifications to or Improvements installed at the Unit or Exclusive Use Common Area that were not part of the original construction.

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 Common Area, including all Common Facilities 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 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 and floor, wall, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, 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 \$3,000,000.00 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 Officers and Directors, and if desirable, committee members of the Association in an amount of at least \$1,000,000.00 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, managers, officers 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. The fidelity bond shall also include computer fraud and funds transfer fraud. 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 Unit, Unit interior, 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 made by the Owner. Owner's insurance shall also protect against damage to or loss of any exterior items for which the Owner is responsible, including, but not limited to, any exterior air space parcels (e.g., Unit Patios, carports or garage spaces, and Limited Common Areas).

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

Section 10.4 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 10.5 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 10.6 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.

(E) If the damage or loss is caused by an act of God and is not due to any negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, 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 10.7 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 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 10.9 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.

ARTICLE 11

DESTRUCTION OF IMPROVEMENTS

Section 11.1 Insurance Proceeds Sufficient. In the event of damage or destruction to any portion of the Common Area, and the proceeds of insurance available to the Association are sufficient to effect a total repair or reconstruction of the damaged or destroyed Common Area, the Association shall cause said Common Area to be repaired, reconstructed and restored to substantially the same condition as previously existed.

If the proceeds of insurance available to the Association to effect said repair or reconstruction are sufficient to cover not less than ninety percent (90%) of the cost of said repair, reconstruction or restoration, the Association shall cause the damaged or destroyed Common Area to be repaired, reconstructed and restored to substantially the same condition as previously existed and shall assess the difference between said proceeds of insurance and the actual cost of repair against each of the Owners.

Section 11.2 Insurance Proceeds Insufficient. If the proceeds of insurance available to the Association are insufficient to cover not less than ninety percent (90%) of the cost of repair, reconstruction and restoration to the damaged or destroyed Common Area, the Owners shall determine by the written consent or affirmative vote of not less than fifty-one percent (51%) of the Members, whether (i) to repair, rebuild and restore said damaged or destroyed Common Area to substantially the same condition as previously existed and assess the difference between said proceeds of insurance and the actual cost of repair against each of the Owners; (ii) to repair, rebuild and restore the damaged or destroyed Common Area in a manner which utilizes all available proceeds of insurance plus an additional amount in excess of said available proceeds of insurance, and which excess amount is assessed against each of the Owners; or (iii) to not repair, rebuild and restore the damaged or destroyed Common Area, but to distribute the available proceeds of insurance equally to each of the Owners subject to the rights of all Mortgagees as their interest may appear and all unpaid Assessments.

In the event any Mortgagees elect to have their share of the proceeds of their insurance applied against the debt secured by it or their Mortgage(s), the Owner(s) of the Units covered thereby shall forthwith pay to the Association an amount equal to the amount applied against said debt(s). In the event any Owner(s) fails to make said payment, the Association may assess a Special Assessment against said Owner(s).

As soon as practicable after the damage or destruction of any Common Area, the Association shall have plans and specifications for the repair, reconstruction and restoration thereof prepared and obtain bids from at least two reputable contractors with respect to said repair, reconstruction, and restoration. The contract thereof shall be awarded to the contractor submitting the lowest responsible bid and the Association shall thereupon enter into a written agreement with said contractor for said repair, reconstruction and restoration and disburse all proceeds of insurance

available and funds collected through any Special Assessments hereinabove described to said contractor according to the terms of the written agreement. All repair, reconstruction and restoration for and pursuant to this Article shall be subject to approval as provided in Article 7 hereof.

Section 11.3 Interior Repairs. Any reconstruction undertaken pursuant to the foregoing provisions shall cover only the exterior and structural components of the damaged or destroyed Units in accordance with the original plans and specifications therefor, 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 accordance 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.

Section 11.4 Deductible. The deductible provisions in Article 10, Section 10.6 shall apply in relation to any proceeds available under the Association's insurance policies.

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.

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' 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 a majority of the current sitting Board who are hereby authorized to record a certificate of exercise in the Office of the San Diego County Recorder, which certificate shall be conclusive evidence in favor of any person relying in good faith.

ARTICLE 14

PROTECTION OF MORTGAGEES

Section 14.1 Liability for Unpaid Assessments. Any First Mortgagee who obtains title to a Unit pursuant to the remedies provided in a Mortgage or foreclosure of a Mortgage is not liable for unpaid Assessments or charges against the Unit which accrued prior to the acquisition of title.

Section 14.2 Subordination of Lien. Every lien created pursuant to the Governing Documents is subordinate and subject to the lien of any real property Mortgage or Deed of Trust encumbering

an interest in a Unit given in good faith for value. If a lender acquires title to any interest in a Unit by judicial foreclosure, and thereafter conveys the interest in the Unit, any real property Mortgage or Deed of Trust received by the lender as security for all or a portion of the purchase price of the interest in the Unit will be incontrovertibly deemed "given for value."

Section 14.3 Superiority of Liens. Notwithstanding any other provision in this Declaration, any lien created by or pursuant to the Governing Documents, including liens securing payment of Assessments, accruing prior to the transfer of a Unit by a real property lender and prorated over the period of the lender's holding of title to the interest in a Unit is a lien superior to the lien of a real property Mortgage or Deed of Trust received to secure a portion of the purchase price. All covenants, conditions, and restrictions set forth in this Declaration are binding upon and effective against any Owner whose title is derived through foreclosure at a trustee sale.

Section 14.4 Mortgage Protection. The liens authorized hereunder or by law are subject and subordinate to the rights of the obligee of any indebtedness secured by any recorded first Mortgage upon a Unit made in good faith and for value, provided that after foreclosure of any Mortgage, the Board has the authority to create a lien on the interest of the purchaser at the foreclosure sale to secure all Assessments levied hereunder for or payable during any period after the date of the foreclosure sale, which lien will have the same effect and be enforced in the same manner as provided herein in the case of other liens for unpaid Assessments.

Section 14.5 Additional Lien Rights. No amendment to any part of this Declaration will affect the rights of the Mortgagee of any Mortgage, recorded prior to the recordation of the amendment, who does not join in the execution thereof. The holder of the Trust Deed is entitled to written notification from the Association, thirty (30) days prior to the effective date of any change in the Governing Documents, upon request. The holder of the Trust Deed is entitled to written notification from the Association of any default by the trustor of any Unit in the performance of the trustor's obligation under the Governing Documents, which is not cured within thirty (30) days, upon request.

Any Beneficiary under a Deed of Trust which comes into possession of a Unit pursuant to the remedies provided by law, the conditions of the Trust Deed, or by a deed-in-lieu of foreclosure is exempt from any right of first refusal or other restriction on the leasehold interest of the Unit involved. Any holder of the Trust Deed which comes into possession of a Unit pursuant to the remedies provided by law, the Deed of Trust, or deed-in-lieu of foreclosure, shall take the property, free of any claims for unpaid Assessments or charges against the Unit which accrue prior to the time the holder comes into possession of the Unit (except for claims for pro rata share such Assessments or charges of all Units including the subject Unit).

No breach of this Declaration nor the enforcement of any lien provisions herein will defeat or render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value, but all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

In the event of a default by any Owner under any Mortgage referred to herein, the right of the defaulting Owner to vote at any regular or special meeting of the Association held during the time

in which said default exists shall automatically be suspended upon the recordation of a Notice of Default in accordance with California *Civil Code* Section 2924, et seq. (and the applicable successor statute or law), and the delivery of a copy thereof to the Association.

ARTICLE 15

ENFORCEMENT

Section 15.1 Enforcement. Each Owner, tenant, 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 or other charges (e.g., fines, late fees, etc.) 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.

Section 16.2 Amendments Requiring Approval of Eligible Mortgage Holders. 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. Owners may consent and revoke consent via E-mail.

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 December 31, 2068~~5~~, 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 Declarations 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 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 Vice President of THE FAIRWAYS HOMEOWNERS' ASSOCIATION, a California Nonprofit Corporation;
2. That the foregoing SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, comprising of 58 pages, constitutes the Declaration of the Association duly adopted by a vote of 107 out of 186 Owners representing over fifty-seven percent (57%) of the Owners.
3. Pursuant to the executed Order of the Superior Court of California for the County of Riverside, attached to the Declaration as Exhibit "C," the foregoing SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is effective upon recordation with the accompanying Court Order.

IN WITNESS WHEREOF, I hereunto subscribe my name this 3rd day of August, 2020.

THE FAIRWAYS HOMEOWNERS'
ASSOCIATION

By: 

Steven Hannegan, Vice 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 August 3, 2020, before me, Renee Evans, Notary Public, personally appeared Steven Hannegan, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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 signatures 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.


NOTARY PUBLIC



CERTIFICATE OF AMENDMENT

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Director at Large of THE FAIRWAYS HOMEOWNERS' ASSOCIATION, a California Nonprofit Corporation;
2. That the foregoing SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, comprising of 58 pages, constitutes the Declaration of the Association duly adopted by a vote of 107 out of 186 Owners representing over fifty-seven percent (57%) of the Owners.
3. Pursuant to the executed Order of the Superior Court of California for the County of Riverside, attached to the Declaration as Exhibit "C," the foregoing SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is effective upon recordation with the accompanying Court Order.

IN WITNESS WHEREOF, I hereunto subscribe my name this 3 day of August, 2020.

THE FAIRWAYS HOMEOWNERS'
ASSOCIATION

By: Marybeth Tarrant
Marybeth Tarrant, Director at Large

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 August 3, 2020, before me, Renee Evans, Notary Public, personally appeared Marybeth Tarrant, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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 signatures 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.

Renee Evans
NOTARY PUBLIC

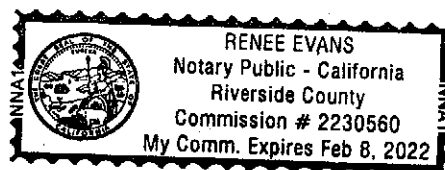


Exhibit "A"

Legal Description

THE FAIRWAYS HOMEOWNERS' ASSOCIATION

LOTS 1-B, 1-C, D AND E OF TRACT NO. 4861 AS PER MAP RECORDED IN BOOK 77, PAGES 75 TO 79, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA. EXCEPTING THEREFROM ANY PORTION OF LOTS B AND F OF SAID TRACT NO. 4861 ADJOINING SAID LOTS 1-B AND 1-C; AND

LOTS 1-A, 2-A, 2-B AND 2-C, OF TRACT NUMBER 4861 AS PER MAP RECORDED IN BOOK 77, PAGES 75 TO 79, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA. SAID LAND IS NOW KNOWN AS PARCELS 1 TO 4 OF PARCEL MAP NO. 8272, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FILED IN BOOK 27 OF PARCEL MAPS ON PAGES 50 AND 51, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Exhibit "B"

MAINTENANCE MATRIX

The following is a listing of the items within the Project for which Owners and the Association are responsible for the routine maintenance, repair and replacement duty, in accordance with the Declaration and may not apply to situations where damage is caused by the negligence or willful misconduct of any party. Unless otherwise specifically indicated below, the assignment of responsibility includes maintenance, repair, replacement and painting (if painting is applicable).

This Matrix is provided for convenience as to the general determination of responsibility for the maintenance, repair and replacement of various components of the Project. The physical boundaries of the various components of the Project, such as the Unit, Common Area, and Exclusive Use Common Area, as defined under the applicable Condominium Plans, are not determinative of the responsibility for routine maintenance, repair and replacement.

In certain situations, the Association's insurance coverage may provide for the repair/replacement of components that are designated as the Owners' maintenance responsibility under the Declaration, including this Matrix. These circumstances shall not be deemed to be, or construed as, modifying the routine maintenance, repair and replacement duties set forth herein.

COMPONENT(S)	OWNER	ASSN.
Air Conditioning and Heating System and Components for Common Facilities (Clubhouse, Laundry Room, etc.)		X
Air Conditioning and Heating System and Components for Unit	X	
Attic/Crawl Space	X	
Carport - Maintenance (Broom Swept Condition)	X	
Carport - Repair and Replacement		X
Caulking - Exterior		X
Caulking - Interior	X	
Ceilings - Interior surface of Unit	X	
Common Area and Common Facilities (Clubhouse, Laundry Room, etc.)		X
Doorbell - Exterior Components/Button Switch	X	
Doorbell - Interior Components; Wiring	X	
Doors - Entry - Frame and Door	X	

COMPONENT(S)	OWNER	ASSN.
Doors - Entry - Locks and Hardware	X	
Doors - Entry - Painting - Exterior Surface	X	
Doors - Entry - Painting - Interior Surface	X	
Doors - Entry - Weatherstripping/Waterproofing	X	
Doors - Interior	X	
Drainage Systems in Common Area (e.g., ditches, catch basins)		X
Drains - Bathtubs, Showers, Sinks	X	
Drains - Curb		X
Drains - Unit Patios, Exclusive Use Common Area	X	
Driveways - Common Area		X
Dryer Vents - Unit - Cleaning	X	
Dryer Vents - Unit - Repair	X	
Drywall - Unit - Damage Repairs (e.g., cracks, inside minor localized water damage, dents, holes, etc.)	X	
Drywall - Unit -Replace	X	
Electrical Panel/Circuit Breakers - Unit	X	
Electrical Switches, Sockets, Wall Plates - Unit	X	
Entry Gates and Systems		X
Exhaust Fans - Units	X	
Exterior Building Surfaces - Stucco Repairs and Painting		X
Exterior Faucets, Handles, Washers - Exterior of Unit	X	
Fences - Common Area		X
Fireplace - Chimney - Exterior and Spark Arrestor		X
Fireplace - Chimney Flue	X	
Fireplace - Chimney - Interior - Cleaning	X	
Fireplace - Fire Brick (firebox, ceramic brick walls of fireplace)	X	

COMPONENT(S)	OWNER	ASSN.
Fireplace - Mantelpiece, Trim and Facing	X	
Floor Covering (i.e., carpet, tile, vinyl, wood, etc.)	X	
Foundation/Slab (except Patio Slab)		X
Furnace - Unit Systems	X	
Garage - Interior	X	
Garage - Exterior Surfaces - Stucco Repairs and Painting		X
Garage Door - Maintenance, Repair and Replacement (Including Painting)	X	
Garbage Disposal	X	
Gas Lines - Common Area or those serving more than one Condominium wherever located		X
Gas Lines - Solely serving one Condominium (i.e., Unit and Exclusive Use Common Area) and 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 of the Condominium	X	
Glass - Unit Windows/Doors, including frame and tracks	X	
Gutters and Downspouts	X	
Insulation - Unit	X	
Irrigation – Inside Walled Patios	X	
Irrigation – Inside Unwalled Patios		X
Iron Fences - Common Area		X
Landscaping - Common Area, Greenbelt		X
Lighting Fixtures - Common Area		X
Lighting Fixtures - Inside Units	X	
Lighting Fixtures - Outside - Homeowner controlled	X	
Lighting Fixtures - Outside on exterior of Condominium Building - Owner pays for electricity	X	

COMPONENT(S)	OWNER	ASSN.
Mailbox - Lock	X	
Mailbox - Structures		X
Monument Sign		X
Painting - Common Area Facilities and Exterior of Condominium Buildings		X
Painting - Interior of Unit	X	
Parking Spaces - Common Area		X
Patio - Interior Improvements	X	
Patio - Iron Gates - Maintenance, Repair and Replacement	X	
Patio Slabs/Deck - Maintenance, Repair and Replacement	X	
Patio Walls - Exterior Surface (facing Common Area) - Stucco Repair and Painting		X
Patio Walls - Interior Surface (facing Unit) - Stucco Repair and Painting	X	
Patio Walls - Structural - Maintenance, Repair and Replacement	X	
Pests – Cleaning, Maintenance, Repair, Inspection and Treatment - Insects, Rodents, Other Pests - Unit, Condominium Building (including but not limited to inside the walls, attics, crawlspaces, etc.) and Limited Common Area	X	
Pests – Cleaning, Maintenance, Repair, Inspection and Treatment - Insects, Rodents, Other Pests – Common Area (excluding the Condominium Building and Limited Common Area)		X
Plumbing Fixtures - Interior (toilets, tubs, sinks, faucets, etc.)	X	
Plumbing Lines - Common Area or those serving more than one Condominium wherever located		X
Plumbing Lines - Solely serving one Condominium (i.e., Unit and Exclusive Use Common Area) and 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 of the Condominium	X	

COMPONENT(S)	OWNER	ASSN.
Pressure Regulators - Common Area		X
Pressure Regulators - Servicing Unit/Patio	X	
Private Streets		X
Roof Shingles/Tiles		X
Roof Underlayment		X
Roof Vents		X
Sewer Lines - Common Area or those serving more than one Condominium wherever located		X
Sewer Lines - Solely serving one Condominium (i.e., Unit and Exclusive Use Common Area) and 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 of the Condominium	X	
Sidewalks - Common Areas		X
Skylights	X	
Slab (except Patio Slab)		X
Sliding Patio/Deck Door Flashing/Waterproofing	X	
Sliding Patio/Deck Door Frames and Tracks	X	
Sliding Patio/Deck Door Hardware	X	
Sliding Patio/Deck Doors/Screens	X	
Storage Areas - Common Area		X
Stucco Painting/Coloring		X
Stucco Repair and Replacement		X
Termite Inspection, Treatment/Eradication, and Repair - All portions of the Project except interior of Units and Limited Common Area		X
Termite Inspection, Treatment/Eradication, and Repair- Interior of Unit and Limited Common Area	X	
Trim - Wood - Exterior - Maintenance and Replacement		X

COMPONENT(S)	OWNER	ASSN.
Trim - Wood - Exterior - Painting		X
Wall Coverings - Unit	X	
Walls - Bearing, Studs, Frames, Tiedowns, Other Structural Items		X
Walls - Non-bearing in Unit	X	
Water Heater - Common Area		X
Water Heater - Unit	X	
Windows and Screens - Unit	X	
Window Flashing, Frames, and Hardware - Unit	X	
Wiring - Electrical - Common Area or those serving more than one Condominium wherever located		X
Wiring - Solely serving one Condominium (i.e., Unit and Exclusive Use Common Area) and 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 of the Condominium	X	
Wiring - Telephone, Cable TV, Satellite, etc. for Unit	X	

Exhibit "C"

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JUL 14 2020

G. Voorhis

SUPERIOR COURT OF CALIFORNIA

COUTY OF RIVERSIDE, PALM SPRINGS COURTHOUSE

THE FAIRWAYS HOMEOWNERS'
ASSOCIATION, a California Non-profit
mutual benefit corporation,
Petitioner,

CASE NO. PSC2001949

**ORDER GRANTING PETITION TO REDUCE
PERCENTAGE OF AFFIRMATIVE VOTES
NECESSARY FOR AMENDMENT OF
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AND
BYLAWS WITHIN A COMMON INTEREST
DEVELOPMENT**

DATE: July 14, 2020

TIME: 8:30 a.m.

DEPT.: PS1

JUDGE: Kira L. Klatchko

Petitioner THE FAIRWAYS HOMEOWNERS' ASSOCIATION Verified Petition to Reduce Percentage of Affirmative Votes Necessary for Amendment of Declaration of Covenants. Conditions & Restrictions and Bylaws Within a Common Interest Development, filed on March 12, 2020, ("Petition") came on regularly for hearing on July 14, 2020 at 8:30 a.m. in Department PS1 of the above-captioned court, the Honorable Kira L. Klatchko, presiding. ~~Petitioner appeared, by and through its attorneys of record, Delphi Law Group, LLP, by Kyle E. Lakin.~~

The Court, having considered the Petition, supporting Declarations, Memorandum of Points and Authorities regarding same, all other pleadings and evidence filed in this matter and any oral statements made at the hearing, finds as follows:

1. Petitioner has complied with all the requirements contained in Civil Code §4275(a)(1) through (5), inclusive;

1 2. All the requirements contained in Civil Code §4275(c)(1) through (6) and
2 Corporations Code § 7515 have also been met;

3 3. Granting of the Petition is not improper for any reason stated in Civil Code §4275
4 (c)(1) through (3), inclusive; and

5 4. That granting of the Petition is deemed reasonable and appropriate in the discretion
6 of the Court.

7 **IT IS THEREFORE ORDERED:**

8 1. Petitioner, THE FAIRWAYS HOMEOWNERS' ASSOCIATION's Petition is
9 hereby GRANTED.

10 2. Pursuant to Civil Code §4275(d) and Corporations Code §7515, the Second Restated
11 Declaration of Covenants, Conditions and Restrictions ("Second Restated CC&Rs") and the
12 Second Restated Bylaws, which were the subject of the Petition, are hereby declared to have been
13 validly approved on the basis of the affirmative votes actually received during the balloting period
14 (107 Units out of 186 Units) which is less than the sixty percent (60%) requirement set forth in
15 Article X, Section 10.1 of the current First Restated Declaration of Covenants, Conditions and
16 Restrictions and Article X of the First Restated Bylaws for THE FAIRWAYS HOMEOWNERS'
17 ASSOCIATION, but over a majority of the voting power of THE FAIRWAYS HOMEOWNERS'
18 ASSOCIATION;

19 3. Pursuant to Civil Code §4275(f), upon recording of the final version of the Second
20 Restated CC&Rs with a copy of this Order in the Riverside County Recorder's office, the Second
21 Restated CC&Rs shall have full force and effect;

22 4. Upon execution of a Certification for the Second Restated Bylaws by two officers
23 of the ASSOCIATION, the Second Restated Bylaws shall have full force and effect;

24 ///

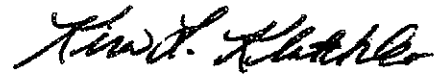
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1 5. Petitioner shall, within a reasonable time after the recording of the Second Restated
2 CC&Rs, mail copies of the recorded Second Restated CC&Rs and the Second Restated Bylaws
3 together with a copy of this Order, by first class mail, postage prepaid, to each member of record
4 of THE FAIRWAYS HOMEOWNERS' ASSOCIATION at their mailing addresses shown in
5 Petitioner's corporate records.

6 **IT IS SO ORDERED.**

7
8 DATED: 7/14/, 2020



HONORABLE KIRA L. KLATCHKO,
JUDGE OF THE SUPERIOR COURT