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CATHEDRAL VILLAS OWNERS' ASSOCIATION

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Cathedral Villas Owners' Association
P.O. Box: 1982
Cathedral City CA, 92234

**FIRST RESTATED AND AMENDED
DECLARATION OF RESTRICTIONS**

DECLARATION OF RESTRICTIONS
Covenant, Conditions, and Restrictions (CC&Rs)

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**FIRST RESTATED AND AMENDED
DECLARATION OF RESTRICTIONS**

A Declaration of Restrictions was executed by Cathedral Villas Development, Inc., a California Corporation ("Declarant"), on December 18, 1984, and was recorded on December 21, 1984, as Instrument No. 272960, in the Official Records of Riverside County, California ("Original Declaration"). The Original Declaration, as amended, which affects all of the real property described and commonly known as Cathedral Villas, is hereby amended and restated in its entirety to read as follows:

RECITALS

A. Declarant was the original owner of that certain real property ("Condominium Property") located in the City of Cathedral City, County of Riverside, State of California, which is more particularly described as:

Lot 1 of Tract No. 19786-1, in the city of Cathedral City, County of Riverside, State of California, according to Map thereof filed in the Office of the County Recorder of Riverside County on June 22, 1984, in Book 141, pages 71-74 inclusive of Maps; together with those portions of Lots 2 and 3 lying Westerly and Northerly of that certain Lot Line Adjustment No. 5-018 as shown and set out on that certain Certificate of Compliance recorded November 28, 1984, as Instrument No. 254504 records of Riverside County and excepting from said Lot 1 all that portion lying Easterly and Southerly of that certain Lot Line Adjustment No. 5-018 as shown and set out on that certain Certificate of Compliance recorded November 28, 1984, as Instrument No. 254504, records of Riverside County; together with those portions of Lots 1, 2 & 3 pursuant to that certain Lot Line Adjustment No. 5-018 as shown by that certain Grant Deed recorded May 18, 1999, as Instrument No. 215246, records of Riverside County, and shown on that certain Certificate of Compliance recorded May 18th, 1999, as Instrument No. 215254, records of Riverside County.

B. Declarant conveyed the Condominium Property, 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 Condominium Property and all of which shall run with the Condominium Property and be binding on all parties having or acquiring any right, title or interest in the Condominium Property, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

C. It was the further intention of the Declarant to sell and convey residential Condominiums to the Owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes

between Declarant and such Owners which are set forth in this Declaration and which are Intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Condominium Property in furtherance of a plan of condominium ownership as described in Section 1351(e) of the California Civil Code. Finally, it was the intention of Declarant that the "Common Areas" and "Common Facilities" be maintained by the Association, but reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, all subject to the terms and conditions of the Governing Documents.

D. On April 1st, 2000, seventy-five percent (75%) of the Owners of Condominiums within the Condominium Property voted by written ballot to amend and restate the Original Declaration, all in accordance with the procedures for amendment set forth in the Original Declaration. It was the intention of the Owners to replace the Original Declaration, as amended and in its entirety, with the recordation of this Declaration. The Owners' action to amend and restate the Original Declaration as set forth in this Declaration and the fact that the requisite percentage of affirmative votes required in the Original Declaration was achieved, is attested by the execution of this First Restated and Amended Declaration by duly authorized officers of the Association, as required by California Civil Code Section 1355(a). As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the Condominium Property and shall be binding upon all parties having or acquiring any right, title or interest in the Condominium Property or any portion thereof, and shall inure to the benefit of each Owner thereof .

NOW THEREFORE, the Owners hereby declare as follows:

ARTICLE I
DEFINITIONS

- 1.1 "Architectural Committee" means the committee created in accordance with Article V of this Declaration.
- 1.2 "Articles" means the Articles of Incorporation of Cathedral Villas Owners Association, which are filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.
- 1.3 "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Unit in accordance with the provisions of Article IV of this Declaration.
- 1.4 "Association" means Cathedral Villas Owners Association, a California nonprofit mutual benefit corporation, its successors and assigns. The Association is an "association" as defined in California Civil Code Section 1351(a).
- 1.5 "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to Section 3.7 of this Declaration, as the same may be in effect from time to time.
- 1.6 "Board of Directors" or "Board" means the Board of Directors of the Association.
- 1.7 "Bylaws" means the Amended and Restated Bylaws of the Association, which are attached as Exhibit "A" and incorporated into this Declaration by this reference.
- 1.8 "City" means the City of Cathedral City and its various departments, divisions, employees and representatives.
- 1.9 "Common Area" means the entire Project except all Living Units, as defined in Section 1.32, and Garages, as defined in Section 1.18, and shown on the Condominium Plan. Unless the context clearly indicates a contrary intent, any reference to the "Common Areas" shall also include any Common Facilities located thereon.
- 1.10 "Common Expense" means any use of Common Funds authorized by Article IV hereof and includes, without limitation: (a) All expenses or charges incurred by or on behalf of the Association in carrying out its management, maintenance and administration responsibilities, (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors, (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and Common Facilities and for nonpayment of any Assessments, and (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.

- 1.11 "Common Facilities" means the swimming pool and apron areas, pool storage and pump house, pool furniture, landscaping (except landscaping on or within the patios or balconies appurtenant to the Units), fences and walls, utilities, lighting fixtures, condominium buildings, laundry rooms, stairways, mailboxes and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.
- 1.12 "Condominium" means an estate in real property as described in the California Civil Code Sections 783 and 1351(f) consisting of an undivided interest as a tenant in common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as are described in this Declaration, in the Condominium Plan, or in the deed conveying the Condominium.
- 1.13 "Condominium Plan" means the Condominium Plan recorded on December 12, 1984, as Instrument No. 265542, in the Official Records of the Office of the Riverside County under a deed of trust as well as to a mortgagee in the conventional sense.
- 1.14 "Condominium Property" means all parcels of real property (Common Area and Condominium Units) described in recital II AU hereof," together with all buildings, structures, utilities, Common Facilities, and other improvements located thereon, and all appurtenances thereto.
- 1.15 "County" means the County of Riverside, State of California, and its various departments, divisions, employees and representatives.
- 1.16 "Declarant" means the original developer of the Condominium Property, namely Cathedral, Villas Development, Inc., a California corporation.
- 1.17 "Declaration" means this instrument, as it may be amended from time to time. The "Original Declaration" means and refers to the document referenced in the Preamble to this Declaration, together with all amendments and annexations to such Declaration, adopted prior to adoption of this Declaration.
- 1.18 "Exclusive Use Area" shall mean and refer to those portions of the Common Area to which an "exclusive right to use is granted to an Owner as shown and 'described on ,the , Condominium Plan and shall consist of Patios and Balconies, as defined on the Condominium Plan.
- 1.19 "Garage" shall mean and refer to" those portions of the Condominium :Property shown and described. as such on the Condominium Plan provided, however, that the following, are not part of any Garage: bearing walls, columns: floors, roofs, -foundations, central heating, central refrigeration and central air conditioning equipment reservoir tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and ' other utility installations, wherever located, except the outlets thereof when located in the Garage.

- 1.20 "Governing Documents" is a collective term that means and refers to this Declaration and to the Articles, the Bylaws, and the Association Rules.
- 1.21 "Improvement" includes, without limitation, the construction, installation, alteration, or remodeling of any exterior awnings, screens or windows, or of any buildings, walls, decks, fences, balconies, patios, swimming pools, landscaping, landscape structures, skylights, solar heating equipment, spas, antennas, utility lines, or any structure of any kind. In no event shall the term "Improvement" be interpreted to include projects which are restricted to the Unit interior and which do not involve the roof or any load bearing wall thereof.
- 1.22 "Member" means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Section 15.6 of this Declaration.
- 1.23 "Mortgage" means any security device encumbering all or any portion of the Condominium Property, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.
- 1.24 "Owner" means any person, firm, corporation or other entity which owns a fee interest in any Condominium.
- 1.25 "Owner of Record" and "Member of the Association" include an Owner and mean any person, firm, corporation or other entity in which title to a Condominium is vested as shown by the official records of the Office of the County Recorder.
- 1.26 "Party Wall" shall mean any wall of a Residence dividing any Condominiums, which wall is commonly used by any such Condominium and the adjoining Condominium. The rights and responsibilities of Owners with respect to Party Walls shall be governed by Article VII of this Declaration.
- 1.27 "Project" means the Condominium Property and the improvements located thereon which are intended to create a condominium project as described in California Civil Code Section 1351(1).
- 1.28 "Regular Assessment" means an Assessment levied on an Owner and his or her Condominium in accordance with Section 4.2 hereof.
- 1.29 "Single Family Residential Use" means occupation and use of a Unit for single family dwelling purposes 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 single family residential dwellings.
- 1.30 "Special Assessment" means an Assessment levied on an Owner and his or her Condominium in accordance with Section 4.3 hereof.

- 1.31 “Special Individual Assessment” means an Assessment made against an Owner and his or her Condominium in accordance with Section 4.4 hereof.
- 1.32 “Unit” or “Living Unit” mean the elements of a Condominium that are not owned in common with the Owners of Condominiums in the Project, such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration. “Unit” does not include other interests in real property that are less than estates in real property, such as exclusive or nonexclusive easements. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the original plan, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Declaration, in the Condominium Plan, in any deed or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements.

ARTICLE II

PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

- 2.1 Elements of Condominium. Ownership of each Condominium within the Project includes a Unit, a Garage and an undivided interest in the Common Area. Such undivided interests cannot be altered or changed as long as the prohibition against severability of component interests in a Condominium remains in effect as provided in Article XIV of this Declaration. Ownership of each Condominium also includes a membership in the Association and any exclusive or nonexclusive easement or easements appurtenant to such Condominium over the Common Area as described in the Declaration, the Condominium Plan and the deed to the Condominium.
- 2.2 Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas within the Condominium Property, including ingress and egress to and from his or her Condominium, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following rights and restrictions:
- (a) The right of the Association to assign, rent, license, lease, charge reasonable admission and other fees for, and to otherwise designate and control the use of any unassigned parking and storage spaces within the Common Area and to charge reasonable admission and other fees or to limit the number of guests of Members *who* may use any recreational Common Facilities.
 - (b) The right of the Association to adopt Association Rules as provided in Section 3.7, regulating the use and enjoyment of the Condominium Property for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or Tenant, to temporarily suspend the voting rights and/or right to use the Common Facilities, other than roads, by any Owner and/or the Owner's Tenants and guests, subject to compliance with the due process requirements of Section 15.6 hereof.
 - (c) The right of the Association, with the approval of the Members, constituting a quorum, casting a majority of the votes at a meeting of the Association, to borrow money, and in aid thereof to mortgage property of the Association. Any such indebtedness shall be considered an expense of the Association for purposes of the Special Assessment provisions of Section 4.3.
 - (d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility *for* such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless approved by at least a majority of the voting power of the Association. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Unit.

2.3 Persons Subject to Governing Documents. All present and future Owners, tenants and occupants of Units within the Condominium Property 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 Unit, or the occupancy of any Unit shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

2.4 Delegation of Use.

(a) Delegation of Use and Leasing of Units. Any Owner may delegate the Owner's rights to use and enjoy the Common Area and Common Facilities to members of the Owner's family or to the Owner's tenants, lessees or contract purchasers who reside in the Owner's Unit, provided that any rental or lease may only be to a single family for Single Family Residential Use and for a term not less than 30 days.

During any period when a Unit has been rented or leased, the Owner-lessor, his or her family, guests and invitees shall not be entitled to use and enjoy the Common Areas or Common Facilities of the Condominium Property (other than roads), except to the extent reasonably necessary to perform the Owner's responsibilities as a lessor of the Unit, provided that this restriction shall not apply to an Owner-lessor who is contemporaneously residing in another Unit within the Condominium Property.

Any rental or lease of a Unit shall be subject to the provisions of the Governing Documents, all of which shall be deemed incorporated by reference in the lease or rental agreement. Each Owner/Lessor shall provide any tenant or lessee with a current copy of all Governing Documents and shall be responsible for compliance by the Owner's tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the Unit.

(b) Discipline of Lessees; Exercise of Eviction Authority. Subject to subparagraph (c) below, in the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances, which may include initiation of an eviction proceeding in accordance with subparagraph (c) below, suspension of the tenant's privileges to use any recreational Common Facilities, or the imposition of fines and penalties against the Owner or tenant.

Whether or not such right is stated in any rental agreement, every Owner who rents his or her Unit automatically grants to the Association the right to **determine a tenant's default** under the Governing Documents and of terminating the tenancy and evicting the tenant for such default. If the Board takes such eviction action, either in its own name or in the Owner's name, the Owner shall be responsible for all costs thereof, including reasonable attorney's fees, and shall reimburse the Association upon demand for the entire amount of

such costs. If the Owner ^{refuses} to make such reimbursement, the sums shall constitute a Special Individual Assessment (Section 4.4) for which a lien may be imposed against the Owner's Unit. The Association's right to maintain an eviction action hereunder is derived from Sections 1165 and 383 of the California Code of Civil Procedure and shall only arise if the tenant's or lessee's conduct involves damage to or destruction of Common Areas or Common Facilities, or constitutes a **nuisance or unreasonable** interference with the quiet enjoyment of other residents.

Any fine or penalty levied pursuant to this Section 2.4 shall be considered a Special Individual Assessment as defined in Section 4.4, below. If a Special Individual Assessment is imposed as a result of the conduct of a renter or lessee, the renter or lessee agrees to be personally obligated for the payment of such assessments in the event the Owner-lessor fails to pay the assessments prior to the delinquency date. This provision, however, shall not be construed to release the Owner from any obligation, including the obligation to pay any duly imposed Special Individual Assessments, for which such Owner would otherwise be responsible. Any lessee charged with a violation of the Governing Documents is entitled to the same notice and hearing rights to which the Owner is entitled as provided in subparagraph (c) below. Any Owner who shall lease his or her Unit shall be responsible for assuring compliance by the lessee with the Governing Documents.

- (c) **Due Process Requirements for Disciplinary Action.** Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to the Condominium Property or to preserve the rights of quiet enjoyment of other Owners, the Association shall have no right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee or tenant) on account of the misconduct of the Owner's lessee or tenant unless and until the following conditions have been satisfied: (i) The Owner has received written notice from the Board, or the Association's property manager, detailing the nature of the lessee's or tenant's alleged infraction or misconduct and advising the Owner of his or her right to a hearing on the matter in the event the Owner believes that remedial or disciplinary action is unwarranted •or unnecessary; (ii) the Owner has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing, if one is requested by the Owner; and (iii) the Owner has failed to prevent or correct the tenant's objectionable actions or misconduct. Any hearing requested hereunder shall be conducted in accordance with Section 15.6 hereof.
- (d) **Security Deposit.** Through its rule-making power, exercised in accordance with Section 3.7 hereof, the Board of Directors is hereby authorized and empowered to establish and implement an Association security deposit procedure to protect the Association, the Common Area and Common Facilities from negligence, damage and/or destruction caused by the tenants, or lessees of any Owner, their families and guests. The security deposit, if required, shall be payable by the Owner and shall be fixed in an amount not to exceed one month's Regular Assessment and shall be held by the Association in a separate security deposit fund in the name of the Association. Within two weeks following receipt of notice from the Owner-lessor that the Unit is no longer being leased, the Association shall furnish the Owner with an itemized statement indicating the basis for, and the amount of, any security received and the disposition of the security and shall return the remaining portion of the security to the Owner.

(e) **Recoverable Costs and Expenses.** In the event of (i) damage to, or destruction of, Common Areas or Common Facilities by a tenant or lessee or the Owner of a leased Unit; (ii) the imposition of a fine or penalty against an Owner-lessor as a result of any act or omission of the Owner's tenant or lessee; or (iii) expenses incurred by the Association in the successful prosecution of an eviction proceeding pursuant to subparagraph (b) above, the Association shall be entitled to apply the security deposit to the Recoverable Costs and Expenses. The Owner-lessee shall thereupon immediately reimburse the security deposit fund in an amount equal to the sums thus applied. Upon termination of the lease and notification to the Association of such termination, the security deposit, or the balance thereof, shall be refunded to the Owner without interest. As a condition to the Association's right to apply security deposit funds in the manner provided above, the Association must give the Owner-lessor the notice and hearing rights specified in subparagraph (c) above.

2.5 **Obligations of Owners.** Owners of Condominiums within the Condominium Property shall be subject to the following:

(a) **Owner's Duty to Notify Association of Tenants and Contract Purchasers.** Each Owner shall notify the secretary of the Association or the Association's property manager, if any, of the names of any contract purchaser or tenant of the Owner's Condominium. Each Owner, contract purchaser or tenant shall also notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser or tenant has delegated any rights to use and enjoy the Condominium Property and the relationship that each such person bears to the Owner, contract purchaser or tenant.

(b) **Contract Purchasers.** A contract seller of a Condominium must delegate his or her voting rights as a Member of the Association and seller's right to use and enjoy the Common Area and Common Facilities to any contract purchaser in possession of the property subject to the contract of sale. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) **Notification Regarding Governing Documents.**

(i) *As more particularly provided in the California Civil Code Section 1368, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Condominium, the Owner thereof must give the prospective purchaser (A) a current copy of the Governing Documents; (B) the Association's most current financial statement; and (C) a true statement in writing from the Association ("delinquency statement") as to the amount of any delinquent Assessments, together with information relating to late charges, attorneys' fees, interest, and reasonable costs of collection which, as of the date the statement is issued, are or may become a lien on the Condominium being sold.*

(ii) *The Association shall, within 10 days of the mailing or delivery of a request for the information described in subparagraph (c)(i), above, provide the Owner with a copy of the current Governing Documents, together with the delinquency statement referred to in the immediately preceding paragraph. The Association shall be entitled to impose a fee for providing the Governing Documents and delinquency statement equal to (but not more than) the reasonable cost of preparing and reproducing the requested materials.*

- (d) **Payment of Assessments and Compliance With Rules.** Each Owner shall pay when due each Regular, Special and Special Individual 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.
- (e) **Discharge of Assessments Liens.** Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Condominium.
- (f) **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 subparagraph (1) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.
- (g) **Prohibition on Avoidance of Obligations.** No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Condominium or otherwise may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Condominium pursuant to this Declaration.
- (h) **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 levied with respect to such Condominium which become due after the date of recording of the deed evidencing said transfer and, upon such recording, all Association membership rights possessed by the transferor by virtue of the ownership of said Condominium shall cease.
- (i) **Obligation To Permit Entry by Association Adjacent Owners.** Each Owner shall be obligated to permit the Owners of adjacent Units or the representatives of such adjacent Owners to enter the Owner's Unit for purposes of performing installations, alterations or repairs to plumbing, mechanical or electrical services, including installation of television and related cables, which are reasonably necessary for the use and enjoyment of his or her Unit, provided that requests for entry are made at least 24 hours in advance and that entry is at a time convenient to the Owner whose Unit is being entered upon. Each Owner shall also honor the right of the Association and its agents to enter Units as provided in Section 3.6(b) of this Declaration.

ARTICLE III

HOMEOWNERS ASSOCIATION

- 3.1 Association Membership. Every Owner of a Condominium shall be a Member of the Association. Each Owner shall hold one membership in the Association for each Condominium owned and the membership shall be appurtenant to such Condominium. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his or her ownership in all Condominiums in the Condominium Property ceases, at which time his or her membership in the Association shall automatically cease. Persons or entities who hold an interest in a Condominium merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Condominium through foreclosure or deed in lieu thereof.
- 3.2 One Class of Membership. The Association shall have one class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents.
- 3.3 Voting Rights of Members. Each Member of the Association shall be entitled to one vote for each Condominium owned by said Member. When more, than one person holds an interest in any Condominium, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Condominium. Voting rights may be temporarily suspended under those circumstances described in Section 15.6 hereof.
- 3.4 Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Condominiums within the Condominium Property and to enforce payment of such Assessments in accordance with Article IV of this Declaration. Any Assessments levied by the Association on its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.
- 3.5 Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Condominium to which it is appurtenant and then only to the purchaser. In the case of a sale, membership passes automatically to the purchaser upon recording of a deed evidencing transfer of title to the Condominium. In the case of an encumbrance of such Condominium, a Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. Tenants who are delegated rights of use pursuant to Section 2.4 hereof do not thereby become Members, although the tenant and Members of the tenant's family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer is void. In the event the Owner of any Condominium should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Condominium, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

3.6 Powers and Authority of the Association.

- (a) **Powers Generally.** The Association shall have the responsibility of owning, managing and maintaining the Common Areas and Common Facilities and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in the ownership and management of its properties and the discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the ‘[exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners.](#)’
- (b) **Association’s Limited Right of Entry.** The Association and/or its agents shall have the right, when necessary, to enter any Living Unit or Garage to perform the Association’s obligations under this Declaration, including (I) exterior maintenance or repair obligations with respect to buildings containing Units and Garages; (ii) obligations to enforce the architectural and land use restrictions of Article V and Article VI hereof; (iii) any obligations with respect to construction, maintenance and repair of Common Facilities; or (iv) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an **unreasonable interference** with, Association property or the Owners in common.

The Association’s rights of entry under this subparagraph (b) shall be immediate in case of an emergency originating in or threatening the Living Unit or Garage where entry is required, or any adjoining Units, Garages or Common Area, and the Association’s work may be performed under such circumstances whether or not the Owner or his or her lessee is present. In all non-emergency situations, the Association or its agents shall furnish the Owner or his or her lessee with at least 24 hours’ written notice of its intent to enter the Unit or Garage, specifying the purpose and scheduled time of such entry and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing within the Unit.

- (c) **Association as Attorney-in-Fact for Owners.** Without limiting the generality of the foregoing, the Association is hereby irrevocably appointed as the attorney-in-fact for the Owners to:
- (i) *manage, control and deal with the interest of such Owners in the Common Area so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder;*
 - (ii) *deal with Condominium Property upon their destruction or obsolescence as hereinafter provided; and*
 - (iii) *deal with and handle insurance and insurance proceeds, as provided in Article X hereof, and condemnation and condemnation awards, as provided in Article XII hereof. The acceptance by any person or entity of any interest in any Unit shall constitute an appointment of the Association as the Owner’s attorney-in-fact as provided above.*

3.7 Association Rules.

- (a) **Rule-Making Power.** The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners of Condominiums within the Condominium Property. Such rules may concern, but need not be limited to (i) matters pertaining to the maintenance, repair, management and use of the Common Area and Common Facilities by Owners, their tenants, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area and Common Facilities; (ii) architectural control and the rules of the Architectural Committee under Section 5.4 hereof; (iii) the conduct of disciplinary proceedings in accordance with Section 15.6 hereof; (iv) regulation of parking, pet ownership and other matters subject to regulation and restriction under Article VI hereof; (v) collection and disposal of refuse; (vi) minimum standards for the maintenance of landscaping or other improvements located within areas of Owner maintenance responsibility and (vii) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the other Governing Documents or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between any Association Rule and any provision of the other Governing Documents, the conflicting provisions contained in the other Governing Documents shall be deemed to prevail. Any duly adopted rule or amendment to the Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate.

- (b) **Distribution of Rules.** A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. A copy of the Association Rules shall also be available and open for inspection during normal business hours at the principal office of the Association..

- 3.8 **Breach of Rules or Restrictions.** Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article XV hereof.

3.9 Limitation on Liability of Association's Directors and Officers.

- (a) **Claims Regarding Breach of Duty.** No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Association's Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person 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.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

- (b) Other Claims Involving Tortious Acts and Property Damage. No Released Party shall be responsible to any Owner or to any member of his or her family or any of his or her tenants, guests, servants, employees, licensees, invitees or any other person for any loss or damage suffered by reason of theft or otherwise of any article, vehicle or other item of personal property which may be stored by such Owner or other person within any Unit or Garage or for any injury to or death of any person or loss or damage to the property of any person caused by fire, explosion, the elements or any other Owner or person within the Condominium Property, or by any other cause, unless the same is attributable to his or her own willful or wanton act or gross negligence. It is the intent of this subparagraph to provide volunteer directors and officers~ with protection from liability to the full extent permitted by California Civil Code Section 1365.7, or comparable superseding statute, and to the extent this provision is inconsistent with said Section, the Civil Code shall prevail.

ARTICLE IV

ASSESSMENTS

4.1 Assessments Generally.

- (a) **Covenant to Pay Assessment.** Each Owner of one or more Condominiums by acceptance of a deed or other conveyance therefore (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association
- (i) Regular Assessments,
 - (ii) Special Assessments
 - (iii) Special Individual Assessments.

Each such Assessment shall be established and collected as hereinafter provided.

- (b) **Extent of Owner's Personal Obligation for Assessments.** All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the Person who was the Owner of the Condominium at the time the Assessment was levied. Each Owner who acquires title to a Condominium (whether at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Condominium so purchased which become due and payable after the date of such sale, and shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. Any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner against whom assessed.
- (c) **Creation of Assessment Lien.** All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which such Assessment is made. Any lien for unpaid Assessments created pursuant to the provisions of this article may be subject to foreclosure as provided in Section 4.9(b) hereof.
- (d) **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 the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or any facilities thereon or by abandonment or non-use of his or her Condominium or any other portion of the Condominium Property.

4.2 Regular Assessments.

- (a) **Preparation of Annual Budget: Establishment of Regular Assessments.** Not less than 45 nor more than 60 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to

defray the costs of future repairs, replacement or additions to the Common Facilities) by preparing and distributing to all Association Members a budget satisfying the requirements of Civil Code Section 1365. If the Board fails to distribute the budget for any fiscal year within the time period provided for in this Section, the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with the Bylaws.

- (b) Establishment of Regular Assessment by Board or membership Approval Requirements. The total annual expenses estimated in the Association's budget (less projected income from sources other than assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year, provided that, except as provided in subparagraph (a) above, and subparagraph (c) below, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association.
- (c) Assessments to Address Emergency Situations. The requirement of a membership vote to approve Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to assessment increases necessary to address emergency situations. For purposes of this subparagraph (c), an emergency situation is any of the following:
 - (i) *An extraordinary expense required by an order of a court.*
 - (ii) *An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the separate interests which the Association is obligated to maintain where a threat to personal safety is discovered.*
 - (iii) *An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the separate interests which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (a) above, provided that, prior to the imposition or collection of an assessment under this paragraph (Hi), 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 Members together with the notice of assessment.*
- (d) Allocation of Regular Assessment. The total estimated Common Expenses, determined in accordance with subparagraph (a), above, shall be allocated among, assessed against, and charged to each Owner based on the ratio of the number of Condominiums within the Project owned by the assessed Owner to the total number of Condominiums subject to Assessments so that each Condominium bears an equal share of the total Regular Assessment.
- (e) Failure to Make Estimate. If, for any reason, the Board of Directors 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 Section 4.3(a)(i) for that year, shall be assessed against each Owner and his or her Condominium on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Association.

- (f) **Installment Payment of Assessments.** The Regular Assessment levied against each Owner and his or her Condominium shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other date or dates as *may* be established from time to time by the Association's Board of Directors. Installments of Regular Assessments shall be delinquent if not paid by the 15th day of the month in which the Assessment is due.

4.3 Special Assessments.

- (a) **Purposes for Which Special Assessments May Be Levied.** Subject to the membership approval requirements set forth in subparagraph (b) below) the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Condominiums for the following purposes:

(i) *Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then, except as prohibited by Section 4.2(a), the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder. The Board's assessment authority pursuant to this Section 4.3(a)(i) shall be subject to membership approval requirements under the circumstances described in Section 4.2(a).*

(ii) *Capital Improvements. The Board may also levy Special Assessments for additional capital improvements within the Common Area (i.e., improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities). The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, replacement and repair of the Common Area or existing Common Facilities through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate insurance on the Common Area and existing Common Facilities in accordance with Article X hereof.*

- (b) **Special Assessments Requiring Membership Approval.** No Special Assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the Association for the fiscal year in which the Special Assessment(s) is levied shall be made without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association, provided that this membership approval requirement shall not apply to any Special Assessment levied to address "emergency situations" as defined in Section 4.2(c).

- (c) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Condominium in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.2(d) above. Notice of Special Assessment so levied shall be mailed to each Owner.

4.4 Special Individual Assessments

- (a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 4.3 above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (1) through (iii) below, provided that no Special Individual Assessments may be imposed against an Owner pursuant to this Section 4.4 until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 15.6 hereof, 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 Special Individual Assessments include the following:
- (i) *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 Living 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 Special Individual Assessment.*
 - (ii) ***Expenses Incurred in Gaining Member Compliance.** In the event that the Association incurs any costs or expenses to accomplish (A) any repair, maintenance or replacement to any portion of the Condominium Property that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely ~ fashion, or (B) 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 fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.*
 - (iii) *Required Maintenance on Condominiums. As more particularly provided in Section 3.6(b) (and without limiting the generality of that subparagraph), if any Condominium is maintained so as to become a nuisance, fire or safety hazard for any reason, including without limitation, the accumulation of trash, junk automobiles, or improper vegetation control, the Association shall have the right to enter the Condominium, correct the offensive or hazardous condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner.*

- (b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed, in this Section 4.4, notice of such Special Individual Assessment shall be mailed to the affected Owner and the Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within 30 days after the mailing of notice of the Assessment.
- 4.5 Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively (a) to promote the recreation, health, safety and welfare of individuals residing within the Condominium Property; (b) to promote the enjoyment and use of the Condominium Property by the Owners and their families, tenants, invitees, licensees, guests and employees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Area and Common Facilities. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby) of the Owner of the Condominium against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns, provided that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.
- 4.6 Exemption of Certain of the Condominium Property From Assessments. The following real property subject to this Declaration shall, unless devoted to use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:
- (a) Any portion of the Condominium Property dedicated and accepted by a local public authority;
 - (b) The Common Area and Common Facilities; and
 - (c) Any Condominium owned by the Association.
- 4.7 Maintenance of Assessment Funds.
- (a) Bank Accounts. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in the Association's name in a bank or savings and loan association selected by the Board of Directors which has offices located within the State of California, County of Riverside. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board, and such officers or agents of the Association as the Board shall designate, shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code Section 1365.5 and Article VIII, Section 1, of the Bylaws.

To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts in the name of the Association and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. Any interest received on such deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b) below.

- (b) **Separate Accounts: Commingling of Funds.** Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the amount required to accomplish the purpose for which such Assessment was levied, such surplus may, in the Board's discretion, be returned proportionately to the contributors thereof, reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, under-funded or credited proportionately on account of the Owners' future Regular Assessment obligations.

For purposes of accounting, but without requiring any physical segregation of assets, the Association shall maintain a separate accounting of all funds received by it in payment of each Assessment and of all disbursements made therefore, provided that receipts and disbursements of Special Assessments made pursuant to this Section 4.3(a)(i) shall be accounted for together with the receipts and disbursements of Regular Assessments; and separate liability accounts shall be maintained for each capital improvement for which reserve funds for replacement are allocated.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Association as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

4.8 Collection of Assessments; Enforcement of Liens.

- (a) **Delinquent Assessments.** If any installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment or Special Individual Assessment assessed to any Owner is not paid within 15 days after the same becomes due, such payment shall be delinquent and the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law from and after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code Sections 1366(c) and 1366.1 or comparable superseding statutes.

(b) Effect of Nonpayment of Assessments.

- (i) *Creation and Imposition of a Lien for Delinquent Assessments. As more particularly provided in California Civil Code Section 1367 or comparable superseding statute, the amount of any delinquent Regular or Special, or Special Individual Assessment, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Condominium of the Owner so assessed only when the Association causes to be recorded in the Office of the County Recorder of the County, a Notice of Delinquent Assessment executed by an authorized representative of the Association, setting forth (A) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this Article IV and California Civil Code Section 1366, (B) the legal description of the Owner's Condominium against which the Assessments and other sums are levied, (C) the name of the Owner of Record of such Condominium, (D) the name and address of the Association, and (E) the name and address of the trustee authorized by the Association to enforce the lien by sale. Upon payment in full of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.*
- (ii) *Remedies Available to the Association to Collect Assessments. The Association may initiate a legal action against the Owner personally obligated to pay the delinquent Assessment, foreclose its lien against the Owner's Condominium or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be by judicial foreclosure or by non-judicial foreclosure by the trustee designated in the Notice of Delinquent Assessment or by a trustee substituted pursuant to California Civil Code Section 2934a. Any sale of a Condominium by a trustee acting pursuant to this Section 4.8 shall be conducted in accordance with California Civil Code Sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages or deeds of trust.*
- (iii) *Non-judicial Foreclosure. Non-judicial foreclosure shall be commenced by the Association by recording in the Office of the County Recorder a Notice of Default, which notice shall state all amounts which have become delinquent with respect to the Owner's Condominium and the costs (including attorneys' fees), penalties and interest that have accrued thereon, the amount of any Assessment which is due and payable although not delinquent, a legal description of the property with respect to which the delinquent Assessment is owed, and the name of the Owner of Record or reputed Owner thereof. The Notice of Default shall state the election of the Association to sell the Condominium or other property to which the amounts relate and shall otherwise conform with the requirements for a notice of default under California Civil Code Section 2924c, or comparable superseding statute.*

The Association shall have the rights conferred by California Civil Code Section 2934a to assign its rights and obligations as trustee in any non-judicial foreclosure proceedings to the same extent as a trustee designated under a deed of trust and for purposes of said Section 2934a, the Association shall be deemed to be the sole beneficiary of the delinquent Assessment obligation. Furthermore, in lieu of an

assignment of trusteeship, the Association shall be entitled to employ the services of a title insurance company or other responsible company authorized to serve as a trustee in non-judicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any non-judicial foreclosure hereunder.

(iv) Actions for Money Judgment. In the event of a default in payment of any Assessment, the Association, in its name but acting for and on behalf of all other Owners, may initiate legal action, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid Assessments, costs and attorneys' fees without foreclosure or waiver of the lien securing same.

4.9 Transfer of Condominium by Sale or Foreclosure. Except as otherwise provided herein, the sale or transfer of any Condominium shall not affect any Assessment lien duly recorded with respect to such Condominium prior to the sale or transfer. However, the sale or transfer of any Condominium pursuant to the foreclosure of any first Mortgage or other mortgage or lien recorded prior to the Association's Assessment lien (collectively "prior encumbrance") shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer of a Condominium as the result of foreclosure, exercise of a power of sale or otherwise shall relieve the new Owner of such Condominium, whether it be the former beneficiary of the first Mortgage or other prior encumbrance or a third party from liability for any Assessments thereafter becoming due or from the lien thereof.

Where the first Mortgagee or other purchaser of a Condominium obtains title to the same as a result of foreclosure of any such first Mortgage or other prior encumbrance or exercise of a power of sale contained therein, the person acquiring title, his or her successors and assigns, shall not be solely liable for the Assessments chargeable to such Condominium which became due prior to the acquisition of title. Instead, such unpaid Assessments shall be deemed to be Common Expenses collectible from the Owners of all of the Condominiums, including such acquirer, his or her successors and assigns. Furthermore, foreclosure shall not affect the Association's right to maintain an action for the collection of delinquent Assessments against the foreclosed party personally.

4.10 Priorities. When a Notice of Delinquent Assessment has been recorded, such notice shall constitute a lien on the Condominium prior and superior to all other liens or encumbrances recorded subsequent thereto, except (a) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgages or deeds of trust) made in good faith and for value, 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 or deed of trust, or other prior encumbrance.

4.11 Unallocated Taxes. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being assessed to the Condominiums, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.2 and, if

necessary, a Special Assessment may be levied against the Condominiums in an amount equal to such taxes to be paid in two installments, thirty days prior to the due date of each tax installment.

- 4.12 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 Condominium 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 notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may, pursuant to court order or by court-appointed receiver, collect and retain such monies, whether past due and unpaid or current. The Association's rights under this Section 4.12 shall be subordinate to the rights of any First Mortgagee.
- 4.13 Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article IV, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed against the Owner's Condominium.

ARTICLE V

ARCHITECTURAL COMMITTEE

5.1 Improvements in General; Establishment of Architectural Committee. No "Improvement" (as defined in Section 1.18) of any kind shall be commenced, erected or maintained within the properties, nor shall any exterior addition to or change or alteration be made in or to any Unit or Common Facility structure containing Units until the plans and specifications showing the nature, color, kind, shape, height (including front, side and rear elevations), materials, and location of the same shall have been submitted to and approved in writing by the Association's Architectural Committee as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finished grade elevation.

5.2 Appointment of Architectural Committee. The Board of Directors may appoint an Architectural Committee composed of not less than three nor more than five members. Committee members appointed shall be from the membership of the Association.

Members of the Committee shall serve for a term of one year. In the event of the death or resignation of any member of the Architectural Committee, a successor shall be appointed by the Board. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto.

5.3 Submission of Plans; Action by Board or Committee. Plans and specifications for the proposed Improvement shall be submitted to the Architectural Committee by personal delivery or certified mail to the secretary of the Association or the chairman of the Architectural Committee.

In the event the Committee fails to approve or disapprove such design and location within 45 days after said plans and specifications have been submitted to it, the request shall be deemed denied. Under such circumstances, the written request may be resubmitted. Approval of the Board may contain conditions or requests for modification of particular aspects of the Owner's plan and specifications.

5.4 Architectural Rules. The Architectural Committee may, subject to approval by the Board of Directors, from time to time adopt, amend and repeal rules and regulations to be known as "Architectural Rules." Such rules shall interpret and implement the provisions of this Declaration by setting forth the standards and procedures for the review and approval of proposed Improvements and guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features that are recommended for use within the Condominium Property, provided that the rules shall not be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Rules and this Declaration, the Declaration shall prevail.

5.5 Variances. The Architectural Committee shall be entitled to allow reasonable variances with respect to this Article V or any restrictions specified in Article VI in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships.

ARTICLE VI

USE OF CONDOMINIUM PROPERTY AND RESTRICTIONS (Rules & Regulations)

In addition to the restrictions established by law or Association Rules promulgated by the Board of Directors (consistent with this Declaration), the following restrictions are hereby imposed upon the use of Condominium Units, Common Areas and other parcels within the Condominium Property.

- 6.1 Single Family Residential Use. The use of the Units within the Condominium Property is hereby restricted to Single Family Residential Use, as defined in Section 1.27 hereof. In no event shall a Condominium be occupied by more individuals than permitted by applicable zoning laws or governmental regulations. An Owner is permitted to lease or rent his or her Unit, subject to the provisions of Section 2.4 (“Delegation or Use”) of this Declaration.
- 6.2 Conveyance of Condominiums. Each Condominium shall be conveyed as a separately designated and legally described fee estate subject to this Declaration.
- 6.3 Interior Improvements. No Owner shall at his or her expense or otherwise make any alterations or modifications to the exterior of the buildings, fences or railings containing the Owner’s Unit, or to any Exclusive Use Area appurtenant to the Owner’s Unit, without the prior written consent of the Association or the Architectural Committee, if any. Furthermore, no structural alterations to the interior of any Unit, or the Common Area, including Exclusive Use Area, surrounding any Unit, shall be made by any Owner without the prior written consent of the Association or the Architectural Committee. Under no circumstances shall any Owner undertake any activity or work with respect to the Owner’s Unit that will impair the structural soundness or integrity of another Unit or impair any easement or hereditament, or do any act or allow any condition to exist in or around the Owner’s Unit which will adversely affect any other Units or their occupants.

Each Owner shall be liable to the remaining Owners for any damage to the Common Area and Common Facilities that may be sustained by reason of the negligence of that Owner, that Owner’s family members, **contract purchasers, tenants, guests, or invitees**, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association.

Each Owner, by acceptance of his or her deed, agrees personally and for family members, contract purchasers, tenants, guests, and invitees, to indemnify each and every other Owner, and to hold such Owner(s) harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, except to the extent (i) that such injury or damage is covered by liability insurance in favor of the Association or other Owner or (ii) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner.

- 6.4 Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Unit, Garage or Common Area nor shall anything be done within the Condominium Property which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including but not limited to barking dogs, the operation of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from an Owner's Unit or Garage or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Living Unit or the Common Area.
- 6.5 Household Pets.
- (a) The Board of Directors shall have the right to establish and enforce rules and regulations imposing standards for the reasonable control and keeping of household pets in, upon and around the Condominium Property to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Condominium Property by the other Owners and residents.
 - (b) Each person bringing or keeping a pet on the Condominium Property shall be solely responsible for the conduct of the person's pets and for any damage or injury to the Common Area caused by the pet. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet.
- 6.6 Signs. No advertising signs or billboards shall be displayed on any building containing Living Units, or posted within or upon any portion of the Common Area except that Owners may post in the windows of their Living Units any signs required by legal proceedings and a single "For Rent," "For Lease" or "For Sale" sign of reasonable dimensions.
- 6.7 Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Unit or Garage, provided that the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents. Furthermore, no restrictions contained in this Section 6.7 shall be construed in such a manner so as to prohibit any Owner from (a) maintaining his or her personal library in his or her Living Unit, (b) keeping his or her personal business records or accounts therein, (c) handling his or her personal or professional telephone calls or correspondence therefrom, (d) leasing or renting his or her Unit in accordance with Section 2.4 hereof, or (e) conducting any other activities within the Owner's Unit otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization. The uses described in (a) through (e), above, are expressly declared to be customarily incidental to the principal residential use of the Unit and not in violation of this Section 6.7.

- 6.8 Garbage. No rubbish, trash, or garbage shall be allowed to accumulate outside of any Living Unit or Garage. All trash shall be stored entirely within appropriate covered disposal containers and facilities located within designated garbage areas within the Common Areas. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed from the Condominium Property to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in a manner inconsistent with this Section.
- 6.9 Storage. Storage of personal property within any Living Unit, including balconies and decks, shall be entirely within enclosed storage areas. The Association shall have the right to establish and maintain on the premises appropriate storage yards and storage buildings for the maintenance of materials and equipment used by the Association in connection with its planting, building, repair, maintenance and preservation of the structures, gardens and other Improvements within the Common Area which the Association is obligated to repair and maintain.
- 6.10 Clotheslines. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes, swim wear, beach towels or other such articles on the balcony or patio of any Living Unit, or anywhere within the Common Area.
- 6.11 Antennas and Similar Devices. Except as otherwise provided in subparagraph (a) of this Section 6.11 related to certain video and television receiving equipment, no Owner, resident or lessee shall, at his or her expense or otherwise, place or maintain any objects, such as masts, towers, poles, wiring, television and radio antennas, or television satellite reception dishes on or about the exterior of any building within the Condominium Property, unless architectural approval is first obtained in accordance with Article V of this Declaration.
- (a) The following restrictions apply to the installation of any video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less and will not be visible from any street or Common Area:
- (i) *An Owner must obtain architectural approval in accordance with Article V of this Declaration*
- (ii) *The Association may (1) condition such approvals on the applicant's agreement to be responsible for the maintenance, repair or replacement of roofs or other building components affected by the installation and (2) require the applicant to indemnify or reimburse the Association for loss or damage caused by the installation, maintenance or use of the video or television antenna system.*
- The Association may adopt rules imposing additional restrictions on the installation of a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less, so long as the restrictions do not significantly increase the cost of the video or television antenna system, including all related equipment, or significantly decrease its efficiency or performance.*

- (b) No activity shall be conducted within any Living Unit which causes an unreasonable broadcast interference with television or radio reception on any neighboring Living Unit. The location of common antennas or connection facilities for any cable television system serving more than one Unit shall be as designated by the Association or the Architectural Committee, if any, and each Unit and its Owner shall be subject to the right of other Owners or the Association to install, use, and maintain such common antennas or cable television facilities.
- 6.12 Diseases and Pests. No Owner shall permit any thing or condition to exist in his or her Living Unit or Garage, which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.
- 6.13 Parking and Vehicle Restrictions. The following parking and vehicle restrictions shall apply within the Condominium Property:
- (a) Except as otherwise provided in subparagraph (e) below, only the following vehicles (“authorized vehicles”) shall be permitted to be parked by any Owner or resident within the Condominium Property: standard passenger vehicles, including bronco or blazer type trucks, motorcycles and noncommercial trucks which do not exceed one ton. Boats, trailers, campers, recreational vehicles, commercial vehicles and trucks in excess of one ton in gross weight are not “authorized vehicles” and shall only be permitted within the Condominium Property as provided in subparagraph (d) below. No more than two authorized vehicles per Unit may be parked or stored within the Condominium Property, one of which shall be parked in a Garage.
- (b) Each Owner shall maintain his or her Garage in a neat and orderly condition. The Garages are to be used for the parking of standard authorized vehicles, and shall not be converted to storage areas, living quarters or work shops or used for the storage of boats, trailers, campers or recreation vehicles which will preclude the parking of the Owner’s or occupant’s authorized vehicles within the Garage.
- (c) No motor vehicle shall be constructed, reconstructed or repaired within the Condominium Property and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored on the Condominium Property; provided, however that the provisions of this Section shall not apply to emergency vehicle repairs.
- (d) Campers, boats, trailers, commercial vehicles and trucks in excess of one ton are not to be parked within the Condominium Property except for periods not to exceed four (4) hours for the purpose of loading and unloading.
- (e) The Board shall have the authority to tow, at the Owner’s expense, any vehicle parked or stored in violation of this Section. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.
- (f) The Board shall have the authority to promulgate further reasonable rules and restrictions of uniform application regarding parking and vehicles within the Condominium Property as may be deemed prudent and appropriate.

- 6.14 Maintenance and Use of Patios and Balconies. No dirt, dust or debris shall be swept off of, dropped or thrown from patios and balconies. Balconies may not be “hosed off” with water.
- 6.15 Use of Private Streets in Common Area. Private streets and alleys within the Condominium Property shall not be used for recreational purposes, including joyriding” or racing. Motorcycles, mopeds, and cars shall be allowed on such private streets only for ingress and egress.
- 6.16 Activities Affecting Insurance. Nothing shall be done or kept within any Living Unit or Garage or within the Common Area which will increase the rate of insurance relating thereto on any policy maintained by the Association (see Article X below) without the prior written consent of the Association and no Owner shall permit anything to be done or kept within his or her Unit or Garage or within the Common Area that would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Unit or Garage or any part of the Common Area.
- 6.17 Variances. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article VI, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration.
- 6.18 Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action under Section 15.6 hereof, the Owner or Tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the non-complying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or tenant of his or her appeal rights.

ARTICLE VII
MAINTENANCE RESPONSIBILITIES

- 7.1 Association Maintenance Responsibilities. Except as provided in Section 7.2 of this Declaration, the Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Area and Exclusive Use Areas. 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. No person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area without express approval of the Association. Without limiting the foregoing, the Association shall be responsible for:
- (a) The repair, reconstruction, replacement, or refinishing of any Common Facility or other Improvements located within or constructed upon Common Area as necessary in accordance with the original design, finish or standard of construction of such improvement, including without limitation all bearing walls, columns, floors, roofs, foundations, plumbing, central heating, air conditioning and refrigeration equipment and other central services, gutters, downspouts and exterior walls, stairways and facia of the Condominium buildings; the patios and balconies appurtenant to the Living Units; and the pipes, pumps, ducts, flues, chutes, conduits, wires, and other utility equipment and installations wherever located except Outlets thereof when located inside a Living Unit or Garage. The Association shall not be responsible for the maintenance, repair, upkeep and replacement of windows, or window glass, exterior doors, screens, screen doors and/or window frames and related hardware of the Unit, except that the Association shall be responsible to paint all exteriors of such areas.
 - (b) The repair and maintenance of the Common Area occasioned by the presence of wood-destroying pests and organisms.
 - (c) The construction, reconstruction, replacement, refinishing of any road, driveway, trail or surface upon any portion of Common Area.
 - (d) The replacement of trees or other vegetation and the planting of trees, shrubs and ground cover upon any portion of Common Area.
 - (e) The placement and maintenance of such signs as the Association may deem necessary for the identification of the development and of roads, the regulation of traffic, including parking, the regulation and use of Common Area and Common Facilities and for the health, welfare and safety of Owners, tenants and guests.
- 7.2 **Owner Maintenance Responsibilities.**
- (a) Each Owner of a Condominium shall be responsible for maintaining his or her Unit, including the equipment and fixtures in the Unit, the interior walls, ceilings, windows and doors of the owned Unit, and the exterior doors, screens and/or window frames and related hardware of the Unit, in a clean, sanitary, workable, and attractive condition. However, each Owner has complete discretion as to the choice of furniture, furnishings, and interior

decorating, except that windows can be covered only by drapes, shutters, or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each Owner also shall be responsible for repair, replacement, and cleaning of the windows and glass of his or her Unit, both exterior and interior, and for maintaining the Patio or Balcony for his or her Unit in a clean and orderly condition.

- (b) Each Owner shall be responsible for maintaining, repairing and replacing the heating and central air conditioning unit and compressor serving the owned Unit, wherever located.

7.3 **Recovery of Costs of Certain Repairs and Maintenance.**

- (a) In the event that the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants, or invitees, and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Section 4.4 hereof.

- (b) In the event that an Owner fails to perform maintenance functions for which he or she is responsible, the Association may give written notice to the offending Owner with a request to correct the failure within 15 days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association may exercise its rights under Section 3.6(b) to enter the Owner's Unit and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance with Section 15.6 hereof.

- 7.4 **Cooperative Maintenance Obligations.** To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the prosecution of its work.

ARTICLE VIII

PARTY WALLS

- 8.1 **General Rules of Law to Apply.** Each wall which is built as a part of the original construction of the Condominiums within the Condominium Property and placed on the dividing line between the Condominiums shall constitute a Party Wall, and the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

ARTICLE IX

EASEMENTS

- 9.1 Encroachment Easements. If any portion of the Common Area encroaches on any Living Unit or Garage or if any portion of a Living Unit or Garage encroaches on the Common Area, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Living Units, Garages and the Common Area are made subject to such easements. If any structure containing a Living Unit or Garage is partially or totally destroyed and then rebuilt and any encroachment on the Common Area results, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Living Units, Garages and the Common Area are made subject to such easements.
- 9.2 Street Easements. Each Owner and the Association shall have and is hereby granted a nonexclusive easement for street, roadway and vehicular traffic purposes over and along the private streets and alleys within the Condominium Property, subject to the rights and restrictions set forth in this Declaration.
- 9.3 Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Condominium Property, for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones, drainage and electricity and the master television antenna or cable television system.

By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on said Condominium Property except as initially designed and approved by the Declarant or thereafter approved by the Association's Board of Directors. The easements provided for in this Section 9.3 shall in no way effect any other recorded easement on the Condominium Property.

- 9.4 Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees, and to any management company or contractor selected by the Association to enter in or to cross over the Common Area and any Condominium to perform the duties of maintenance and repair of the Condominiums, Common Area or Common Facilities, provided that any entry by the Association or its agents into any Unit or Garage shall only be undertaken in strict compliance with Section 3.6(b).
- 9.5 Other Easements. Each Unit and its Owner, and the Association as to the Common Area, are hereby declared to be. subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Condominium Property and each Living Unit, Garage and Common Area as shown on the Tract Map.

ARTICLE X

INSURANCE

10.1 Types of Insurance Coverage. The Association shall purchase, obtain and maintain, with the premiums therefore being paid out of Common Funds, the following types of insurance, if and to the extent such insurance, with the coverage described below, is available at a reasonable premium cost:

- (a) Fire and Casualty Insurance. The Association shall obtain and maintain a master or blanket policy of fire and casualty insurance, for the full insurable value of all the buildings containing Living Units and Garages within the Condominium Property and on any Common Facilities. The insurance shall be kept in full force and effect at all times and the full replacement value of the insured property shall be re-determined on an annual basis. The form, content and term of the policy and its endorsements shall be satisfactory to all institutional First Mortgagees. If more than one institutional first mortgagee has a loan of record against a Condominium within the Condominium Property, the policy and endorsements shall meet the standards of said institutional First Mortgagees.

Depending on the nature of the insured property, the policies maintained by the Association pursuant to this Section shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or the equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage, a special form endorsement and a clause to permit cash settlements for full insurable value in case of partial destruction. The policies required hereunder shall provide amounts or coverage as shall be determined by the Board and shall name as insured the Association, all Owners and all Mortgagees as their respective interests may appear. The policies may contain a loss payable endorsement in favor of the trustee described in Section 10.5 below.

- (b) Public Liability and Property Damage Insurance. To the extent such insurance is reasonably obtainable, the Association shall obtain and maintain a policy of comprehensive public liability and property damage insurance naming as parties insured the Association, each member of the Association Board of Directors, any manager, the Owners and occupants of Units, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Area and any other Association-owned or maintained real or personal property and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$3 million covering all claims for death, personal injury and property damage arising out of a single occurrence and shall in no event be less than the minimum amount set forth in Civil Code Section 1365.9, as that statute, or any comparable superseding statute, is amended from time to time. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location and use.

- (c) Directors and Officers Liability Insurance. The Board shall purchase and maintain a policy of directors and officers liability insurance naming as parties insured the Association, each member of the Board of Directors, each officer of the Association, any manager and any other person as the Board may determine. The limits of such insurance shall be not less than Three Million Dollars (\$3,000,000.00) per occurrence.
- (d) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this Section, demolition insurance, flood insurance, earthquake and workers' compensation insurance. The Board shall also purchase and maintain such insurance on personal property owned by the Association and any other insurance that it deems necessary or desirable.
- (e) Notification to Owners as to Amount and Type of Insurance Carried. The Association shall, upon issuance or renewal of insurance, but no less than annually, prepare and distribute to all of the Owners:
- (i) *A summary of the Association's general liability policy that states all of the following: (1) the name of the insurer; (2) the policy limits of the insurance; (3) if an insurance agent or broker has assisted the Association in the development of the general liability policy limits and if the recommendations of the insurance agent or broker were followed; (4) the insurance deductibles; (5) the person or entity responsible for paying the insurance deductible in the event of a loss; and (6) whether or not the insurance coverage extends to the improvements within the Living Units and Garages.*
 - (ii) *A summary of the Association's earthquake and flood insurance policy, if any, that states all of the following: (1) the name of the insurer; (2) the policy limits of the insurance; (3) the insurance deductible; and (4) the person or entity responsible for paying the insurance deductible in the event of a loss.*
 - (iii) *A summary of the liability policy for the directors and officers that lists all of the following: (1) the name of the insurer; and (2) the limits of the insurance.*
- 10.2 Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 10.1 is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.
- 10.3 Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.
- 10.4 Individual Fire and Casualty Insurance Limited. Except as provided in this Section, no Owner can separately insure his or her Unit or any part of it against loss by fire or other

casualty covered by the Association's blanket insurance carried under Section 10.1(a). If any Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 10.1(a) that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner will be liable to the Association to the extent of any diminution. An Owner can insure his or her personal property against loss. In addition, any Improvements made by an Owner within his or her Condominium may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's Improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, and any institutional first Mortgagee of such Condominium.

- 10.5 Trustee. All insurance proceeds payable under this Article X may, in the discretion of the Board of Directors, be paid to a trustee to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank or other institution with trust powers within the County that agrees in writing to accept such trust. If repair or reconstruction is authorized pursuant to Article Xi below, the Association and any duly appointed trustee shall have the duty to contract for such work as provided in Section 11.5.
- 10.6 Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to this Article X. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.
- 10.7 Owner's Liability Insurance. An Owner may carry whatever personal liability and property damage liability insurance with respect to his or her Condominium that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable by the Board.

ARTICLE XI

DAMAGE OR DESTRUCTION

- 11.1 Destruction; Proceeds Exceed 85 Percent of the Reconstruction Costs. If there is a total or partial destruction of any building containing Condominium Units or of Common Facility Improvements within the Condominium Property, and if the available proceeds of the insurance maintained pursuant to Article X are sufficient to cover not less than 85 percent of the costs of repair and reconstruction, the Improvements shall be promptly rebuilt unless, within 90 days from the date of destruction, 66-2/3 percent of the “eligible Members” (as defined in Section 11.4 below), determine that such repair and reconstruction shall not take place. If repair and reconstruction is to take place, the Board shall be required to execute, acknowledge and record in the office of the County Recorder, not later than 120 days from the date of such destruction, a certificate declaring the intention of the Owners to rebuild.
- 11.2 Destruction; Proceeds Less Than 85 Percent of Reconstruction Costs. If the proceeds of insurance are less than 85 percent of the cost of repair and reconstruction, repair and reconstruction of the damaged or destroyed Improvements may nevertheless take place, if, within 90 days from the date of destruction, at least 66-2/3 percent of the eligible Members determine that such repair and reconstruction shall take place. If a meeting or written ballot is called to vote on the matter, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the Improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction are to take place, the Association shall execute, acknowledge, and record in the office of the County Recorder of the County not later than 120 days from the date of destruction a certificate declaring the intention of the Owners to rebuild.
- 11.3 Rebuilding Procedures. If the eligible Members determine to rebuild, pursuant to Section 11.1 or 11.2, above, the Owners of each Unit located within a structure that has been totally or partially destroyed shall be obligated to contribute his or her proportionate share of the cost of reconstruction or restoration of the structure containing his or her Unit, over and above the available insurance proceeds. The Owners’ proportionate share of the cost of reconstruction or restoration shall be based upon the ratio that the square footage of the living area of his or her Unit bears to the total square footage of the living area of all Units within the structure that has been totally or partially destroyed. For purposes of this Section 11.3, the floor area square footage of one-bedroom Living Units shall be deemed to be 760 square feet, the floor area square footage of the two-bedroom Living Units shall be deemed to be 870 square feet and the floor area square footage of the three-bedroom Living Units shall be deemed to be 1260 square feet. If any Owner fails or refuses to pay his or her proportionate share, the Board may levy a Special Individual Assessment against the Unit of such Owner which may be enforced under the lien provisions contained in Article IV or in Any other manner provided in this Declaration, provided that in the case of damage or destruction of the Common Area or any Common Facility the uninsured portion of any repair or reconstruction expense shall be allocated equally to each Unit.

- 11.4 Definition of “Eligible Members” Entitled to Vote. For purposes of any vote pursuant to this Article XI, the Members eligible to vote shall be:
- (a) The requisite percentage of the total voting power of the membership in the case of any damage to or destruction of Common Facilities other than buildings containing Units, and
 - (b) In the case of any damage to or destruction of buildings containing Units, the requisite percentage of the voting power of those members whose Units are located in the damaged or destroyed structure(s).
- 11.5 Rebuilding Contract. If the eligible Members determine to rebuild, the Board shall reconstruct the damaged or destroyed portions of the Condominium Property substantially in accordance with the original plan. The Board or its authorized representative shall obtain bids from at least three (3) reputable contractors and shall award the repair and reconstruction work to the bidder the Association Board determines to be the most qualified (which need not be the lowest bidder).

The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction on terms deemed reasonable by the Board. It shall be the obligation of the Board to take all steps which are necessary or appropriate to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

- 11.6 Rebuilding Not Authorized. If the eligible Members determine not to rebuild, then any insurance proceeds then available for rebuilding shall be used or distributed as follows:
- (a) If, prior to the expiration of 120 days from the date of destruction, 66-2/3 percent of all Owners and institutional first Mortgagees with Mortgages encumbering the affected Units within the Condominium Property consent by vote or in writing, the Board acting on behalf of the Association shall have the right to purchase the Units which were rendered uninhabitable by such damage or destruction at the fair market value thereof immediately prior to the damage or destruction (as determined by an appraiser in accordance with Section 11.8 below), using the available proceeds of insurance for such purpose. Any shortage of insurance proceeds shall be made up by a Special Assessment levied against all remaining Owners (but without the consent or approval of Owners, despite any contrary provisions of this Declaration). The Board’s decision as to whether or not a Unit is uninhabitable shall be final and binding on all parties. Any payment of the purchase price shall be made jointly to the selling Owner and all Mortgagees of his or her Unit and each Owner by accepting a deed to a Condominium agrees to be bound by these provisions and to convey his or her Condominium to the Association as provided herein. Concurrently with such purchase, the Board or individuals authorized by the Board, acting as attorney in-fact of all Owners shall amend the Condominium Plan and this Declaration to eliminate from the Condominium Property the Condominiums so purchased and to adjust the undivided ownership interest of the remaining Owners to reflect the reduced number of Condominiums in the Project; and the Association shall convey to each remaining Owner a proportionate share of the undivided interests in the Common Area represented by the Condominiums purchased.

- (b) Notwithstanding the determination of eligible Members not to rebuild pursuant to Section 11.1 or 11.2 of this Article XI, any Units which are not rendered uninhabitable shall be repaired and restored to a condition as near as possible to their condition immediately before such damage or destruction. Such repair and restoration shall be paid first from the insurance proceeds remaining after the purchase of Condominiums pursuant to subparagraph (a), of this Section 11.6, if any, and second from a Special Individual Assessment levied against all remaining Owners in the manner described in Section 11.3 of this Article XI (but without the consent or approval of Owners, despite any contrary provisions of this~ Declaration).
 - (c) If the required 66-2/3 percent of all Owners and institutional first Mortgagees do not consent to purchase the Condominiums which were rendered uninhabitable, an appraiser shall determine the relative fair market values of all Condominiums in the Condominium Property, as of a date prior to any damage or destruction and the proceeds of insurance shall be apportioned among all Owners, and their respective Mortgagees, in proportion to such relative values. The Board shall have the duty, within 120 days from the date of destruction, to execute, acknowledge and record in the office of the County Recorder, a certificate declaring the intention of the Members not to rebuild. On recordation of the certificate, the right of any Owner to partition through legal action as described in Article XIII shall revise immediately.
- 11.7 Minor Repair and Reconstruction. In any case, the Board shall have the duty to repair and reconstruct Improvements owned by the Association or improvements it is obligated to repair and maintain, without the consent of Members and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed \$20,000. Any amounts paid by the Board up to and including \$20,000 which are not covered by insurance shall be assessed to the Owners of Condominiums which are damaged upon the basis of the ratio of the square footage of the floor area of the Condominium to be assessed to the total square footage of the floor area of all Condominiums to be assessed. The floor area square footage of one-bedroom Living Units shall be deemed to be 760 square feet, the floor area square footage of the two-bedroom Living Units shall be deemed to be 870 square feet and the floor area square footage of the three-bedroom Living Units shall be deemed to be 1260 square feet.
- 11.8 Appraiser. Wherever in this Article XI or article XII (condemnation) reference is made to a determination of the value or fair market value of one or more Condominiums by an appraiser, this shall mean an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers (SREA) or other nationally recognized appraiser organization and who shall apply its or such other organization's standards in determining the value or fair market value of each Condominium. The costs of such appraisals shall be paid from the sale or insurance proceeds, as the case may be.

ARTICLE XII

CONDEMNATION

- 12.1 Sale by Unanimous Consent or Taking. If an action for condemnation of all or a portion of the Condominium Property is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the Owners and all institutional Mortgagees, the Condominium Property, or a portion thereof may be sold and conveyed to the condemning authority by the Board or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner by accepting a fee interest in a Condominium in the Condominium Property hereby grants and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Condominium Property, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.
- 12.2 Distribution and Sale Proceeds of Condemnation Award.
- (a) Total Sale or Taking. A total sale or taking of the Condominium Property means a sale or taking that (i) renders more than 50 percent of the Condominiums uninhabitable (such determination to be made by the Board in the case of a sale and by the court in the case of a taking) or (ii) renders the Condominium Property as a whole uneconomical as determined by the vote or written consent of 66-2/3 percent of those Owners and their respective institutional Mortgagees whose Condominiums will remain habitable after the taking. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Condominium Property, after payment of all expenses relating to the sale or taking, shall be paid to all Owners and to their respective Mortgagees in the proportion that the fair market value of each Condominium bears to the fair market value of all Condominiums on the Condominium Property. The fair market value of the Condominiums shall be determined in the condemnation action, if such be instituted, or by an appraiser.
- (b) Partial Sale or Taking. In the event of a partial sale or taking of the Condominium Property, meaning a sale or taking that is not a total taking, as determined in Section 12.2(a) above, the proceeds from the sale or taking shall be paid or applied in the following order of priority and any judgments of condemnation shall include the following provisions as part of its terms:
- (i) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then*
 - (ii) To Owners and to their respective Mortgagees, as their interests may appear, of Condominiums on the Condominium Property whose Condominiums have been sold or taken, an amount up to the fair market value of such Condominiums as determined by the court in the condemnation proceeding or by an appraiser, less such*

Owners' share of expenses paid pursuant to Section 12.2(b)(i) (which share shall be in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Condominiums). After such payment, the recipient shall no longer be deemed an Owner and the Board or individuals authorized by the Board, acting as attorney-in-fact of all Owners, shall amend the Condominium Plan and this Declaration to eliminate from the Condominium Property the Condominiums so sold or taken.

(iii) To any remaining Owner(s) and to his or her Mortgagees, as their interests may appear, whose Condominium has been diminished in value as a result of the sale or taking disproportionate to any diminution in value of all Condominiums, as determined by the Court in the condemnation proceeding or by an appraiser; an amount up to the total diminution in value; then

(iv) To all remaining Owners and to their respective Mortgagees, as their interests may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Condominium bears to the fair market value of all remaining Owners' Condominiums as of a date immediately prior to commencement of condemnation proceedings, as determined by the Court in the condemnation proceeding or by an appraiser.

ARTICLE XIII PARTITION OF COMMON AREA

13.1 Suspension or Right of Partition. Except as expressly provided in this Article XIII, an Owner shall have no right to partition or divide his or her ownership of the Common Area. Partition of the Common Area can be had on a showing that the conditions to such partition as stated in Article XI (relating to damage or destruction) or in Article XII (relating to condemnation) or in California Civil Code Section 1359 have been met. Nothing in this Declaration shall prevent partition of a co-tenancy in a Condominium.

13.2 Distribution of Proceeds Upon Partition. Proceeds of property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums determined by appraisal as provided in Section 11.8, but as of a date immediately prior to the event giving rise to the right of Owners to partition the Common Area.

13.3 Power of Attorney. Each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Project, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Project may be had under Civil Code Section 1359 and under the circumstances authorizing partition under this Declaration. The power of attorney shall (a) be binding on all Owners, whether they assume the obligations under this Declaration or not; (b) be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of 66-2/3 percent of the Owners and 66-2/3 percent of all institutional first Mortgagees; and (c) be exercisable only after recordation with the County Recorder of a certificate executed by those who have power to exercise the power of attorney that the

power of attorney is properly exercisable under Civil Code Section 1359. This certificate shall be conclusive evidence of proper exercise in favor of any person relying on it in good faith.

ARTICLE XIV

NONSEVERABILITY OF COMPONENT INTERESTS

- 14.1 Severance Prohibited. An Owner shall not be entitled to sever his or her Unit in any Condominium from his or her membership in the Association, and shall not be entitled to sever his or her Unit or his or her membership from the Owner's undivided interest in ~ Common Area for any purpose. None of the component interests in a Condominium can be severally sold, conveyed, encumbered, hypothecated, or otherwise dealt with; and any violation or attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to his or her Unit over the Common Area from the Owner's condominium, and any attempt to do so shall be void. The suspension of such right of severability will not extend beyond the period set forth in Article XIII respecting the suspension of partition.
- 14.2 Limitation on Interests Conveyed. Any conveyance of a Unit or any portion of it by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this Section 14.2 shall preclude the Owner of any Condominium estate from creating an estate for life or an estate for years or from creating a co-tenancy or joint tenancy in the ownership of the Condominium with any other person or persons.

ARTICLE XV

BREACH AND DEFAULT

- 15.1 Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for- the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Condominium, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.
- 15.2 **Nuisance.** Without limiting the generality of the foregoing Section 15.1, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

- 15.3 **Costs and Attorneys' Fees.** In any action arising out of this Declaration, or in any action to enforce the restrictions contained in this Declaration, the prevailing party shall be awarded its reasonable attorneys' fees and costs.
- 15.4 **Cumulative Remedies.** The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.
- 15.5 **Failure Not a Waiver.** The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.
- 15.6 **Rights and Remedies of the Association.**
- (a) **Rights Generally.** In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey such Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreational Common Facilities or suspension of the Owner's voting rights as a Member of the Association; provided that the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this Section 15.6.

The decision of whether it is appropriate or necessary for the Association to initiate enforcement or **disciplinary action** in any particular instance shall be within the sole **discretion** of the Association's **Board** or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as may exist by virtue of the California Civil Code Section 1354 or otherwise by law.

- (b) **Schedule of Fines.** The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate. Once imposed, a fine or penalty may be collected as a Special Individual Assessment.
- (c) **Definition of "Violation."** A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component

for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures, The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Area at the cost of the responsible Owner.

- (d) Hearings. No penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least 15 days prior notice of the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action.
- (e) Notices. Any notice required by this article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice, provided that if notice is given by mail it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.
- (f.) Rules Regarding Disciplinary Proceedings. The Board shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.
- 15.7 Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association upon approval of the Board. Before initiating any court action seeking declaratory or injunctive relief to interpret or enforce the governing documents (including either of those actions coupled with a claim for monetary damages not in excess of \$5,000), the Association shall first comply with the provisions of Civil Code Section 1354, or comparable superseding statute, relating to alternative dispute resolution.

ARTICLE XVI NOTICES

- 16.1 Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:
- *If to any Owner: To the street address of his or her Condominium or to such other address as he or she may from time to time designate in writing to the Association.*
 - *If to the Association: Cathedral Villas Owners Association, at the principal office of the Association (or to such other address as the Association may from time to time designate in writing to the Owners).*
- 16.2 Service Upon Co-Owners and Others. Service of a notice or demand to one of the co-Owners of any Condominium, to any general partner of a partnership which is the Owner of Record of the Condominium, or to any officer or agent for service of process of a corporation which is the Owner

of Record of the Condominium, shall be deemed delivered to all such co-owners, to such partnership, or to such corporation, as the case may be.

- 16.3 Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four days after deposit in the United States mail in Riverside County, California.

ARTICLE XVII

NO PUBLIC RIGHTS IN THE CONDOMINIUM PROPERTY

- 17.1 Nothing contained in this Declaration shall be deemed to be a gift or a dedication of all or any portion of the Condominium Property to the general public or for any public use or purpose whatsoever.

ARTICLE XVIII

AMENDMENT OF DECLARATION

- 18.1 Amendment in General. This Declaration may be amended or revoked in any respect by the vote or assent by written ballot of not less than sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.
- 18.2 Effective Date of Amendment. The amendment will be effective upon the recording in the Office of the Recorder of Riverside County a Certificate of Amendment, duly executed and certified by the president and secretary of the Association setting forth in full the amendment so approved and that the approval requirements of Section 18.1, above, have been duly met. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or Mortgage recorded prior to the recording of such amendment.
- 18.3 Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

ARTICLE XIX

GENERAL PROVISIONS

- 19.1 Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Condominiums and the Common Area as herein provided, and shall insure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of 60 years from the date of the recording of this Declaration, after which time the same shall be automatically extended for successive periods of 10 years each unless, within 6 months prior to the expiration of the initial 60-year term or any such 10-year extension period, a recordable written instrument, approved by Owners holding at least sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association terminating the effectiveness of this Declaration shall be filed for recording in the Office of the County Recorder of Riverside County, California.
- 19.2 Construction of Declaration.
- (a) Restrictions Construed Together. All of the covenants, conditions, and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Condominium Property as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.
 - (b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions, and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.
 - (c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.
 - (d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.
 - (e) Statutory References. Any reference to a statute shall be deemed to refer to such statute as amended, or to any comparable, superseding statute, as the case may be.

CERTIFICATE OF BOARD

Each of the undersigned, President and Secretary of the Cathedral Villas Owners Association, hereby certifies under penalty of perjury that the above First Restated and Amended Declaration of Restrictions was approved by at least seventy-five percent (75%) of the voting power of the Association, evidence of which is on file in the office of the Association.

Dated: _____, 1996

CATHEDRAL VILLAS
OWNERS' ASSOCIATION

BY: _____
President

BY: _____
Secretary

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