

SURFSIDE III CONDOMINIUM OWNERS ASSOCIATION
a California nonprofit mutual-benefit corporation

THIS RESTATED Declaration of Covenants, Conditions and Restrictions ("CC&Rs") is made by all Persons who own Units in that certain real property planned residential development known as Surfside III Condominium Owners Association, located in the County of Ventura, State of California. These CC&Rs shall apply to and bind all properties previously covered by covenants, conditions and restrictions. Without reducing the number of properties covered by these CC&Rs, the CC&Rs shall apply to the following properties:

XXXXXXX

By this instrument, the Members of the Association hereby revoke all previous declarations of covenants, conditions and restrictions as well as all amendments thereto and substitute in their place these CC&Rs, which shall:

1. *Benefit Members.* Be for the benefit of Members of the Association;
2. *Benefit the Development.* Be for the benefit, enhancement and protection of the desirability, value and attractiveness of the Development and each Unit therein;
3. *Bind Successors in Interest.* Inure to the benefit of and be binding upon each successor in interest of the Association, each Member, Tenant, Resident, and occupant of any portion of the Development, as well as their respective heirs, personal representatives, grantees, Tenants, licensees, successors and assigns; and
4. *Run With the Land.* Run with the land and be binding upon all parties having or acquiring any right, title or interest in the Development or any portion of the Development, whether as sole owners, joint owners, Tenants, Residents, occupants or otherwise.

NOW THEREFORE, all Units in the Development, as well as any conveyance, transfer, sale, assignment, rental, lease or sublease of a Unit, shall be deemed to incorporate the provisions of these CC&Rs. Each successor in interest is subject to all of the covenants, conditions and restrictions contained in these CC&Rs.

ARTICLE 1: DEFINITIONS

1.1 "Annual Meeting" shall mean the annual meeting of the Members of the Association.

1.2 "Architectural Standards" shall mean those rules and guidelines which govern the making of physical changes, alterations, repairs or improvements to Units,

Common Areas and Exclusive Use Common Areas.

1.3 "Articles" shall mean the Association's Articles of Incorporation.

1.4 "Assessment" shall mean any Regular Assessment, Special Assessment, Reimbursement Special Assessment, or any other assessment levied, imposed, or assessed against a Member's Unit in accordance with the provisions of the Governing Documents or applicable law.

1.5 "Association" shall mean the *Surfside III Condominium Owners Association*, a California nonprofit, mutual-benefit corporation. The Association shall include, when the context requires, its Officers, Directors, employees and agents.

1.6 "Balcony" shall refer to a balcony which is attached to a Unit and accessible through the Unit of which it is a part.

1.7 "Board" and "Board of Directors" shall mean the Board of Directors of the Association.

1.8 "Budget" shall mean a pro forma, projected or estimated operating budget of the Association's income and expenses for a twelve (12) month period.

1.9 "Building" shall mean any building or structure which is part of the Improvements of the Development.

1.10 "Bylaws" shall mean the duly adopted Bylaws of the Association, including any amendments.

1.11 "CC&Rs" shall mean this Restated Declaration of Covenants, Conditions and Restrictions and any amendments to these CC&Rs.

1.12 "Committee" shall mean any committee appointed by the Board to assist in the management and administration of the affairs of the Association.

1.13 "Common Area" shall mean the entire Development, except the separate interests owned by Members in fee simple.

1.14 "Common Expenses" shall mean the costs, expenses and charges in connection with maintaining, managing, insuring, operating, repairing, improving or replacing the Common Areas or managing the affairs of the Association. Common Expenses include, but are not limited to, those amounts reasonably necessary for reserves for anticipated long-term maintenance, repair and replacement of Improvements upon the Common Areas, contingencies, service obligations of the Association, and any other obligations of the Association that are authorized by either the Governing Documents or law.

1.15 "Condominium" shall mean a condominium, as defined in Section 1351 of the Civil Code or any successor statutes. Specifically, a condominium is a separate interest in a Unit, plus an undivided fractional interest in the Common Areas, as reflected in Exhibit A.

1.16 "Condominium Plan" shall mean the diagrammatic plan of the Units built in the Development, which identifies each Unit pursuant to Section 1351 of the Civil Code or any successor statutes.

1.17 "Development" shall mean that certain residential development known as "Surfside III Condominium Owners Association" more particularly designated as Units X through XX, inclusive, and the common area in Tract XXXX, in County of Ventura, State of California, according to the Condominium Plan recorded in the Office of the County Recorder of Ventura County.

1.18 "Director" shall mean any member of the Association's Board of Directors.

1.19 "Exclusive Use Common Areas" shall mean those portions of the Common Area which serve a single Unit, whether located inside or outside the boundaries of the Unit.

1.20 "Governing Documents" shall mean these CC&Rs and any other documents which govern the operation of the Association, including, but not limited to, the Articles of Incorporation, Bylaws, Architectural Standards, Condominium Plan, Rules and Regulations, and Election Rules, as may be amended from time to time.

1.21 "Improvements" shall mean all buildings and other structures located within the Development, including, but not limited to, streets, sidewalks, and utilities.

1.22 "Manager" shall mean any person or company employed or retained by the Association to oversee the operation, maintenance and management of the Association.

1.23 "Member" shall mean the Owner, whether one or more Persons, of the publicly-recorded fee title to any Unit within the Development, but excluding any Person or Persons having such an interest in the Unit merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from the record fee ownership of a Unit and shall not be transferred, encumbered, pledged, alienated, or otherwise separated in any way, except in connection with the record sale of a fee interest of the Unit to which it is appurtenant.

1.24 "Membership Approval" and "Approval of the Membership" shall mean approval by the affirmative vote of a majority of a Quorum.

1.25 "Officer" shall mean the chair, first vice-chair, second vice-chair, secretary, treasurer, and any other officer of the Association, as defined in the Bylaws.

1.26 "Operating Accounts" shall mean any account into which the Association's Assessments are deposited and out of which the Association's operational expenses are paid.

1.27 "Owner" shall mean the owner, whether one or more Persons, of the publicly-recorded fee title to any Unit within the Development, but excluding any Person or Persons having such an interest in the Unit merely as security for the performance of an obligation.

1.28 "Parking Areas" shall include those portions of the Development used for the parking of vehicles.

1.29 "Patio" shall refer to a patio which is attached to a Unit and accessible through the Unit of which it is a part or through common area.

1.30 "Percentage Interest" shall mean that undivided percentage ownership of the Common Area assigned to each Unit.

1.31 "Person" shall mean a natural person, corporation, partnership, trust, association, or other entity, as recognized by law.

1.32 "Quorum" or "Quorum of the Voting Power" shall mean more than 50% of the Voting Power of the Association.

1.33 "Regular Assessments" shall mean assessments other than Special Assessments and Reimbursement Assessments, levied or imposed against Members in order to perform the Association's obligations under the Governing Documents or the law.

1.34 "Reimbursement Special Assessments" or "Reimbursement Assessments" shall mean those Special Assessments levied against Members for expenses incurred by the Association arising out of: (i) actions or omissions of; (ii) materials or services provided to Members or their family, Tenants, guests, invitees, or pets; or (iii) conditions originating in a Unit.

1.35 "Reserves" or "Reserve Accounts" shall mean those monies set aside in a separate account for the purpose of repairing, replacing, restoring, or maintaining the major Common Area components of the Development.

1.36 "Resident" shall mean any Person in actual possession of all or any portion of a Unit.

1.37 "Restricted Common Areas" shall mean those sections of the Common Area

over which exclusive easements are reserved for the benefit of Members for vehicle parking. The Restricted Common Area is shown and defined on the condominium plan for the Project. Restricted Common Areas, as defined, shall be appurtenant to the unit.

1.38 "Rules and Regulations" or "Rules" shall mean the rules and regulations adopted by the Board for the general health, welfare, comfort, and safety of Members and to interpret and implement the Governing Documents.

1.39 "Special Assessments" shall mean assessments levied from time to time against Members if at any time during the fiscal year the Regular Assessments are inadequate to perform the Association's obligations under the Governing Documents or the law, including, but not limited to, Common Area capital improvements, Common Area maintenance and repairs, unexpected expenses, and emergency repairs.

1.40 "Tenants" and "Lessees" shall mean those persons who have the temporary use and occupancy of Units owned by others, whether such use is paid for in money or other value.

1.41 "Unit" shall mean those elements of a Condominium which are owned in fee simple interest, and which are not owned in common with the Owners of other Condominiums in the Development, numbered units X-XX inclusive, as shown in Exhibit "A".

a. *Boundaries.* The boundaries of each Unit shall be the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows, and doors. Said unfinished interior surfaces are not part of the Unit. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the Condominium Plan, shall be conclusively presumed to be its boundaries, rather than the metes and bounds, or other description, expressed in the deed or Condominium Plan, regardless of settling or lateral movement of a building and regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of a building.

b. *Inclusions.* The following are part of each individual Unit: (i) the finished interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the individual Unit; and (ii) the airspace so encompassed inside said interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets.

c. *Exclusions.* Any equipment, mechanical devices, security system components, and Utility Lines that are located within any Unit or that run through any portion of any Unit and that service more than one Unit are not part of that Unit and shall be deemed to be part of the Common Area.

1.42 "Utility Lines" shall mean sewer lines, storm drains, water pipes, electricity lines, gas lines, telephone lines or cables, television cables, satellite dish cables,

heating and air conditioning conduits, heating and air conditioning ducts, heating and air conditioning flues, fiber optic cables, data lines, and other similar lines, pipes, cables, ducts, flues, and conduit pipes.

1.43 "Voting Power" shall mean the total number of Units entitled to vote, excluding those Units for which voting rights have been properly suspended.

1.44 Definitions of Other Terms. Unless the context clearly requires otherwise, all other terms are defined as set forth in Section 1350, et seq., of the Civil Code and any successor statutes.

ARTICLE 2: MEMBERSHIP RIGHTS AND PRIVILEGES

2.1 Ownership of Common Areas. The Common Areas shall be owned by the Members as tenants-in-common according to the Members' Percentage Interest.

2.2 Membership. Each Person shall automatically become a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Unit and shall remain a Member until he or she ceases to have such recorded fee ownership interest in a Unit.

a. *Membership Appurtenant to Units.* Membership in the Association is for the benefit of and appurtenant to the Unit to which it relates and shall not be separated from the ownership of the Unit.

b. *No Membership for Security Interests.* Membership does not include Persons who hold an interest in a Unit merely as security for the performance of an obligation.

c. *No Membership for Tenants.* Tenants have the same rights to use the common areas as Members, but shall not be Members nor have the right to vote.

d. *No Separate Transfer of Membership.* No Member may transfer, pledge, or alienate in any way his/her membership in the Association, except upon the recorded transfer of the fee interest in the Unit to which it is appurtenant and then only to the transferee of such fee interest.

e. *Trusts.* If the record fee title to a Unit is held in the name of trustee(s) on behalf of a trust, the trustee(s) of the trust shall be authorized to exercise the rights and privileges of Association membership on behalf of the trust.

f. *Corporations.* If the record fee title to a Unit is held by a corporation, the president of the corporation, as designated in the corporation's minutes, shall be authorized to exercise the rights and privileges of Association membership on behalf of the corporation.

g. *Partnerships.* If the record fee title to a Unit is held by a partnership, the managing partner, as designated in the partnership agreement, shall be authorized to exercise the rights and privileges of Association membership on behalf of the partnership. If no managing partner has been designated in the partnership agreement, then the partnership shall deliver to the Association a written designation of the name of the partner who is authorized to exercise the rights and privileges of Association membership on behalf of the partnership.

h. *Other Entities*. If the record fee title to a Unit is held by a legal entity not described above, the majority owner of the entity shall be considered the Owner of the Unit for purposes of membership in the Association and may exercise the rights and privileges of a Member. If there is no majority owner, an owner of the legal entity shall deliver to the Association a written designation of the name of the owner who is authorized to exercise the rights and privileges of Association membership on behalf of the entity.

2.3 Proof of Ownership. Proof of membership shall be in the form of a recorded deed showing fee ownership of a Unit.

2.4 Voting Rights. In all matters submitted for a membership vote, Members shall be entitled to one (1) vote per Unit (regardless of the number of Members having an interest in the Unit), except for those Members whose voting rights have been properly suspended pursuant to the Governing Documents and applicable law.

2.5 Inspection of Records. Members shall have the right to inspect records of the Association as provided for in the Bylaws and by law.

2.6 Ingress, Egress and Support. Members shall enjoy a nonexclusive easement appurtenant to and for the benefit of their Units for ingress, egress, and support over, across and through the Common Area and every portion of any Unit required for the structural support of the Unit.

2.7 Easement for Use and Enjoyment. Members shall have a nonexclusive easement of use and enjoyment of the Common Areas, subject to the rights of the Association as described in the Governing Documents and the Association's right to reasonably limit the number of guests of Members.

ARTICLE 3: MEMBERSHIP OBLIGATIONS

3.1 Obligation to Follow Governing Documents. Members shall be obligated to follow the Association's Governing Documents and to ensure that their family, guests, invitees, and Tenants abide by the Governing Documents. Any grant deeds conveying any interest in the Development to individual purchasers of Condominiums shall expressly refer to and incorporate this Declaration therein by reference. Whether or not a reference to this Declaration is made in any individual deed, each purchaser of a Condominium, part or portion thereof, shall by acceptance of a deed or other conveyance for such Condominium, part or portion thereof, thereby be conclusively deemed to have consented to and agreed to all of the covenants, conditions and restrictions contained herein for himself and his heirs, executors, administrators and assigns and does by said acceptance covenant for himself and his heirs, executors, administrators and assigns to observe, perform and be bound by the same.

3.2 Supervision of Minors. Members shall be liable for the conduct, behavior, and

proper supervision of minors residing at or visiting their Units and/or using the Association's Common Areas.

3.3 Security. Members shall be responsible for their own security and shall take appropriate measures to ensure the security of the persons and property of themselves as well as that of their family, guests, invitees, and Tenants. Members may not rely on any security measures provided by the Association.

3.4 Purchase Subject to Violations. Buyers shall take ownership of Units subject to any violations of the CC&Rs, Architectural Standards, or Rules which may exist concerning the Unit, whether or not such violations were disclosed by the seller of the Unit and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

3.5 Notice of Transfer of Ownership. No later than five (5) days after the assignment, sale, quitclaim or other transfer of their Units, Members shall notify the Association of the name and address of the transferee and the nature of the transfer.

3.6 Duty to Repair and Maintain. Members shall, at their sole expense, repair and maintain their Units, Improvements to their Units, and any Exclusive Use Common Areas servicing their Units. This includes, without limitation, the following:

a. *Interior Walls and Partitions.* The walls and partitions which are contained inside Members' Units, excluding the perimeter walls and any internal load-bearing walls.

b. *Wall, Ceiling and Floor Coverings.* The interior surfaces of the perimeter walls, floors, and ceilings, including, but not limited to, plaster, paint, wallpaper, paneling, fabrics, mirrors, carpets, rugs, linoleum, hardwoods, marble, granite, tile, window coverings, or any other materials used to decorate the interior surfaces of the Unit.

c. *Windows.* Members shall keep the interior and exterior of the windows of their Units clean and in good repair, unless the Association has elected to clean the exterior surfaces for all Units, and shall be responsible for repairing leaks and replacing damaged glass, screens, weather stripping, latches, and related hardware using the material, color, quality, size, and configuration specified by the Board.

d. *Doors.* Members shall keep in good repair their Unit's doors, door frames, thresholds, weather stripping, locks, and related hardware. However, the exterior finishes and frames of front doors shall be the responsibility of the Association.

e. *Cabinets, Countertops and Appliances.* All cabinets, counter tops, and appliances, including refrigerators, stoves, ovens, dishwashers, garbage disposals, microwaves, washers and dryers, and the like.

f. *Heating.* Air conditioning is not allowed at Surfside III. All mechanical

equipment, heating and air conditioning equipment, heat exchangers, drip pans, valves, thermostats, compressors, control equipment, and any other mechanical equipment exclusively servicing the Unit. Members shall be responsible for any damage to the Common Areas caused by their air equipments.

g. *Electrical, Telephone, Security and Cable.* All telephones, telephone lines, electrical wiring, light fixtures, electrical outlets, circuit breakers, and switches; cable and/or satellite television lines exclusively servicing a single Unit; all locks, intercom equipment, and security systems.

h. *Plumbing.* All plumbing equipment, including plumbing fixtures, toilets, faucets, bathtubs, tub and shower valves, shower pans, angle stops, garbage disposals, water heaters, etc., which exclusively service the Unit.

i. *Balconies and Patios.* Members shall maintain and keep in good repair their Balconies and Patios, as provided for in the Article in these CC&Rs entitled "Balconies and Patios."

j. *Improvements.* All improvements or alterations to the Unit or appurtenant areas by any current or prior Owner of the Unit, or by any party other than the Association, as part of any remodeling of the Unit.

3.7 Easement for Maintenance. Members are granted easements to enter the Common Areas as may be necessary to fulfill their maintenance obligations as described in the Governing Documents, provided that any damage to the Common Areas shall be repaired at such Member's sole expense and in a timely fashion.

3.8 Water Damage and Mold. Each Member, and not the Association, is responsible for water damage to and mold in Units and Common Areas caused by: (i) the Member or Member's family, guests, invitees, and Tenants; or (ii) plumbing lines and plumbing-related fixtures which the Member is responsible for maintaining. Each Member shall regularly inspect their Unit for plumbing leaks, water accumulation, water intrusion through windows, doors, and roofs and signs of mold. Members must periodically service and/or replace supply and drain lines to appliances, HVAC equipment, sinks, toilets, and the like in their Units.

3.9 Obligation to Carry Insurance. Members shall purchase insurance for their separate interests, at their sole expense, as more fully described in the Article in these CC&Rs entitled "Insurance." The Association is specifically relieved of any responsibility or liability for policing this provision.

3.10 Damage to Common Area. Members shall be liable for any damage to the Common Areas and any other property of the Association, (i) when the cause of such damage originates from the Member's Unit or (ii) when caused by the acts, omissions, or willful misconduct of such Members, or their family, guests, invitees, Tenants, or pets. The Association may repair or replace such damaged property and impose a Reimbursement Special Assessment against the liable Member.

3.11 Reimbursement to Association. In the event the Association undertakes to provide materials or services that benefit a particular Member, such Member shall reimburse the Association for the costs incurred by the Association, which shall become a Special Assessment against the Member.

3.12 Liability for Mitigation. Members shall be liable for expenses incurred by the Association mitigating damage to the Common Areas, Members' Units and Improvements due to damage: (i) originating from Members' Units, including, but not limited to, flood, fire, insect, or rodent infestation; or (ii) from the negligence or willful misconduct of such Members or Members' guests, invitees, Tenants, or pets. Such expenses shall become Special Assessments against such Members.

3.13 Guests. Each Member shall be accountable to the remaining Members and the Association for the conduct and behavior of persons residing with or visiting the Member in the Development.

ARTICLE 4: DUTIES OF THE ASSOCIATION

4.1 Board of Directors. The maintenance of the Common Areas, management of the Association, enforcement of the Governing Documents, and all other acts of the Association shall be through its Board of Directors, unless provided otherwise in the Governing Documents.

a. *Membership Meetings.* The Association shall have at least one (1) meeting of its Members each year, as provided for in the Bylaws. Annual and Special Meetings of the membership shall be held at the dates, times, and locations provided for in the Bylaws.

b. *Director Qualifications and Meetings.* The management of the Project and the Association shall be governed by a Board of Directors consisting of five (5) persons, who must be owners of Condominiums in the Development, or the nominee of any corporate Unit owner. The number of members of the Board and their term of office may be changed solely by an amendment to the By-Laws of the Association. Meetings of the Board shall be held as provided for in the Bylaws. Meetings of the membership shall be conducted in accordance with a recognized system of parliamentary procedure selected by the Board.

c. *Removal of Director.* The entire Board of Directors or any individual Director may be removed by a vote of the Members holding a majority of the voting power entitled to vote at any election of Directors. Unless the entire Board of Directors is removed from office, no individual Director shall be removed prior to the expiration of his/her term of office if the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such Director if voted at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Board of Directors were then being elected. If any Director is removed in the manner authorized above, a new Director may be elected at the same meeting.

d. *Non-Liability of Board of Directors and Officers.* No member of the Board of Directors or officer of the Association shall be liable for acts or defaults of any

other officer or member, or any loss sustained by the Association or any member thereof, unless the same has resulted from his own willful misconduct or bad faith.

e. *Indemnification for Performance of Duties.* Every member of the Board of Directors, shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including attorneys fees) actually or necessarily incurred by, or imposed upon him, in connection with any claim, action, suit, proceedings, investigation or inquiry, of whatever nature, in which he may be involved as a party, or otherwise, by reason of his having been a member of the Board of Directors or officer at the time of the incurring or imposition of such costs, expenses, or liabilities, except in relation to matters as to which he/she shall be finally adjudged in such action, suit, proceeding, investigation, or inquiry to be liable for willful misconduct or gross negligence toward the Association in the performance of his/her duties, or in the absence of such final adjudication, any determination of such liability by the opinion of legal counsel.

4.2 Powers of a Nonprofit Corporation. The Association shall have all of the powers of a nonprofit corporation organized under the laws of the State of California, operating for the benefit of its Members.

4.3 Maintain Common Areas. The Association shall maintain the Common Areas.

4.4 Incur and Pay Expenses. The Association shall have the power to incur and pay the operational expenses of the Association, which shall include but not be limited to, legal and accounting services; utilities; insurance; management services; vendor services, such as security, landscaping, garbage collection, pest control, street sweeping, swimming pool maintenance, cleaning, painting, and other such services; maintenance, repair, reconstruction, and replacement of all or any portion of the Common Areas or the personal property acquired by the Association; supplies and materials; and such other services for the use, enjoyment and protection of the Development and its residents as the Board may determine from time to time are reasonable, proper, or desirable.

4.5 Rules and Regulations. The Board may adopt, amend, and repeal Rules and Regulations regarding any matter set forth in the Governing Documents, including, but not limited to: (i) the use, occupancy, and maintenance of the Development; (ii) the general health, welfare, comfort, and safety of residents in the Development; and (iii) the interpretation and implementation of the Governing Documents.

4.6 Foreclose, Hold Title and Make Conveyances. The Association shall have the authority to lien and foreclose upon any Unit for non-payment of Assessments, to take title to the Unit, to assume or otherwise payoff encumbrances, and to acquire, hold title to, lease and convey, with or without consideration, real and personal property and interests.

4.7 Fee Limitation. The Association may not impose fees that exceed the amount necessary to defray the costs for which the fee is levied.

4.8 Commercial Concessions. The Board may negotiate contracts and grant commercial concessions (easements) over portions of the Common Area, subject to Membership Approval.

4.9 Utility and Cable Easements. The Association is granted easements to enter onto Units as is necessary or prudent to: (i) install, repair, and maintain Common Area utility lines; and (ii) install, operate, and maintain transmission lines and other facilities for a community television system, high-speed internet lines, community security systems, or other similar systems; provided that any damage to a Member's Unit shall be repaired at the Association's expense and in a timely fashion.

4.10 Granting Utility Easements. The Board may grant easements and rights of way in, under, or through the Common Areas for the purpose of constructing, erecting, operating, or maintaining utilities and similar services.

4.11 Limitation on Granting Easements. Granting any Member an easement for exclusive use of any portion of the Common Areas requires approval of the membership, as required by Section 1363.07 of the Civil Code or any successor statutes.

4.12 Borrow Money. The Association may borrow and repay monies, as needed in connection with the discharge of its duties, and pledge or assign Special Assessment rights, as security for the repayment of such borrowed money.

4.13 No Power to Encumber Real Property. The real property assets of the Association may not be encumbered as a security for debt.

4.14 Represent Association in Litigation. On behalf of the Association, the Board may institute, defend, settle, or intervene in litigation, arbitration, mediation, administrative proceedings, or any other legal proceeding in any capacity necessary to represent the interests of the Association.

4.15 Receive Property. The Board may receive property on behalf of the Association.

4.16 Limitations on Sale of Property. The Board may not sell during any fiscal year property owned by the Association having an aggregate market value in excess of five percent (5%) of the Association's budgeted gross expenses for that year, without Membership Approval.

4.17 Limitations on Capital Improvements. The Board may not make capital improvements to the Common Areas in anyone fiscal year in excess of five

percent (5%) of the Association's budgeted gross expenses for that year, without Membership Approval. A capital improvement is any (i) substantial discretionary addition to the common areas, (ii) voluntary significant upgrade to common area materials, or (iii) discretionary material alteration to the appearance of the development.

4.18 Vendor Contract Limitations. Except for the contracts listed below, no contract for services shall be entered into which binds the Association for a period in excess of two (2) years, without Membership Approval.

a. *Public Utility Contract.* A contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission. However, the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

b. *Insurance.* Contracts for prepaid casualty and/or liability insurance, if the policies do not exceed three (3) years duration, provided that the policy/policies permit for short rate cancellation by the insured.

4.19 Termites and Pests. In addition to any authority provided for by Section 1364 of the Civil Code or any successor statutes, the Board shall have the authority and the duty to: (i) treat and/or repair Common Areas infested or damaged by insects, rodents, and wood destroying pests or organisms (including microorganisms); (ii) impose a Special Assessment against the membership for the cost of the treatment and/or repairs; and (iii) summarily remove Residents, at Residents' expense, to ensure prompt treatment and repairs. Each Owner of a Unit shall bear the costs of any damage to his Unit caused by the presence of wood-destroying pests or organisms (including microorganisms).

4.20 Delegation to Manager. The Board may delegate any of its duties, powers, or functions to any qualified Person or management company to act as Manager. However, the Manager shall act at the direction and supervision of the Board.

4.21 Personal Property of Association. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

4.22 Real Property Exchange. Upon Membership Approval, the Association may transfer any part of the common area to other persons or entities in exchange for real property of equal or greater value.

4.23 Nonprofit Character of Association. Notwithstanding anything contained in these CC&Rs to the contrary, the Association may not engage in any activity which may jeopardize the nonprofit character of the Association.

4.24 Discharge of Liens. If necessary, the Association shall have the power to discharge by payment any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of said lien.

Prior to any Board decision to discharge a lien, the Member or Members responsible for the existence of said lien shall be given written notice and an opportunity for a hearing before the Board to present any defenses which may exist.

4.25 form and operate subsidiary partnerships or corporations for the purpose of rendering services to the association and the membership.

ARTICLE 5: ARCHITECTURAL CONTROL

5.1 No Improvements or Alterations Without Approval. No improvement, change or alteration may be made in or to any Unit, Common Area, or Exclusive Use Common Area until plans have been submitted to and approved in writing by the Architectural Committee. If improvements, additions, alterations, or modifications are different from those approved by the Architectural Committee, such improvements, additions, alterations, or modifications shall be deemed disapproved and the Member shall promptly correct the nonconforming items to comply with the Architectural Standards, the Architectural Committee's approvals, and City Requirements.

5.2 Applicants in Good Standing. Only Members in Good Standing may submit requests for approval of improvements, additions, alterations or modifications to their Units, Exclusive Use Common Areas, or Common areas appurtenant to their Units. "Good Standing" is defined to mean Members who are not delinquent by more than sixty (60) days in the payment of any Assessment, fee, or fine, and not found to be in violation of the Association's Governing Documents (following proper notice, hearing, and a finding by the Board).

5.3 Right to Decorate Unit. Members shall have the right to decorate the interior surfaces of the walls, partitions, ceilings, floors, and doors within their Unit, subject to any restrictions or procedures found in these CC&Rs and any Rules established by the Association.

5.4 Architectural Standards. The Board may adopt, amend, and repeal architectural standards. These architectural standards shall interpret and implement the provisions of these CC&Rs by setting forth the standards and procedures for the review and approval of proposed modifications, guidelines for architectural design, placement of any modification, color schemes, exterior finishes and materials, and similar features which are recommended for use within the Development, provided that the architectural standards shall meet the minimum standards required by these CC&Rs. In the event of any conflict between the architectural standards and these CC&Rs, the CC&Rs shall prevail.

5.5 Architectural Committee. The Board shall appoint an Architectural Committee. If the Board does not appoint one, the Board shall automatically be deemed the Architectural Committee. The Architectural Committee shall have the

authority to approve, reject, modify, give conditional approvals, and give limited approvals of improvements and alterations as provided for in the Association's Architectural Standards.

a. *Architect.* The Board may retain the services of an architect and one or more consultants to assist the Architectural Committee in its duties. Compensation for consultants' services shall be fixed by the Board. The cost of such consultants and any related expenses may be charged to those Members submitting plans for alterations and/or improvements to their Units.

b. *Conflicts of Interest.* No Director or Architectural Committee member may participate in the decision-making process of any architectural submittal made by that Director or Architectural Committee member or members of their family. Further, no Director or Architectural Committee member may participate in the decision-making process of any other architectural submittal if it results in a monetary benefit to the Director or Architectural Committee member or any company in which they or members of their family have a financial interest.

5.6 Submission of Plans. Plans and specifications in accordance with the Association's Governing Documents, describing the proposed modification, shall be submitted to the Architectural Committee by personal delivery or certified mail. Unless a delay in approval by the Architectural Committee is the result of (i) the applicant's failure to properly submit an application in accordance with the Association's guidelines, or (ii) a reasonable request by the Architectural Committee for additional information, the application shall be deemed approved within 60 days of being submitted to the Committee unless the application has been disapproved by the Committee. Provided, however, that all applications that violate the Association's Governing Documents or Building and Safety Codes are automatically disapproved without action by the Committee unless variances are specifically approved in writing by the Committee. Approvals by the Architectural Committee may contain conditions or requests for modification of particular aspects of the Member's architectural submission.

5.7 Review Fees and Remodeling Agreement. The Board may establish a schedule of fees which may be charged against the submitting party to defray any costs incurred by the Association, including architectural and/or engineering consultant fees, legal fees, and expenses for reviewing plans. In addition, the Board may require Members to sign a remodeling agreement.

5.8 Variances. The Architectural Committee may grant reasonable architectural variances, subject to Board approval, if the Architectural Committee determines that the variance will not: (i) constitute a material deviation from the overall plan and scheme of development within the Development; (ii) result in a material detriment; or (iii) create a nuisance with respect to the Common Area or any other Member. The granting of a variance by the Board shall in no event be deemed a variance or waiver as to any other Unit, nor shall any variance affect the applicability or enforceability of any provision of this Article in respect to any other Unit.

5.9 Engineering and Code Requirements. Plans and specifications approved by the Architectural Committee are not approved for engineering design or building code specifications. Members shall be responsible for ensuring compliance with applicable fire and building codes, ordinances, and specifications.

5.10 Inspection. The Association shall have the right, but not the obligation, to periodically inspect any improvements of which plans were approved by the Architectural Committee. Members shall allow inspection and any improvements may be halted and the Member fined if inspection is not allowed. Such inspections do not relieve a Member from his/her duty to comply with the Association's Architectural Standards and all applicable building and fire codes.

5.11 Building Department and Association Approvals. Any construction, repair, modification, or alteration of any Improvement requiring the issuance of a building permit shall be submitted by the Member to the appropriate governmental entity for review and approval. In the event of a conflict in the conditions of approval imposed by the governmental entity and the Architectural Committee, the more restrictive conditions shall control. Nothing herein shall limit the Architectural Committee from imposing conditions of approval which are more restrictive than conditions imposed by governmental agencies.

5.12 Mechanics' Liens. Members shall ensure that no lien is placed against any other Unit or against the Common Areas for labor or material furnished to their Units. If a lien is placed against the Common Areas and other Member's Units, and the responsible Member does not immediately cause the removal of the lien, the Association may, after written notice to the responsible Member, pay the amounts necessary to have the lien removed and levy a Reimbursement Special Assessment against the responsible Member.

5.13 Hold Harmless and Indemnify. Approval of plans by the Association signifies only a general conformance with its Architectural Standards and not with Building and Safety Code compliance, lot lines, easements, or construction best practices. The Association and its Architectural Committee, Members, Officers, Directors, employees, and agents shall not be liable for mistakes in judgment or negligence arising out of or in connection with the Association's approval or disapproval of plans.

5.14 No Right to Divide Units. No Member shall have the right to divide any Unit; provided, however, that once two or more Units have been combined, the Owner of such combined Units may seek written approval of the Board of Directors to divide the Units and thereby restore them to their original dimensions and footprint.

ARTICLE 6: BALCONIES AND PATIOS

6.1 Member Maintenance of Balconies. Members shall, at their sole expense, have the duty to maintain, service, waterproof, and repair the floors and interior walls of their Balconies and Patios.

a. *Clean and Sanitary.* Members shall keep their Balconies and Patios in a clean and sanitary condition. However, any water used in cleaning Balconies may not be permitted to unreasonably spill over the edge of the Balcony onto other Units or the Common Area.

b. *Waterproofing.* Members shall maintain, repair, and replace surface finishes and waterproofing of the floors of the Balconies and Patios associated with their Units.

c. *Balcony/Patio Doors.* Members shall repair and maintain the Balcony and Patio doors, door casings, thresholds, flashing, weather stripping, waterproofing, caulking, door guides, and any other related hardware and sealants associated with their Balcony or Patio doors.

6.2 Association Maintenance of Balconies. Except for the floor and floor waterproofing, the Association shall have the duty to repair and maintain the exterior surfaces, railings, and structural components of Balconies. Subject to the notice provisions in these CC&Rs under "Right of Entry," the Association shall have the right to enter upon any Balcony or Patio in connection with any maintenance or construction for which the Association is responsible.

6.3 Right to Inspect and Repair. To ensure compliance, the Association shall have the right to enter the Balconies and Patios to inspect them. Failure by a Member to maintain a Balcony or Patio shall give the Association the right to repair it in accordance with the notice and repair provisions of these CC&Rs. The cost of such repairs shall become an Assessment against the Unit, as provided for by these CC&Rs.

6.4 Damage. Members shall be liable for any damage to their Balconies or Patios caused by the acts, omissions, or willful misconduct of such Members, Residents, guests, or their family or pets. The Association shall cause the damage to be repaired and the expenses related to the repair assessed against the Member.

6.5 Balcony Alterations. Members shall not have the right to paint or alter their Balconies or Patios without the prior written approval of the Architectural Committee.

6.6 Balcony Ledge. Members shall be liable for any damage to the balcony, the common areas, or other units caused by plants or hanging vines that extend over the edge of their balcony. Restrictions in the Rules and Regulations may apply. No item may be placed temporarily or permanently on any ledge, except as provided for in the Rules and Regulations. Laundry, rugs, or other items may not be draped over any Balcony or Patio wall or railing.

6.7 Dangerous Acts. No Member shall throw, or permit to be swept or thrown, any dirt, water, objects, or other substance of any kind whatsoever from his/her Unit, its doors, windows, or Balconies.

6.8 Unsightly Objects. In no event shall unsightly objects (including, but not limited to, laundry, mops, appliances and, bicycles) be placed or stored on a Balcony or Patio where they may be seen by other Members or by the public in general.

6.9 Balcony Furniture. Members shall have the right to furnish their Balconies and Patios with outdoor furniture, as provided for in the Rules and Regulations.

6.10 View Obstructions. No vegetation or other obstruction shall be planted or maintained upon any Balcony or Patio which shall unreasonably obstruct the view from any other Unit. Any item or vegetation which, in the opinion of the Board, creates an unreasonable view obstruction shall be removed or pruned to the Board's satisfaction.

6.11 Watering Plants. No Member shall water his/her plants or use water on his/her Balcony in such a way as to cause water to drip, spray, or flow onto the Balcony, Patio, or windows of another Unit.

6.12 Balcony Weight Limitations. No Member shall allow the placement of unreasonable weight loads on his/her Balcony. The number and size of plants shall be regulated by the Rules and Regulations. No refrigerators, freezers, or other appliance shall be permitted on Balconies or Patios.

6.13 Balcony Water Damage. Members shall be responsible for the cost of repairing any damage to: (i) their own property; (ii) the property of others; and (iii) the Common Areas resulting, from water intrusion from the Balconies or Patios appurtenant to their Units due to waterproofing failures for which the Member is responsible.

ARTICLE 7: GENERAL RESTRICTIONS

7.1 Antennas. No antennas for transmitting or receiving radio signals or any other form of electromagnetic radiation may be installed, except as provided in the Association's Rules and Regulations, its Architectural Standards, and applicable law.

7.2 Flammable Materials. Under no circumstances may explosives, fireworks, or highly flammable or highly corrosive materials be stored or used by Members or their family members, Tenants, invitees, or guests in Parking Areas, Common Areas, Exclusive Use Common Areas, or Units.

7.3 Harassment. Members shall not engage in any abusive or harassing

behavior, either verbal or physical, or any form of intimidation or aggression directed at other Members, Residents, guests, occupants, invitees, management, or vendors, or their agents or employees.

7.4 Health/Safety Hazards. Members shall not permit conditions which constitute a health, safety, or fire hazard to exist in their Units, Balconies, Patios, storage areas, Parking Areas, or Exclusive Use Common Areas.

7.5 Spas and Hot Tubs. No spa or hot tub may be installed in any Unit without the written approval of the Board. Such installations shall meet the sound rating requirements specified by the Architectural Committee.

7.6 Laundry. No clothesline shall be erected or maintained. No item may be draped over Balcony or Patio walls or railings.

7.7 Nudity. Public displays of nudity are prohibited.

7.8 Nuisance. No Member may cause or permit to be caused anything which constitutes a nuisance.

a. *Unreasonableness*. To constitute a nuisance, the activity must be such that it causes an unreasonable disturbance or annoyance, be unreasonably injurious to health, be indecent, or be unreasonably detrimental to persons or property.

b. *Secondhand Smoke*. Any "exfiltration" (air flow outward through a wall, building envelope, window, etc.) of any noxious odor or smoke, including tobacco smoke, from a Unit, whether through windows, doors, vents, or other means, is prohibited. It is the responsibility of the Member causing such exfiltration of smoke to prevent such exfiltration.

c. *Allergies*. Residents with allergies or sensitivities must, at their own expense, take precautions to protect themselves against commonplace levels of noise, odors, dust, smoke, gases, pollen, or other environmental pollutants.

d. *Board Action*. Because a nuisance is largely subjective, the Association is not obligated to become involved in disputes where the alleged nuisance causes mere inconvenience. If, in the Board's opinion, a nuisance exists, the Board may send "cease and desist" letters or, following due process as provided for in the Bylaws, impose fines, suspend privileges, take legal action, or seek any other remedy provided for by law and/or these CC&Rs.

7.9 Occupancy Restriction. The maximum number of persons who may reside in any Unit is two (2) persons per bedroom plus one additional person for the Unit. For purposes of this restriction, "reside" shall mean the use, residency, or occupancy of any Unit by any person for more than thirty (30) consecutive days or more than sixty (60) aggregate days, whether or not consecutive, in anyone calendar year.

7.10 Obstruction of Common Areas. No Common Area shall be obstructed or used for other than its intended purpose, except as designated by the Board.

7.11 Quiet Enjoyment. No one may engage in any abusive or harassing behavior or any form of intimidation or aggression, whether verbal or physical, against other Members, residents, guests, invitees, members of the Board, or the Association's management, employees, agents, or vendors. Because the breach of quiet enjoyment is largely subjective, the Board may choose to act only against egregious breaches. In the event the Association chooses not to act on a complaint of breach of quiet enjoyment, or the complaining party believes the Association's action is not sufficient, such party may take legal action to enforce this provision against other residents, but specifically waives his/her right to take action against the Association and its officers, directors, employees, and agents in their handling of the party's complaint.

7.12 Residential Use. No Member shall use or permit his/her Unit or any portion of it to be occupied or used for any purpose other than a private residential dwelling.

7.13 Roof Restricted Access. Members and their families, Unit Residents, guests, employees, and agents are prohibited from entering onto the Association's roofs without the prior written consent of the Board.

7.14 Sale of Unit. Open houses, brokers' caravans and other matters relating to the sale of a Unit shall be provided for in the Rules and Regulations.

7.15 Satellite Dishes. Satellite dishes may only be installed as provided for in the Rules and Regulations, Architectural Standards, and applicable law.

7.16 Signs. No sign, poster, flag, banner, notice, nameplate, card, or advertisement of any kind may be displayed to the public view on or from any Unit or in or on any Common Area, except as allowed by law. Owners may display one sign in a Unit window which is of reasonable dimensions and design, advertising that the property is for sale or lease, as allowed by law and subject to any restrictions in the Rules and Regulations.

7.17 Smoking. Smoking is prohibited in the Common Areas of the Development, except as may be specified in the Rules and Regulations.

7.18 Use of Association Employees. Members may hire off-duty Association employees to perform work. However, the use of off-duty employees shall be at the employing Member's expense and such Member shall be responsible for workers' compensation and payroll deductions for that employee. In no event shall the Association be liable for the acts or omissions of employees hired by Members.

7.19 Use of Independent Contractors. Members may use independent contractors to perform work in their Unit. Such contractors shall be licensed and

insured. The Association is specifically relieved of any responsibility or liability for policing this provision.

7.20 Window Coverings. Appropriate window coverings must be installed on windows at all times. The color of such window coverings shall be in harmony with the exterior of the structure. No window may be covered by paint, aluminum foil, newspapers, bed sheets, cardboard, blankets, or other similar items.

ARTICLE 8: LEASING OF UNIT

8.1 Lease Requirements. No Member shall lease less than the entire Unit nor shall the lease be for an initial term of less than one (1) year. Units may not be used for time-share purposes, hotel-like operations, or other transient purposes.

8.2 Supplemental Lease Agreement. Any lease or rental agreement between Member and Tenant shall be in writing, a copy of which shall be submitted to the Board prior to finalization of any lease agreement. In addition, Member, Tenant, and the Association shall execute a Supplemental Lease Agreement containing, at a minimum, the following terms: (i) the lease is for the entire Unit; (ii) Member understands and agrees he/she is transferring to Tenant any right to use Common Area facilities; (iii) no assignments or subleases will be permitted; (iv) Tenant agrees to comply with the Association's Governing Documents and to be subject to the same disciplinary procedures and fines as Members; (v) Member agrees to assign rents to the Association in the event the Member becomes delinquent in payment of Assessments; (vi) Tenant agrees to carry renter's insurance; (vii) Member grants the Association the power to institute an unlawful detainer action on his/her behalf for violation of the terms of the Supplemental Lease Agreement; (viii) Tenant agrees to hold harmless the Association; (ix) Member, Tenant, and Association agree to resolve disputes under the Supplemental Lease Agreement through binding arbitration; (x) the prevailing party in an action arising out of the Supplemental Lease Agreement shall be entitled to recover attorneys' fees; and (xi) in the event of a conflict, the terms of the Supplemental Lease Addendum supersede the terms of any other agreement between Member and Tenant.

8.3 Governing Documents. Members shall provide their Tenants with copies of all Governing Documents, including, but not limited to, the CC&Rs, Bylaws, and Rules and Regulations, as well as any applicable amendments, and must ensure compliance with all provisions of the Governing Documents.

8.4 Transfer of Common Area Privileges. Any Member residing off-site and whose Unit is occupied by others automatically relinquishes to their Unit's Residents the Member's rights to use the Association's Common Area facilities until the Member retakes possession of the Unit.

8.5 Transfer of Occupancy. Members living offsite shall promptly provide the

Association with the names all Unit Residents and any change in occupancy.

8.6 Repair Damage. Members shall promptly repair any damage to the Common Areas which originates from their Units or was caused by Member or Member's Tenants, family, guests, invitees, or pets.

8.7 Assignment of Rents. As security for the payment of Assessments and other sums owed to the Association, Members who lease their Units hereby pledge their rights as landlords (including the right to receive rent) to the Association. In the event a Member becomes delinquent in payment of Assessments to the Association, the Association may require the Tenant to direct any and all rent payments to it until such deficiencies have been paid in full. Members shall have no right to collect these amounts from Tenants and may not evict Tenants for complying with the Association's demand for rents.

ARTICLE 9: PETS

9.1 Pet Limitation. Usual domestic dogs, cats, fish, and birds may be kept as household pets. No more than two (2) dogs or two (2) cats or a combined one (1) of each may be kept as a household pet, provided that no animal shall be kept, bred, or maintained: (i) for any commercial purpose; (ii) in unreasonable numbers; or (iii) for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Members. Guests who bring pets shall adhere to these restrictions. The Board may set additional restrictions, rules, and regulations regarding the kinds and sizes of pets which may be kept and other pet issues.

9.2 Service Animals. An animal otherwise prohibited by these CC&Rs, which is kept by a Resident for the purpose of servicing the Resident's disability, may be kept by such Resident provided: (i) the Resident submits appropriate documentation to the Board verifying the existence of a legally-defined disability; (ii) the service animal is properly cared for by the Resident (Le., kept healthy, clean, and properly groomed and waste material is properly disposed of); and (iii) the animal is not unruly or disruptive (e.g., barking, growling, running loose, displaying aggressive behavior, etc.). All applicable pet rules shall apply to service animals.

9.3 Grandfathered Pets. Pets residing at the Association on the date of recordation of these CC&Rs which were not in violation prior to that date, but which are prohibited under these CC&Rs, are permitted; provided, however, those pets are registered with the Association. Residents may keep any such registered pets for as long as the Resident resides in the Development. However, once the Resident has moved from the Development or the pet has passed, the pet cannot remain in the Development or be replaced, except as provided for in these CC&Rs.

9.4 Nuisance. Members shall be liable to the Association and other Members for any damage to person or property or nuisance noise caused by the pets of such Members or their family, guests, invitees, or Tenants. The Board shall have the right to prohibit any pet which, in its opinion, constitutes a nuisance to other Members pursuant to evidence provided at a noticed hearing.

9.5 Dangerous Animals. No animal may be kept in the Development which the Board has determined to be aggressive or dangerous pursuant to evidence provided at a noticed hearing. The Association may also restrict categories of animals which are dangerous or have aggressive tendencies, as designated by the insurance industry or a governmental agency.

9.6 Liability. Every Member shall be liable for any injury to persons or property caused by any pet brought or kept within the Development by the Member or Member's family, guests, invitees, or tenants.

9.7 Control. No pets shall be allowed in the Common Area, except as may be permitted by the Rules. No dog or cat shall enter the Common Area, except while on a leash which is held by a person capable of controlling it. While in an elevator, pets shall be carried by a person or placed in an enclosed carrier. The Association may cause any unleashed dog or cat found within the Common Areas to be removed to a pound or animal shelter under the jurisdiction of the city or county in which the Development is located.

ARTICLE 10: VEHICLES AND PARKING

10.1 General Management of Parking. The Association shall manage and control the use of all Common Area parking and streets.

10.2 Restricted Parking. Only the following types of vehicles may be parked or stored in parking spaces: automobiles, trucks, motorcycles, and mopeds. Vehicles shall be parked completely within the parking space. No RV, camper, boat, recreational water craft, trailer, or any other similar vehicle is permitted in any portion of the Common Areas or in any parking space. Only permitted vehicles may be stored in parking spaces.

10.3 Commercial Vehicles. Commercial vehicles, including pickup trucks 3/4 ton or larger, taxis, panel trucks, tow trucks, vehicles with commercial signage, and the like, are prohibited, except as provided in the Rules and Regulations.

10.4 Proper Operating Condition. All vehicles shall be maintained in proper operating condition, so as not to be a hazard or nuisance by noise, exhaust emissions, or appearance. All vehicles shall carry current registration tags and shall be insured.

10.5 Limited Operation. The engines of vehicles shall not be allowed to operate in the Common Areas except as may be necessary to move the vehicle into or out of the parking areas.

10.6 Noise Limitation. All vehicles must be configured so as to provide for their quiet operation.

10.7 Repair of Vehicles. No Member shall construct, repair, or service any vehicle within any portion of the Development. However, to the extent necessary to move a vehicle to a proper repair facility, emergency repairs are permitted.

10.8 Fluid Leaks. Members must keep the Common Area free of fluids such as oil, radiator coolant, brake fluid, power steering fluid, etc. Members who fail to do so may be fined or may be subject to a Reimbursement Assessment for the cost of cleaning the affected areas.

10.9 Theft or Damage. The Association shall not be liable for any loss or damage suffered by any Member or guest by reason of theft of or damage to any Vehicle or Vehicle contents, unless caused by the Association's intentional misconduct or gross negligence.

10.10 Impeding Access. No vehicle shall be parked in such a manner as to impede or prevent ready access to any door, gate, entrance, or exit.

ARTICLE 11: ENFORCEMENT OF GOVERNING DOCUMENTS

11.1 Association Enforcement Rights. In addition to any other rights described in these CC&Rs and without waiving the Association's right to institute other enforcement measures, and subject to the notice and hearing provisions in the Bylaws, the Governing Documents may be enforced by any or all of the following, as may be appropriate:

a. *Monetary Penalties.* The Board may assess reasonable monetary penalties for violations of the Association's Governing Documents by a Member or Member's family, Unit Residents, or guests. Such Member shall be liable for all costs of collection, including reasonable attorneys' fees, court costs, and related expenses.

b. *Suspend Common Area Privileges.* Subject to the notice and hearing provisions set forth in the Bylaws, the Board may suspend the Common Area privileges of Members and their family, Tenants, and guests for their failure to comply with the Association's Governing Documents. Any such suspension shall be for a period of time not to exceed thirty (30) days for any noncontinuing violation. For continuing violations, the suspension may be imposed for as long as the violation continues.

c. *Suspend Voting Rights.* Subject to the notice and hearing provisions set forth in the Bylaws, the voting rights of a Member may be suspended for continuing violations of the Governing Documents. Once suspended, a Member's voting

rights shall remain suspended until such continuing violation is cured.

d. *Judicial Enforcement.* A lawsuit for damages and/or injunctive relief may be filed, whether or not the relief sought is for negative or affirmative action.

11.2 Cumulative Remedies. The respective rights and remedies, provided by these CC&Rs, by law, or available in equity, 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 for the same or different failures of the Members or others to perform or observe any provision of these CC&Rs.

11.3 Failure to Enforce Not a Waiver. Failure to enforce the Governing documents, whether by the Board or any Member or other Person entitled to enforce them, shall in no event be deemed a waiver of the right to do so. Waiver or attempted waiver of any provision of these CC&Rs with respect to a given Unit shall not be deemed a waiver as to any other Unit. Additionally, violation of any provision hereof with respect to any Unit or Units shall not affect the applicability or enforceability of any provision of these CC&Rs to any other Unit.

11.4 Remedy at Law Inadequate. Remedies at law for violation of the Association's Governing Documents are inadequate and equitable and injunctive relief may be sought and awarded.

11.5 Right of Action Against Buyer. Failure by a Member to correct Unit violations prior to the transfer of title to the Unit shall give the Association the right to enforce compliance against the buyer.

11.6 Attorneys' Fees. In the event any party initiates any action or proceeding to enforce or interpret the Governing Documents or California law relating to the Development, the substantially-prevailing party shall be awarded reasonable attorneys' fees and costs, including reasonable experts' fees.

ARTICLE 12: RIGHT OF ENTRY

12.1 Right of Entry. During reasonable hours and subject to the notice requirements contained in this Article, the Association's representatives, employees, and vendors may enter Units, Common Areas, and Exclusive Use Common Areas: (i) to inspect and perform maintenance or repairs to the Common Areas or Exclusive Use Common Area; or (ii) to mitigate damages; or (iii) to inspect the Unit to ensure compliance with the Governing Documents. Such persons, acting in good faith, shall not be liable for trespass. This includes the Association's right to conduct annual inspections of Units.

12.2 Notice of Entry. The Association shall give at least three (3) business days written notice if by personal delivery and five (5) days if by first class mail to the Resident and the Unit Owner, stating the purpose for the entry and the time of

the entry.

12.3 Avoid Unreasonable Interference. The right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use, and enjoyment of the Member or Resident of such Unit.

12.4 Emergency Entry. In the event of an emergency, the Board or its authorized representative may enter the Unit without permission and shall not be subject to liability to the Member or occupant. Such entry shall not constitute trespass or any other wrongful act. If it is necessary for the Association to damage or destroy property to gain access to the Unit, the Member shall have no right of action against the Association or its representatives. However, the Association shall repair the damage if the emergency did not originate in the Unit. Prior to emergency entry, if feasible, the Board shall make a good faith effort to give notice.

12.5 Refusal to Allow Entry. In the event the resident refuses to allow entry for any reason authorized in these CC&Rs, the Association shall have the right to assess against the Member all expenses including reasonable attorneys' fees (regardless of whether legal proceedings are instituted) incurred by the Association arising from the resident's refusal to allow entry. Such fees and expenses shall become a Reimbursement Special Assessment against the Member and shall be fully enforceable by all means provided for in these CC&Rs including lien and foreclosure.

12.6 Damage Repaired by Association. Any damage caused by the Association to the Common Areas and Unit improvements shall be promptly repaired by the Association to original building standards. The Association shall have the right to seek reimbursement from responsible parties that gave rise to such damage and repairs.

12.7 Power to Vacate Unit. If necessary, the Board has the authority to vacate a Unit to make repairs to the Association's Common Areas or to treat termites, other pest infestations, and microorganisms. All costs of food, lodging and other associated expenses shall be borne by the Member and not by the Association. Any lost rent or income resulting from vacating a Unit shall be borne by the Member and not by the Association. However, the Association shall have the duty to diligently make repairs so as to return occupancy as quickly as possible.

a. *Notice.* The Board shall give notice of the need to temporarily vacate a Unit to residents and Members not less than fifteen (15) days prior to the date of the relocation. The notice shall state the reason for the temporary relocation, the date and time of the repairs, and the anticipated date and time of completion of repairs. Notice shall be either by personal delivery or first class mail to the address shown on the books of the Association.

b. *Duty to Vacate.* Members shall ensure that Residents vacate their Units. In the event any Member fails to cause the Residents to vacate, the Association

shall have the right to levy a Reimbursement Special Assessments against the Member for all expenses and attorneys' fees incurred by the Association in removing such Residents from the Unit and any additional costs caused by the delay.

12.8 Entry by Member. Each Member shall permit other Members and their representatives to enter his/her Unit to perform installations, alterations, or repairs to the mechanical or electrical services to a Unit if: (i) requests for entry are made in advance; (ii) entry is made at a time reasonably convenient to the Member whose Unit is being entered; and (iii) the entered Unit is left in substantially the same condition as existed immediately preceding such entry. Any damage to the Unit caused by entry shall be repaired by the entering Member.

ARTICLE 13: ASSESSMENTS

13.1 Purpose of Assessments. The general purpose of Assessments is to provide for the recreation, health, safety, and welfare of the Members, enforce and comply with the Governing Documents, manage the Development, enhance the quality of life in the Association, improve and maintain the Common Areas, provide for the acquisition and maintenance of property, services and facilities devoted to these purposes, and for any action or undertaking on behalf of the Association.

13.2 Regular Assessment. The Board shall levy Regular Assessments in an amount sufficient to provide for the performance by the Board of each and every one of its powers and duties provided, however:

a. *20% Limitation.* Pursuant to Section 1366 of the Civil Code or any successor statutes, the Board shall not, without the approval of Members casting a majority of the votes with quorum present, impose a Regular Assessment which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year. Quorum for the purposes of this provision means more than fifty percent (50%) of the Members of the Association.

b. *Payable Monthly.* Regular Assessments shall be payable by each Member against whom assessed in monthly installments on the first day of each month or at such other dates and in such other installments as the Board shall determine. Assessments for new Members shall be prorated in the first quarter of membership according to the date on which the individual becomes a Member.

c. *Written Notice.* Written notice of any increase in Regular Assessments shall be sent by first-class mail to each Member not less than thirty (30) days nor more than sixty (60) days prior to the increased Assessment becoming due.

d. *Modification of Assessment.* The Board may modify the Regular Assessments during the course of a fiscal year if necessary to conform to a revised estimate of costs and expenses. However, if the aggregate increase exceeds twenty percent (20%) of the Regular Assessment for the immediately preceding fiscal year, the Board must obtain the approval of Members pursuant to Section 1366 of the Civil

Code or any successor statutes. If an annual Regular Assessment is not published for a new fiscal year, the Regular Assessment for the prior fiscal year shall apply and govern each Member's payments until changed by a new Regular Assessment.

13.3 Special Assessment. In addition to the Regular Assessment, the Board may levy a "Special Assessment" for any purpose necessary for the Association to carry out its duties; provided, however:

a. *5% Limitation.* Pursuant to Section 1366 of the Civil Code or any successor statutes, the Board shall not, without the approval of Members casting a majority of the votes with quorum present, impose a Special Assessment which is more than five percent (5%) of the budgeted gross expenses of the Association for such fiscal year. Quorum for purposes of this provision means more than fifty percent (50%) of the Members of the Association.

b. *Reimbursement Assessments.* Special Assessments may also be levied against individual Units for reimbursement of expenses incurred by the Association arising out of actions or omissions of such Members or their family, Tenants, guests, or pets. As provided elsewhere in these CC&Rs, such expenses shall include, but not be limited to: (i) enforcing compliance with the Association's Governing Documents; (ii) mitigating or repairing damage to Association property or Common Areas; (iii) collecting delinquent Assessments; (iv) attorneys' fees and costs; and (v) materials and services provided by the Association to individual Members or their family, guests, invitees, or Tenants.

c. *Payment Schedule.* Special Assessments shall be payable by each Member against whom assessed either monthly or at such dates and in such installments as the Board shall determine.

d. *Written Notice.* Written notice of Special Assessments shall be sent by first-class mail to each Member not less than thirty (30) days nor more than sixty (60) days prior to the Assessment becoming due.

13.4 Emergency Situations. In emergency situations, the Board may increase Regular Assessments beyond twenty percent (20%) or impose special Assessments above five percent (5%) only as provided for by law.

13.5 Deposit of Assessments. All sums received by the Association shall be promptly deposited into accounts clearly designated in the Association's name.

a. *Commingling.* The Association shall maintain separate accounts for its operating funds and its Reserves, respectively, and no funds from those separate accounts shall be commingled at any time.

b. *Interest.* No Member shall have the right to receive interest on any such funds deposited.

13.6 Disbursement of Funds. All checks, drafts, or other orders for payment of money, issued by or in the name of the Association, shall require two (2) signatures; one by the President or the Treasurer and the second by another Director or the Manager of the Association. In the absence of the President or

Treasurer, any other Director may be a co-signer. However, all Reserve Account withdrawals or transfers shall require approval by the Board and signatures by two Directors.

13.7 Reserves. All sums assessed and collected by the Association which are budgeted to fund Reserves for anticipated long-term maintenance, repair, and replacement of Improvements upon the Common Area, the cost of which would not ordinarily be incurred on an annual basis, shall:

a. *Be Segregated.* Be received in trust by the Board, set aside and segregated from the other monies and not be commingled with the Association's Operating Account.

b. *Be Invested.* Be invested in low-risk investments. Reserves shall be deposited in financial institutions authorized to do business in California and that carry FDIC insurance or equivalent private insurance, such as insurance placed through the Securities Investor Protection Corporation (SIPC). Alternatively, the Association may deposit funds with brokerage houses or institutions which are members of the National Association of Securities Dealers, Inc. and insured by SIPC or equivalent industry insurance.

c. *Require Two Signatures.* Be withdrawn from the Reserve account only upon approval by the Board and the signature of two (2) members of the Board.

d. *Not Be Reimbursed.* All contributions to the Reserves, as well as interest earned, are for the benefit of the Association and not to the benefit of any individual Member. As such, contributions and interest are not refundable to Members when they cease to be Members of the Association.

ARTICLE 14: ENFORCEMENT OF ASSESSMENTS

14.1 Liability for Assessments. Assessments, together with charges, interest, costs, and attorneys' fees (regardless of whether legal proceedings are instituted), shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment is made. In addition, Members shall be personally liable for any and all Assessments provided for by these CC&Rs, together with any accompanying late charges, interest, costs, attorneys' fees (regardless of whether legal proceedings are instituted), and penalties as may be authorized under these CC&Rs. In a voluntary conveyance of a Unit by a Member, the buyer shall be jointly and severally liable with the seller for all unpaid Assessments, late charges, interest, costs, and penalties up to the time of the grant or conveyance, without prejudice to the buyer's right to recover from the seller the amounts paid by the buyer. All Members owning a partial interest in a Unit shall be personally liable, jointly and severally, for the entire amount of any and all Assessments against such Unit.

14.2 Enforcement Rights. Any Assessment made in accordance with these CC&Rs shall be the separate debt of each Member against whom the same is assessed. In addition to any other rights provided for by law or described in these CC&Rs, the Board has the right to collect delinquent Assessments as follows:

a. *Late Fees and Interest.* Unpaid Assessments shall be deemed delinquent fifteen (15) days after they are due and shall be subject to a late charge of the greater of either ten percent (10%) or Ten Dollars (\$10.00), which may not be imposed more than once on any delinquent payment, and interest at the rate of twelve percent (12%) per annum, which may commence thirty (30) days after the Assessment becomes due.

b. *File Suit.* The Association may commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien and initiate foreclosure against the Member's Unit for the delinquent Assessment. In any action to collect delinquent Assessments, late charges or interest, the prevailing party shall be entitled to costs and reasonable attorneys' fees. If such costs and fees are awarded to the Association, they shall become a Reimbursement Special Assessment against the Member and shall be fully enforceable by all means provided for in these CC&Rs including lien and foreclosure.

c. *Lien and Foreclose.* In accordance with Section 1367.1 et. seq. of the Civil Code or any successor statute, a delinquent Assessment or installment, together with any late charges, interest, costs, attorneys' fees, and penalties, shall become a lien on the Unit upon the recordation of a "Notice of Delinquent Assessment" in the Office of the County Recorder. The Board may enforce any Assessment lien against a Unit by filing an action for judicial foreclosure or by nonjudicial foreclosure. The Association, through its Board, may bid on the Unit at the sale and may hold, lease, mortgage, and convey the acquired Unit.

d. *Suspend Privileges.* Subject to the notice and hearing provisions set forth in the Bylaws, privileges may be suspended until such time as delinquent Assessments, fees and fines, including any accumulated penalties, interest, and costs of collection have been paid in full.

e. *Suspend Voting Rights.* Subject to the notice and hearing provisions set forth in the Bylaws, voting rights of a Member may be suspended if the Member is more than sixty (60) days delinquent in paying any Assessment, fee, or fine. Once suspended, a Member's voting privileges shall remain suspended until such time as the delinquency, including any accumulated late charges, interest, and costs of collection, have been paid in full.

f. *Additional Remedies.* The remedies provided in this Section shall be in addition to, not in substitution for, any other rights and remedies which the Association may have.

14.3 Waiver of Objection. Each Member vests in and delegates to the Board or its duly authorized representative the right and power to bring all actions at law and to use liens and foreclosures, whether judicially, by power of sale, or otherwise, against any Member or Members for the collection of delinquent Assessments. Each Member expressly waives any objection to enforcement of the obligation to pay Assessments, as set forth in these CC&Rs.

14.4 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation: (i) a claim that the Association is not properly

exercising its duties and powers, as provided in these CC&Rs; (ii) a Member has not made or elects not to make use of the Common Area; (iii) any construction or maintenance for which the Association is responsible that has not been performed; or (iv) any construction or maintenance for which the Association is responsible that has not been performed to a Member's satisfaction.

14.5 No Exemption by Waiver of Use. Members may not exempt themselves from liability for Assessments nor release their Units from liens and charges by waiver of their use and enjoyment of the Common Areas, by abandonment of their Units, or through non-use of Common Areas or membership privileges.

14.6 Waiver of Exemptions. To the fullest extent permitted by law, with respect to liens created pursuant to these CC&Rs, Members waive the benefit of any exemption, homestead, or redemption laws of the State of California in effect at the time any payment of any Assessment becomes delinquent, and shall be estopped from raising exemptions or redemptions in any action or proceeding to enforce or foreclose such liens.

14.7 Attorneys' Fees. Any reasonable attorneys' fees and costs incurred by the Association in the enforcement of its Assessment rights against a Member may become a Reimbursement Special Assessment against that Member, which may be collected in any manner provided for by these CC&Rs or by law.

14.8 Non -Waiver of Assessments. If the Board fails to approve a budget or fix the Assessments for the Current year, the budget and Assessments from the preceding year shall continue until a new budget is approved and new Assessments are fixed.

ARTICLE 15: INSURANCE

15.1 Association Insurance. The Association shall obtain and maintain policies of insurance as described below. So as to keep premiums at a reasonable level and to ensure the insurability of the Association, the Board shall establish appropriate deductibles and make business decisions as to which losses shall be submitted to the Association's insurance carrier.

a. *Direct Physical Loss.* The Association shall maintain one or more policies for loss or damage by fire or other risks covered by the standard "Special Form" policy (or its equivalent) on all Common Area Improvements. The amount of such insurance shall be not less than one hundred percent (100%) of the aggregate full insurable value, meaning actual replacement value. The coverage shall be written on a blanket basis with an agreed value endorsement and an inflation guard endorsement. In addition, if available, the Board shall purchase:

i. "Building Ordinance" coverage, or its equivalent, to cover any increased costs of construction following a covered loss which may be imposed due to changes in building codes or ordinances.

ii. "Maintenance Fees Receivable" coverage, or its equivalent, to cover the loss

- from unpaid or uncollected assessments resulting from a covered property loss.
- iii. "Demolition and Debris Removal" endorsement in the amounts adequate to cover demolition and debris removal costs.
 - iv. Such other endorsements which the Board may deem necessary or reasonable.
- b. *Comprehensive or Commercial General Liability ("CGL ")*. The Association shall maintain one or more CGL policies which shall provide appropriate liability limits for injury or death to one or more persons in anyone accident or occurrence. The Association shall carry coverage in amounts that meet or exceed those called for in Section 1365.9 of the Civil Code or any successor statutes.
 - c. *Directors and Officers*. The Association shall purchase directors and officers errors and omission insurance, which shall provide appropriate liability limits insuring Directors, Officers, Committee members, and management employees. The Association shall carry coverage in amounts that meet or exceed those called for in Section 1365.7 of the Civil Code or any successor statutes.
 - d. *Workers' Compensation*. The Association shall carry workers' compensation and employers' liability insurance, as may be appropriate.
 - e. *Fidelity Bond*. The Association shall maintain blanket fidelity bond coverage for all Directors, Officers, Committee members, and employees of the Association handling funds of the Association or third party property. In the event the Association has delegated some or all of the responsibility for the handling of funds to a management agent, the management agent shall also be required to maintain blanket fidelity bond coverage for those persons handling or responsible for funds of the Association.
 - f. *Employment Practices Liability*. If the Association has employees, it should, depending on cost and availability, purchase employment practices liability coverage.
 - g. *Automobile Liability Insurance*. If appropriate, the Association shall purchase non-owned and hired automobile coverage and garage-keepers legal liability coverage.
 - h. *Boiler and Machinery Insurance*. If appropriate, the Association shall purchase insurance for the loss or damage to or as a result of boilers, pressure vessels, and pressure pipes.
 - i. *Umbrella Policy*. In addition to appropriate levels of insurance for all of the above, the Association may carry an umbrella policy for its public liability and property damage, Directors and Officers liability, and workers' compensation policies.
 - j. *Earthquake and Flood Insurance*. The Association may purchase appropriate levels of earthquake or flood insurance, if such insurance is available and if approved by the Board or the membership. In the event the Board decides not to purchase earthquake insurance for the Association's Improvements, that decision must be made as part of the Board's annual insurance disclosure to the membership.

15.2 Member Obligation to Carry Insurance. At their sole expense, Members

shall purchase the following insurance: (i) real property and personal property coverage that insures their Unit, Unit's improvements and contents against damage or loss; (ii) premises liability that includes protection for bodily injury and property damage; (iii) loss of use that protects a Member for additional living expenses should his/her Unit become uninhabitable due to a covered loss; and (iv) loss assessment coverage that protects against special assessments due to a loss which exceeds the Association's master policy limits. In addition, if a Member operates a vehicle which is driven across or stored in the Association's Common Areas, the Member must carry appropriate automobile insurance. The Association may police this provision but is not required to and is specifically relieved of any responsibility or liability from doing so or failing to do so.

a. *Waiver of Claims.* Members waive their claims against the Association to the extent such claims are covered under insurance which Members are required to carry under this Article, regardless of whether Members actually carry such insurance.

b. *Assignment of Proceeds.* If any loss intended to be covered by the Association's insurance occurs and the proceeds payable are reduced because of a Member's insurance coverage, that Member shall assign such insurance proceeds to the Association, to the extent of the reduction. The Board shall apply those proceeds to the same purposes as the reduced proceeds received by the Association.

15.3 Payment of Deductible. If a loss occurs as a result of the negligence or breach of CC&Rs of a Member or Member's family, guests, invitees, Tenants, or pets or as a result of a failure of a portion of the Unit or its Improvements within a Member's care, custody, or control and the loss results in a payment by the Association's insurance, that Member shall pay the Association's deductible, if any.

15.4 Management of Claims. The Board, not individual Members, shall determine which claims, if any, shall be submitted to the Association's insurance carrier. The Board may take into account the Association's claim history, the amount of the deductible, the apparent merit of the claim, etc. and make a business decision regarding which claims are submitted and which ones are not. In the event a Member makes an unauthorized claim against the Association's insurance which results in an increase in the Association's insurance premiums, the amount of the increase shall be assessed against the Member and his/her Unit as a Special Reimbursement Assessment.

15.5 Liability for Increased Insurance Rates. In the event any act or omission of any Member or Member's family, guests, invitees, Tenants, or pets causes an increase in the cost of the Association's insurance, the amount of the increase shall be assessed against the Member and his/her Unit as a Special Reimbursement Assessment until the next renewal period of the policy.

15.6 Special Assessment to Cover Deficiencies. In the event of damage or

destruction of property, real, personal or mixed, covered by any of the above insurance policies, if the proceeds are insufficient to repair or replace the loss or damage, a special assessment will be levied in proportionate amounts as to each Member to cover the deficiency.

15.7 Choice of Contractor. With respect to any repairs for which proceeds of insurance are paid or are payable to the Association, the Board shall designate the contractor to perform the repairs to the Common Areas. Individual Members shall be responsible for overseeing repairs done to their respective Units.

ARTICLE 16: PROTECTION OF LENDERS

16.1 Rights of Lender. Any lien created or claimed under the provisions of these CC&Rs is expressly made subject and subordinate to the rights of the lender with a trust deed or mortgage upon the entire Development, or upon any residential or parking stall Condominiums therein, made in good faith and for value, and no such lien shall in any way impair the obligations or the priority of such trust deed or mortgage unless the lender thereof shall expressly subordinate his interest, in writing, to such lien.

16.2 Amendments' Effect on Rights of Lender. No amendments to these CC&Rs shall effect the right of the lender under a trust deed or mortgage made in good faith and for value, and recorded prior to the recordation of such amendment, unless said lender shall either join the execution of such amendments, or approve the same in writing as a part of such amendment.

16.3 Default by Member. In the event of a default by any Owner in the payments due upon a promissory note secured by trust deed or by mortgage to his individual Condominium, the lender under said trust deed or mortgage shall have the right, upon giving written notice to said defaulting Owner, and filing for record a notice of default, to exercise the vote of such owner at any regular or special meeting of the Owners held during such time as said default may continue.

16.4 Breach. No breach of any provision of the CC&Rs shall invalidate the lien of any mortgage or deed of trust made in good faith and for value, but all said CC&Rs shall be binding upon any owner whose title is derived through foreclosure or trustee sale or otherwise.

16.5 Notice. The Board shall be obligated to notify in writing the lenders under all trust deeds or mortgages of record against any Unit in the Development of any default of any Owner of an encumbered Unit in the payment of maintenance charges or any breach of any other condition of these CC&Rs by such owner. Such notification shall be made no later than thirty (30) days from the date when the Board first has notice of such default or breach. In the event of a subsequent curing of such default or breach, the Board shall immediately notify all such lenders in writing.

16.7 No Right of First Refusal. Upon the lender's acquisition of a Condominium Unit, the Association shall have no right of first refusal or other restriction on sale, lease, or rental of same.

16.8 Loans by Lender. It is intended that any loan to facilitate the resale of any Condominiums after foreclosure or deed in lieu of foreclosure is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other lenders.

16.9 Assessments. It is specifically understood that any lender shall be liable for all such Assessments during the actual period of time that such lender holds title to a Condominium. This liability for Assessments on the part of the lender is on a pro-rata basis with the pro-rata period commencing on the date the lender acquires title and ending upon the resale or other transfer by the lender, whereupon the liability for new future Assessments will attach to the transferee.

16.10 Meetings. Any lender may appear, but may not vote, at meetings of the Owners and/or the Board of Governors to draw attention to violations of these CC&Rs which have not been corrected or made the subject of remedial proceedings or Assessments.

16.11 Lenders Furnishing Information. A lender is authorized to furnish information to the Board concerning the status of any loan encumbering a Condominium.

16.12 Insurance. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses naming the lenders who encumber Condominiums by deed of trust or mortgage, as their interest may appear.

16.13 Curing of Breach. A lender who acquires title by foreclosure or deed in lieu of foreclosure shall not be obligated to cure any breach of these CC&Rs which is non curable or of a type which is not practical or feasible to cure.

16.14 Approval of Changes. Unless approved by all lenders in this Development, there shall be no non-professional management, changes in the pro-rata interest of obligations of any Unit for the purpose of levying Assessments and charges, partition or subdivision of any Unit or Common Area, or abandonment of Condominium status except as provided by statute in case of substantial loss of the Units and common elements of the Condominium Development.

16.15 Rights of Lender Control. If there is any conflict between any provision of the "Protection of Lenders" Article and any other provision in these CC&Rs, the language contained under "Rights of Lenders" shall control.

ARTICLE 17: DAMAGE/DESTRUCTION TO IMPROVEMENTS

17.1 Common Area Damage. In the event the Common Area is partially or totally destroyed by fire, earthquake, deterioration, or other casualty of over \$2000:

a. *Cost of Reconstruction.* As soon as practical, the Board shall: (i) obtain bids from at least two (2) reputable contractors that are licensed in California and insured, which bids shall set forth in detail the work required to reconstruct the damaged or destroyed portions of the Common Area to substantially the same condition as they existed prior to such damage and the itemized cost of such work (subject to any increased building standards then in effect); and (ii) determine the amount of all insurance proceeds and Reserves available to the Association for the purpose of effecting such reconstruction.

b. *Automatic Reconstruction.* If the cost to reconstruct the Common Areas, excluding the deductible and the value of any insurance proceeds due the Association, is less than or equal to three times the amount of the total annual operating Budget of the Association for the current fiscal year, membership, shall cause the Common Area to be reconstructed to substantially the same condition as existed prior to such damage (subject to any increased building standards then in effect). Such reconstruction shall be completed as promptly as practical. Notwithstanding any other provision, the Board shall have the authority, without a vote of the membership, to levy a Special Assessment against the membership to provide the funds necessary for such reconstruction and/or for repayment of any monies borrowed by the Association for such reconstruction.

c. *Membership Approval.* If the Board determines that the cost to reconstruct the Common Areas, excluding the deductible and the value of any insurance proceeds due the Association, is an amount greater than three times the total annual operating Budget of the Association for the current fiscal year, then the Common Areas shall not be reconstructed unless sixty-seven percent (67%) of the membership, by ballot or at a special meeting called for such purpose, vote not to reconstruct the damaged or destroyed Common Areas.

d. *Decision Not to Rebuild.* In the event the membership votes not to rebuild the Common Areas:

i. *Right of Partition Revived.* Immediately upon the recordation of such a certificate, the right of partition suspended by these CC&Rs shall be revived;

ii. *Revised Subdivision Map.* The Board shall, as soon as practical, cause to be prepared, filed, and/or recorded any revised subdivision map, Condominium Plan, or other documents, reports, schedules, or exhibits necessary to show the changed or altered status of the

Development, including, without limitation, the elimination of all or part of one or more of the Units, as a result of such damage; and

iii. *Distribution of Insurance Proceeds.* The Board shall distribute the insurance proceeds available for such reconstruction, together with any other sums otherwise available to the Association for such purpose, to the Owners of affected units, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessary as a result of the damage or destruction, proportionately according to an appraised fair market value of the Condominiums

(as of a date immediately prior to destruction or condemnation). Such payment shall be subject to rights of Mortgagees holding Mortgages encumbering Units and all unpaid Assessments, together with any interest charges. Appraisers hired by the Board to appraise the Condominiums will be paid by the Association.

e. *Elimination of Units.* In the event of the elimination of all of a Unit, the Unit shall cease to be part of the Development, the Owner of the Unit shall cease to be a Member of the Association, and the Percentage Interest in the Common Area appurtenant to that Unit shall automatically become vested in the Members of the remaining Units in proportion to their respective Percentage Interest in the Common Area. In the event of the elimination of a part of a Unit, the Percentage Interest in the Common Area appurtenant to that Unit shall be reduced in direct proportion to the reduction in square footage of the Unit, and the percentage Interests and Assessment obligations of all Members shall automatically be adjusted accordingly.

17.2 Duties of Board During Reconstruction. If reconstruction is undertaken, the Board shall: (i) enter into a written contract with a contractor who is licensed and insured for such repair, reconstruction, and restoration; (ii) disburse insurance proceeds available for the work, along with funds collected by reason of Assessments, in appropriate progress payments; and (iii) take all steps necessary to ensure the commencement and completion of such repair, reconstruction, and restoration in a lawful, workmanlike manner at the earliest possible date.

17.3 Right of Entry to Assess Damage and Make Repairs. Representatives of the Association, contractors, engineers, workmen, or any other persons designated by the Board shall have the right and authority to enter any Unit, Common Area, or Exclusive Use Common Area after such casualty to determine the extent of damage and to make repairs, as provided for under the "Right of Entry" provisions contained in these CC&Rs.

17.4 Power to Vacate Unit. If necessary, the Board has the authority to vacate a Unit to make repairs, as provided for under the "Right of Entry" provisions contained in these CC&Rs.

17.5 Labor and Materials. In determining whether the plans for a reconstructed Building are in substantial conformance with the Condominium Plan, the Board may take into consideration the availability and expense of the labor and materials in the original construction of the Building. If such labor or material is not available or is prohibitively expensive at the time of reconstruction, the Board may permit the substitution of other labor or material, as it deems proper.

17.6 Interior Unit Damage. Restoration and repair of any damage caused by fire, earthquake, or other casualty to: (i) the interior of any individual Unit; (ii) personal property, furniture, furnishings, and decorations contained within a Unit; or (iii) any Improvements which were added to the Unit by any present or prior Unit

Resident or Member shall be made by and at the individual expense of the current Unit Owner. The repairs, restoration and reconstruction shall be completed as promptly as practical and in a lawful and workmanlike manner. If the work is of a nature that would normally require approval by the Association, the Member shall seek approval, as provided for in these CC&Rs.

17.7 Damage to Drywall. In the event of damage to the plaster and drywall inside a Unit:

a. *Replacement.* The Association shall only be liable for the replacement of drywall on the perimeter walls of the Unit which, in the estimation of the Board, suffered sufficient damage to require replacement. The Association shall not be liable for repainting the walls or replacing wall coverings of any kind. The restoration and repair of all other interior walls shall be at the sole expense of the Member.

b. *Re-Taping.* Damage to perimeter walls that does not require replacement of the drywall (e.g., buckled joint tape, hairline fractures of the drywall, etc.) shall be the responsibility of the individual Member. The Member shall be responsible for the restoration and repair of all finished surfaces, including, but not limited to, re-taping, painting, plastering, and wallpapering.

17.8 Special Assessment for Reconstruction. In the event the proceeds of insurance obtained by the Association are paid to any Mortgagee of a Unit and, by reason of such payment, the insurance proceeds are not made available to the Association as trustee or otherwise, to effect any repair, reconstruction, or restoration of any damage and/or destruction to all or any portion of the Development, as provided in these CC&Rs, the amount of such proceeds not made available shall be assessed and charged to and against the Member and his/her Unit as a Special Assessment. The Special Assessment shall be made by written notification from the Board to the Member or Members against whom made.

17.9 Encroachment. In the event a Building is partially or totally destroyed and then rebuilt, Members agree that minor encroachments of the Common Area on Units or of Units on the Common Area or on other Units shall be permitted and that valid easements for the encroachments shall exist. Such encroachments shall not be considered to be encumbrances either on the Units or the Common Area.

ARTICLE 18: CONDEMNATION

18.1 Common Area Awards. In the event an action in eminent domain is brought to condemn all or any portion of the Common Areas, the Association shall represent the Members in all proceedings, negotiations, or settlements. Awards for the acquisition of Common Area shall be paid to the Board, as trustee, for deposit into the Association's Reserves or for distribution to the Members. Where the Condominiums are not valued separately by the condemning authority or by

the court, distribution to the Members shall be in accordance with their Percentage Interest.

18.2 Payment for Condemnation. In the event that an action in eminent domain is brought to condemn all or any portion of one or more Units, the award made for such taking shall be payable to the respective Owners of the Units, subject to: (i) the rights of Mortgagees holding Mortgages covering such Units; and (ii) all unpaid Assessments of each Member, taken together with interest charges. The Board of Directors shall have no responsibility for the restoration of a Member's personal property taken as a result of condemnation.

18.3 Substantial Taking. If there is a taking of more than fifty percent (50%) of the Development and more than fifty percent (50%) of the total voting power of the Association elects to terminate, the Members may terminate the legal status of the Development and, if necessary, bring a partition action under Section 1359 of the Civil Code or any successor statutes. The proceeds from the partition sale, less any costs or fees incurred, shall be distributed to the Members and their respective mortgagees in accordance with their Percentage Interest, where the Condominiums are not valued separately by the condemning authority or by the court.

18.4 Revision of Documents. In the event of any condemnation of a part of the Development, the Board shall, as soon as practical, cause to be prepared, filed, and/or recorded a revised subdivision map, Condominium Plan, or other documents, reports, schedules, or exhibits necessary to show the changed or altered status of the Development.

18.5 Status of Membership. In the event a Unit is taken in condemnation, the Unit shall cease to be part of the Development, the Member shall cease to be a Member of the Association, and the Percentage Interest in Common Area appurtenant to that Unit shall automatically become vested in the remaining Members, in proportion to their respective Percentage Interests in the Common Area.

ARTICLE 19: MISCELLANEOUS

19.1 Amendment. These CC&Rs may be amended by the vote or written consent of Members comprising more than fifty percent (50%) of the Voting Power of the Association or as provided for in Section 1356 of the Civil Code or any successor statutes, provided that the percentage of the Voting Power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. Any amendment enacted in compliance with this provision shall become effective when recorded with the Office of the County Recorder.

19.2 Amendment to Conform to Statute. If at any time a provision in these

CC&Rs contradicts current law, according to a written opinion of the Association's legal counsel, the Board of Directors will have the authority, on the unanimous approval of the Directors and without approval of the Members, to amend that provision, but only to the extent necessary to render the provision compliant with applicable law.

19.3 Term of CC&Rs. These CC&Rs shall continue in full force and effect for a term of sixty (60) years from the date of their recordation, after which time they shall be automatically extended for successive periods of twenty (20) years, unless within six (6) months prior to the expiration of the initial term or any twenty (20) year extension period a written agreement executed and acknowledged by at least seventy five percent (75%) of the Members is placed on record in the office of the County Recorder, terminating the effectiveness of these CC&Rs.

19.4 No Right of Partition. No proceeding shall be brought for the partition of the Common Area, except as provided by Section 1359 of the Civil Code or any successor statutes.

19.5 Attorneys' Fees. Any reasonable attorneys' fees and costs incurred by the Association in the enforcement of the Governing Documents against a Member or to determine the rights or duties of the Member under the Governing Documents may be levied against that Member by the Board as a Reimbursement Special Assessment, which may be collected in any manner provided for by these CC&Rs or by law.

19.6 Notices. Any communication or notice of any kind permitted or required herein may be delivered as provided in these CC&Rs and shall be in writing and may be served, as an alternative to personal service, by mailing same as follows:
To a Member: To the street address of the Unit or at such other address as Member may designate in writing to the Association.
To the Association: To the address of the Manager or the Board President.
All notices or demands to be served by mail shall be by first-class mail with postage prepaid. Service shall be deemed to be completed three (3) business days after such mailing.

19.7 Headings. The headings contained in these CC&Rs are for convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction of any term or provision of these CC&Rs.

19.8 Liberal Construction. The provisions of the Governing Documents shall be liberally construed to effectuate their purpose of creating a uniform plan for the use, operation and maintenance of the Development.

19.9 Number and Gender. Whenever the context so requires, the singular number includes the plural, the plural includes the singular, the masculine gender includes the feminine and/or neuter, and the neuter gender includes the

masculine and/or feminine.

19.10 Severability. The provisions of these CC&Rs and any other Governing Document shall be deemed independent and severable and the invalidity, partial invalidity, or unenforceability of anyone provision shall not affect the validity or enforceability of any other provision

19.11 No Public Rights. Nothing contained in these CC&Rs shall be deemed to be a gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

19.12 Successor Association. In the event the Association, as a corporate entity, is dissolved, a nonprofit, unincorporated association shall, without further action, automatically succeed to all the rights and duties of the corporation. The affairs of the unincorporated association shall continue to be governed by these CC&Rs, the Bylaws, Architectural Standards, and the Rules and Regulations, as well as any applicable law.

19.13 Conflicting Provisions. In the event of any conflict between these CC&Rs and the Articles or the Bylaws, these CC&Rs shall control. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.