

It is recommended that all provisions of the original Declaration of Covenants, Conditions and Restrictions recorded with the Los Angeles County Recorder on June 8, 1973, as Instrument No.2284 (except for Article VIII thereof, regarding Rights of Lenders) be restated and the following new provisions supersede the original Declaration:

This Restated Declaration of Covenants, Conditions and Restrictions of THE VILLAGE CONDOMINIUM OWNERS' ASSOCIATION, a California non-profit mutual benefit corporation, is made this \_\_\_\_ day of \_\_\_\_\_, 2010, by the undersigned with reference to the following facts:

A. A Declaration of Covenants, Conditions and Restrictions ("Declaration") was recorded on June 8, 1973, as Document No.2284 in the office of the County Recorder of Los Angeles County for the real property legally described as:

*Lot 1 of Tract No. 31193 as per Map recorded in Book 825, Pages 21 through 23, inclusive of Maps, in the office of the Los Angeles County Recorder*

B. First Amendment to the Declaration of Covenants, Conditions and Restrictions was recorded on January 13, 1981 as Document No. 81-344900, in the office of the County Recorder of Los Angeles County.

C. Second Amendment to the Declaration of Covenants, Conditions and Restrictions was recorded on January 13, 1981 as Document No. 81-344901, in the office of the County Recorder of Los Angeles County.

D. Third Amendment to the Declaration of Covenants, Conditions and Restrictions was recorded on October 25, 1994 as Document No. 94-1931013, in the office of the County Recorder of Los Angeles County.

E. Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions was recorded on April 23, 2009, as Document No. 20090595194, in the Office of the County Recorder of Los Angeles County.

F. The Declaration, together with all said Amendments, is hereby amended and restated in its entirety as stated below.

G. The undersigned have confirmed and placed in the records of the Association the signatures representing the necessary voting power of the unit owners of the condominiums covered by said Declaration, reflecting their confirmation and approval to make this restated Declaration which follows.

All provisions of the original Declaration, except Article VIII thereof, and all of the Amendments stated above are deleted in their entirety and the following new provisions are inserted in their place:

## **ARTICLE I**

### **GOVERNING DOCUMENTS**

1.1 The Village Condominium Owners Association's Governing Documents consist of:

A. This Declaration and Recorded Supplemental Declarations;

B. The Village Condominium Owners Association's Articles of Incorporation and By-laws;

C. Architectural Guidelines described in Article VII;

D. Board resolutions, rules and regulations, all as they may be amended.

1.2 Conflicting Provisions. In the case of any conflict between this Declaration and the Articles or the Bylaws, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control.

A. The Governing Documents create a general plan of development for the Project which may be supplemented by additional covenants, restrictions, and easements applicable to particular areas within the Project.

B. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Project from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and, in such case, the more restrictive provisions shall control. The Association may, but shall not be required to, enforce any such covenants, restrictions, or other instruments applicable to any portion of the Project.

1.3 Application. The Governing Documents apply to all owners and to all occupants of their Units, as well as their respective tenants, guests, and invitees. Any lease or rental agreement on a Unit shall provide that the lessee/tenant and all occupants of the leased or rented Unit shall be bound by the terms of the Governing Documents.

#### 1.4 Construction of Declaration.

A. Restrictions Construed Together. All of the covenants, conditions, and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property, as set forth in the Recitals of this Declaration.

B. Restrictions Severable. Notwithstanding the provisions of Paragraph A above, the covenants, conditions, and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

## **ARTICLE II**

### DEFINITIONS

2.1 "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Condominium in accordance with the provisions of this Declaration.

2.2 "Association" means THE VILLAGE CONDOMINIUM OWNERS ASSOCIATION, a California non-profit mutual benefit corporation, its successors and assigns. The Association is an "association" as defined in California Civil Code Section 1351(a). The Association's Members are the record owners of each of the three hundred twenty-four (324) condominium units which are located on the Property.

2.3 "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to this Declaration, as the same may be in effect from time to time.

2.4 "Board of Directors" or "Board" means the Board of Directors of the Association.

2.5 "Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

2.6 "Common Area" means the entire Project except all Units, as defined and shown on the Condominium Plan. Unless the context clearly indicates a contrary intent, any reference herein to the "Common Areas" shall also include any Common Facilities located thereon.

2.7 "Common Expense" means any use of Common Funds authorized by this Declaration, by law, or by the Bylaws, including but not limited to costs, expenses and charges in connection with the administration, management, operation, insurance, maintenance, improvement, replacement, repair, addition, alteration or reconstruction

of all or any portion of the Common Area and any amounts estimated to be reasonably necessary for reserves for anticipated long-term maintenance, repair and replacement of capital improvements upon the Common Area (the cost of which would not ordinarily be incurred on an annual basis), contingencies and the service obligations of the Association. Common Expenses, however, shall not include the cost of any new construction, or unanticipated repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto. "Common Expense" shall also include any fees or costs associated with the "Agreement for Sharing Use of Recreational Facilities" executed between the Association and Lincoln Property Company No. Thirty-Three, Inc., on July 27, 1973.

2.8 "Common Facilities" means the swimming pool, pool furniture and equipment, spa, storage spaces, trees, hedges, plants, lawns, shrubs, landscaping, fences, lines, lighting fixtures, buildings, elevators, walkways, driveways, structures, garages and parking structures, and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

2.9 "Common Funds" means all funds collected or received by or on behalf of the Association and/or due and payable to the Association, including but not limited to the proceeds from insurance carried or obtained by the Association which are payable to or received by the Association for the benefit of the Owners or otherwise.

2.10 "Condominium" means an estate in real property as described in Civil Code Sections 783 and 1351(f) consisting of an undivided interest as a tenant-in-common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as are described in this Declaration, in the Condominium Plan, or in the deed conveying the Condominium.

2.11 "Condominium Plan" means the Condominium Plan recorded on May 7, 1973, in Book 825, Pages 11 and 12, in the Official Records of Los Angeles County, respecting the Property, and any amendments to the plan, pursuant to *Civil Code* Section 1351, subsection (e). A copy of the Condominium Plan is attached to this Declaration as Exhibit "A."

2.12 "Declarant" means the original developer of the Property, namely Lincoln Property Company No. Thirty-Three, Inc., a California corporation.

2.13 "Declaration" means this instrument, as it may be amended or restated from time to time.

2.14 "Exclusive Use Common Area" means a portion of the Common Area designated for the exclusive use of one or more, but fewer than all, of the Owners of the Units, including, but not limited to, patios, balconies, parking spaces, storage spaces, window boxes, doorsteps, stoops, porches, exterior doors, door frames, and hard-

ware incident thereto, screens and windows or other fixtures, if any.

2.15 "Governing Documents" is a collective term that means and refers to this Declaration and to the Articles of Incorporation, the Bylaws, the Association Rules and Regulations, and any Architectural Guidelines, as set forth in Section 1.1 above.

2.16 "Improvement" includes, without limitation, the construction, installation, alteration, or remodeling of any buildings, walls, fences, swimming pools, landscaping, landscape structures, solar heating equipment, spas, saunas, utility lines, or any structure of any kind. **In no event shall the term "Improvement" be interpreted to include improvement projects that are restricted entirely to the interior of any Units and which involve no modification of or entry into the roof, floor/slab, or wall or ceiling cavities.**

2.17 "Member" means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to this Declaration.

2.18 "Owner" or "Owner of Record" and "Member of the Association" means any person, firm, corporation, or other entity in which title to a Condominium is vested as shown by the Official Records of the Office of the County Recorder.

2.19 "Project" means the Property and the improvements located thereon which are intended to create a condominium project as described in Civil Code Section 1351(f).

2.20 "Property" means all land described in Recital A, together with all buildings, structures, utilities, Common Facilities, and other improvements located thereon, and all appurtenances thereto.

2.21 "Residential Use" means occupation and use of a Condominium Unit for dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy residential dwellings.

2.22 "Tenant" means any person occupying a Unit other than the Owner of Record or his or her immediate family members, whether the person pays rent or not.

2.23 "Unit" means the elements of a Condominium that are not owned in common with the Owners of other Condominiums in the Project, such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration. Notwithstanding the foregoing, Unit 111 as shown and defined on the Condominium Plan is a recreation room and is part of the Common Area.

2.24 "Civil Code", "Corporations Code" and any other references to code sections

shall mean those code sections so referenced and any and all comparable superseding codes and/or laws.

## **ARTICLE III**

### **PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS**

3.1 Property Subject to the Declaration. All Property in the Project shall be subject to this Declaration, for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all of which shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

3.2 Persons Subject to Governing Documents. All present and future Owners, Tenants, and guests within the Property shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time. The acceptance of a deed to any Condominium, the entering into a lease, sublease, rental agreement, or contract of sale with respect to any Unit, or the occupancy of any Unit shall constitute the consent and agreement of such Owner or Tenant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

3.3 Elements of Condominium. Ownership of each Condominium within the Project includes a Unit; an undivided interest in the Common Area which is specified in the deed to each Owner; a membership in the Association; and any exclusive or nonexclusive easement or easements appurtenant to such Condominium over the Common Area as described in the Declaration, the Condominium Plan and the deed to the Condominium.

3.4 Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas within the Property, including ingress and egress to and from his or her Condominium, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following rights and restrictions:

A. The rights of the Association to assign, rent, lease, and to otherwise designate and control the use of any unassigned parking and storage spaces, if any, within the Common Area; to impose a reasonable fee for admission into, or for services incident to the use of, any recreational Common Facilities; and to limit the number of guests of Members who may use any recreational Common Facilities.

B. The right of the Association to adopt Association Rules regulating the use and

enjoyment of the Property for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Documents by any Owner or Tenant, to suspend the voting rights and/or right to use the Common Facilities, other than parking and roads, by any Owner and/or the Owner's Tenants and guests, subject to compliance with due process requirements, for a period not to exceed thirty (30) days for any single non-continuing infraction of such rule or provision.

C. The right of the Association to enter upon and have access to Exclusive Use Common Areas when such access is essential for the maintenance of the Common Area or to enforce the provisions of the Governing Documents.

D. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and Common Facilities and in aid thereof to mortgage said property; provided, however, that the rights of any such Mortgagee in said properties shall be subordinate to the rights of the Owners hereunder; and further provided that any such indebtedness shall be considered an expense of the Association for purposes of the Special Assessment provisions of this Declaration.

E. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at least two-thirds of the voting power of the Members, and their First Mortgagees, consenting to such dedication or transfer has been recorded. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Unit. Said instrument may be executed in counterparts so long as each counterpart is in recordable form.

F. The right of the Architectural Review Committee, if any, or Board of Directors to approve any proposed alteration or modification to the Common Area or any Unit.

G. The right of the Association to suspend the voting rights and rights to use of the recreational Common Facilities by an Owner, his or her Tenant(s), and any guests, invitees, or family members, for any period during which any assessment against his or her Unit remains unpaid and delinquent, subject to compliance with due process requirements.

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

**3.6 Discharge of Assessment Liens.** Each Owner shall promptly discharge any As-

assessment lien that may hereafter become a charge against his or her Unit.

3.7 Joint Ownership of Units. In the event of joint ownership of any Unit, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this Section shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

3.8 Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Unit, or otherwise, may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Unit pursuant to this Declaration.

3.9 Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of a Unit to a new Owner, the transferor-Owner shall not be liable for any Assessments levied with respect to such Unit which become due after the date of recording of the deed evidencing said transfer and, upon such recording, all Association membership rights possessed by the transferor by virtue of the ownership of said Unit shall cease.

## **ARTICLE IV**

### **LEASING OF CONDOMINIUMS**

4.1 Delegation of Use and Leasing of Units. Any Owner may delegate the Owner's rights to use and enjoy the Common Area and Common Facilities to members of the Owner's family or to the Owner's Tenants or contract purchasers who reside in the Owner's Unit, provided that any rental or lease may only be for Residential Use and for a term not less than sixty (60) days.

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

B. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Unit shall be in writing and shall require the agreement by the tenant or contract purchaser to comply with the Governing Documents, all of which shall be deemed incorporated by reference in the lease or rental agreement. Lessor/Owner shall provide to the Association or the Association's management company a copy of the written lease or rental agreement. Lessor/Owner shall require Tenant to maintain renter's insurance and shall provide proof of such

insurance to the Association or the Association's management company prior to Tenant's taking possession. Each Owner shall provide any Tenant with a current copy of all Governing Documents and shall be responsible for compliance by the Owner's Tenant with all of the provisions of the Governing Documents during the Tenant's occupancy and use of the Unit.

C. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this Declaration.

D. Only an Owner may lease a Unit; sub-leasing or assignment of a lease are strictly prohibited.

4.2 Association's Power to Evict. Subject to Section 4.8 below, in the event that any Tenant fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances, which may include initiation of an eviction proceeding in accordance with Section 4.8 below or the imposition of fines and penalties against the Owner and/or Tenant.

A. Whether or not such right is stated in any lease or rental agreement, every Owner who leases or rents his or her Unit, or any portion thereof, automatically grants to the Association the right to determine a Tenant's default under the Governing Documents and of terminating the tenancy and evicting the Tenant for such default. If the Board takes such eviction action, either in its own name or in the Owner's name, the Owner shall be responsible for all costs thereof, including reasonable attorney's fees, and shall reimburse the Association upon demand for the entire amount of such costs. If the Owner refuses to make such reimbursement, the sums shall be levied as a Special Individual Assessment.

B. The Association's right to maintain an eviction action hereunder is derived from Sections 1165 and 374 of the California Code of Civil Procedure and shall only arise if the Tenant's or lessee's conduct involves damage to or destruction of Common Areas or Common Facilities, improvements or personal property of the Association or constitutes a nuisance or unreasonable interference with the quiet enjoyment of other residents, or if such Tenant has occupied the premises without Owner's permission and consent or without a written lease or rental agreement entered into between an Owner and his or her Tenant.

4.3 Power to Compel Owner to Evict Violating Tenant. If the Association determines that it will not exercise its power to evict a tenant due to the tenant causing a nuisance or damage to the Common Area or any Owner's or occupant's property, the Association shall have the right to bring an action against the Owner to compel the

Owner to evict the tenant. In any action, whether for injunctive relief, damages, or both, brought because of any alleged breach or default of these lease or rental provisions or any other provisions of the Governing Documents by any Owner, his/her tenants, family members, guests, the court may award to the prevailing party in any such action such attorneys' fees and other costs as the court deems just and reasonable.

4.4 Security Deposit. Through its rule-making power, the Board of Directors is hereby authorized and empowered to establish and implement an Association security deposit procedure to protect the Association, the Common Area, and Common Facilities from negligence, damage and/or destruction caused by the Tenants, renters, or lessees of any Owner, their families and guests. Said security deposit, if required, shall be payable by the Owner and shall be fixed in an amount not to exceed the greater of \$500 or one (1) or two (2) month's Regular Assessment and need not be held by the Association in a separate security deposit fund. Within two weeks following receipt of notice from the Owner that the Owner's Unit is no longer being leased or rented, the Association shall furnish the Owner with an itemized statement indicating the basis for, and the amount of, any security received and the disposition of the security and shall return the remaining portion of the security to the Owner, if any.

4.5 Recoverable Costs and Expenses. In the event of: (i) damage to, or destruction of, Common Areas or Common Facilities by a Tenant or lessee or the Owner of a leased Unit; (ii) the imposition of a fine or penalty against an Owner-lessor as a result of any act or omission of the Owner's Tenant or lessee; or (iii) expenses incurred by the Association in the successful prosecution of an eviction proceeding pursuant to this Declaration, the Association shall be entitled to apply the security deposit to recover its costs and expenses. The Owner-lessor shall thereupon immediately reimburse the security deposit fund in an amount equal to the sums thus applied. Upon termination of the lease or rental agreement and notification to the Association of such termination, the security deposit, or the balance thereof, if any, shall be refunded to the Owner without interest. As a condition to the Association's right to apply security deposit funds in the manner provided in Section 4.4 above, the Association must give the Owner-lessor the notice and hearing rights specified in this Declaration.

4.6 Assignment of Rents. In the event of a default by the Owner in the payment of assessments, late charges, fines, and collection costs, the Owner-lessor grants, gives and confers to the Association the right, power and authority to collect the rents from the Tenant, renter, or lessee and assigns such rents to the Association to be retained by the Association to pay assessment arrearage and current assessments. This provision shall not become effective until after the Association has provided the Owner with notice and hearing rights specified in this Declaration. After complying with the notice and hearing provisions, the Association shall give written notice to the Tenant, renter, or lessee that all future rental payments shall be made to the Associa-

tion until the assessment arrearage is paid in full and, thereafter, the Tenant, renter, or lessee shall deduct from the rent the current assessments due for each month and pay that amount directly to the Association to be credited to Owner's account.

A. Prior to any default in the payment of assessments, late charges, and fines, the Owner shall retain the right, power and authority to collect and retain all rents collected from his/her/their Unit.

B. The Association may exercise its right to collect rents through its Board, managers, agents, attorneys, or through a receiver to be appointed by the Court.

4.7 Discipline of Tenants. Subject to Paragraph 4.8 below, in the event that any Tenant fails to honor the provisions of any Governing Document, the Association may, but shall not be obligated to, take such corrective action as it deems necessary or appropriate under the circumstances, which may include, but is not limited to suspension of the Tenant's privileges to use any recreational Common Facilities, or the imposition of fines and penalties against the Owner or Tenant.

Any fine or penalty levied pursuant to this Section shall be considered a Special Individual Assessment, but shall not be enforced by foreclosure of a lien. If a Special Individual Assessment is imposed as a result of the conduct of a Tenant, the Tenant agrees to be personally obligated for the payment of such assessments in the event the Owner fails to pay the assessments prior to the delinquency date. This provision, however, shall not be interpreted to release the Owner from any obligation, including the obligation to pay any duly imposed Special Individual Assessments for which such Owner would otherwise be responsible. Any Tenant, renter, or lessee charged with a violation of the Governing Documents is entitled to the same notice and hearing rights to which the Owner is entitled as provided in Section 4.8 below. Any Owner who shall lease or rent his or her Unit, or any portion thereof, shall be responsible for assuring compliance by the Tenant, renter, or lessee with the Governing Documents.

4.8 Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to the Property or to preserve the rights of quiet enjoyment of other Owners and Tenants, the Association shall have no right to initiate disciplinary action against an Owner or Tenant on account of the misconduct of the Tenant unless and until the following conditions have been satisfied:

A. The Owner has received written notice from the Board or the Association's property manager or authorized representative detailing the nature of the Tenant's alleged infraction or misconduct and advising the Owner of his or her right to a hearing on the matter. Such written notice shall be deemed satisfied by sending it to Owner's last known address, as it appears in the Association's records.

B. The Owner has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing, not less than ten (10) days from the date of the notice.

C. The Owner has failed to prevent or correct the Tenant's objectionable actions or misconduct or evict the Tenant.

4.9 Owner's Duty to Notify Association of Tenants, Contract Purchasers and Owner's Intent to Sell. Each Owner shall notify the Association in writing of his intention to sell and shall provide the Association with the name of any escrow company and buyer for a pending or proposed sale of a Condominium. Each Owner shall notify the Secretary of the Association or the Association's property manager, if any, of the names of any contract purchaser or Tenant of the Owner's Condominium. Each Owner, contract purchaser or Tenant shall also notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser or Tenant has delegated any rights to use and enjoy the Property and the relationship that each such person bears to the Owner, contract purchaser or Tenant.

4.10 Maximum Number of Rental Units. In order to limit the number of rental units to comply with lenders' guidelines, prevent transient tenancy, and to avoid increased insurance premiums, any person who now owns a Condominium and any person who acquires title to a Condominium within the Project on or after the effective date of this Section may lease or rent the Unit for a period of not less than one year, provided that the percentage of Units occupied by tenants does not exceed twenty five percent (25%) of the total Units in the Project.

A. Any Owner who rents his/her Unit ("Rental Unit") in compliance with this Section may continue to rent his/her Unit until the Owner sells or otherwise transfers title to his/her Unit to another person or until the Owner occupies the Unit. A Rental Unit shall be considered a Rental Unit whenever it is occupied by one or more persons but does not include the Owner or the Owner's immediate family, whether as the result of the payment of rent or otherwise. A Unit does not lose its status as a Rental Unit by virtue of the fact that a tenant's tenancy terminates. The ability to rent a Unit may not and shall not be transferred by the Owner of a Rental Unit to a purchaser or other person who acquires title to the Unit after the effective date of this Section.

B. Once twenty five percent (25%) of the Units are rented, the Board shall establish a waiting list to permit other Owners who have a genuine intent to rent their Units to have the opportunity to do so. Once a Rental Unit ceases to be a Rental Unit, those Owners on the waiting list shall be entitled to priority on a first-come, first-serve basis, unless an Owner is unable to occupy his/her Unit due to death, illness, or dire emergency, in which event the Board shall hold a hearing in order to verify the exception and authorize the Owner to rent or lease his/her Unit prior to Owners before him/her on the waiting list. Even though twenty-five percent (25%) of the Units may be Rental Units, the Board may grant an exception to an Owner or the Owner's heirs

and representatives based upon the death of the Owner, illness, or dire emergency. All exceptions shall be documented in a written Resolution by the Board. Upon sale or transfer of title to a Rental Unit or upon the Owner of the Unit occupying the Unit, the Unit shall cease to be considered a Rental Unit and the Owner whose name is next on the waiting list shall be permitted to rent his/her Unit.

## **ARTICLE V**

### **HOMEOWNERS ASSOCIATION**

5.1 Association Membership. Every Owner of a Condominium shall be a Member of the Association and shall hold one membership in the Association for each Condominium owned. The membership shall be appurtenant to such Condominium.

5.2 One Class of Membership. The Association shall have one class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents.

5.3 Voting Rights of Members. Each Member of the Association shall be entitled to one vote for each Condominium owned by said Member. When more than one person holds an interest in any Condominium, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Condominium. Voting rights may be temporarily suspended pursuant to the provisions of the Governing Documents for non-payment of Assessments and other violations of the Governing Documents.

5.4 Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Condominiums within the Property and to enforce payment of such Assessments in accordance with the provisions of this Declaration.

5.5 Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Condominium to which it is appurtenant and then only to the purchaser. In the case of a sale, membership passes automatically to the purchaser upon recording of a deed evidencing transfer of title to the Condominium. In the case of an encumbrance of such Condominium, a Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. Tenants who are delegated rights of use pursuant to this Declaration do not thereby become Members, although the Tenant and Members of the Tenant's family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Unit, the Association shall have the right to record the

transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

#### 5.6 Powers and Authority of the Association.

A. Powers Generally. The Association shall have the responsibility of managing and maintaining the Common Areas and Common Facilities and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a non-profit corporation organized under the laws of the State of California in the ownership and management of the Property and the discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful acts which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in the Bylaws.

B. Association's Limited Right of Entry. The Association, and/or its agents, shall have the right, when necessary, to enter any Unit to perform the Association's obligations under this Declaration, including: (i) exterior maintenance or repair obligations; (ii) obligations to enforce the Governing Documents; (iii) any obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or (iv) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property or the other Owners.

The Association's rights of entry under this paragraph B shall be immediate in case of an emergency originating in or threatening the Unit where entry is required, or any adjoining Units or Common Area, and the Association's work may be performed under such circumstances whether or not the Owner or his or her Tenant or Lessee is present.

In all non-emergency situations, the Association or its agents shall furnish the Owner or his or her Tenant or Lessee with at least 24 hours' written notice of its intent to enter the Unit, specifying the purpose and scheduled time of such entry and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing within the Unit. **In no event shall the Association's right of entry, for non-emergency situations, be construed to permit the Association or its agents to enter any Unit without the Owner's express permission.**

#### 5.7 Association Rules.

A. Rule-Making Power. The Board may, from time to time and subject to the provisions of this Declaration, by a majority vote of the Board propose, enact and amend or repeal reasonable rules and regulations of general application to the Owners and Tenants and Lessees of Condominiums within the Property. Such rules may concern, but are not be limited to: (i) matters pertaining to the management and use of the Common Area and Common Facilities by Owners, their Tenants, Lessees, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area and Common Facilities; (ii) use of a separate interest, including any aesthetic or architectural standards and control; (iii) Member discipline, including any schedule of monetary penalties for violation of the governing documents, and any procedure for the imposition of penalties and the conduct of disciplinary proceedings; (iv) standards for delinquent assessment payment plans and procedures for resolution of assessment disputes; (v) regulation of parking, pet ownership and use of the Common Facilities; (vi) restrictions on the type or types of vehicles which may be permitted to park on the Common Areas or the Property; and (vii) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the other Governing Documents. In the event of any material conflict between any Association Rule and any provision of the other Governing Documents, the conflicting provisions contained in the other Governing Documents shall be deemed to prevail.

B. Adoption and Amendment of Rules.

(1) Notice. The Board shall provide written notice of a proposed rule change to the Members at least 30 days before making the rule change. The notice shall include the text of the proposed rule change and a description of the purpose and effect of the proposed rule change. Notice is not required under this subdivision if the Board determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the Association.

(2) Adoption. A decision on a proposed rule change shall be made at a meeting of the Board, after consideration of any comments made by Association Members.

(3) Distribution of Rules. As soon as possible, but not more than 15 days, after making a rule change, the Board shall mail or otherwise deliver notice of the rule change to each Owner and Tenant or Lessee. If the rule change was an emergency rule change made under paragraph (4) below, the notice shall include the text of the rule change, a description of the purpose and effect of the rule change, and the date that the rule change expires.

(4) Emergency Rule Change. If the Board determines that an immediate rule

change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association, it may make an emergency rule change without prior notice to the Members. An emergency rule change is effective for 120 days, unless the rule change provides for a shorter effective period. An emergency rule change made may not be readopted.

C. Reversal of Rule Change.

(1) Five percent (5%) or more of the Members may call a special meeting of the Members to reverse a rule change, other than an emergency rule change made under paragraph B(4) above.

(2) A special meeting of the Members for the purpose of reversing a rule change may be called by delivering a written request to the President or Secretary of the Board not more than 30 days after notification of the rule change, after which the Board shall deliver notice of the meeting to the Members and hold the meeting in conformity with *Corporations Code* Section 7511.

(3) The rule change may be reversed by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present. In lieu of calling a special meeting, the Board may distribute a written ballot to each Member in conformity with the Bylaws.

(4) A rule change reversed under this section may not be readopted for one year after the date of the meeting or vote by written ballot reversing the rule change. The Board may adopt a different rule on the same subject as the rule change that has been reversed.

(5) As soon as possible, but not more than 15 days, after the close of voting, the Board shall mail or otherwise deliver notice of the results to each Owner and Tenant or Lessee.

D. All rules must be in writing. Any duly adopted rule or amendment to the Rules shall become effective immediately following the date of adoption and distribution by the Board to the Owners and Tenants or Lessees.

5.8 Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in this Declaration.

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

A. Claims Regarding Breach of Duty. No director or officer of the Association shall be personally liable to any of the Association's Members, or to any other person, including the Association, for any error or omission in the discharge of their duties and

responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such director or officer has, upon the basis of such information as may be possessed by the director or officer, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

B. Other Claims Involving Tortious Acts and Property Damage. No person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) and/or property damage as a result of the tortious act or omission of a volunteer member of the Board or volunteer officer of the Association shall recover damages from such Board member or officer if all of the following conditions are satisfied:

(1) The act or omission was performed within the scope of the volunteer Board member's or officer's Association duties;

(2) The act or omission was performed in good faith;

(3) The act or omission was not willful, wanton, or grossly negligent;

(4) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim was made one or more policies of insurance that include coverage for general liability of the Association in a sum not less than \$3,000,000.00 and individual liability of the officers and directors of the Association for negligent acts or omissions in their official capacities, with minimum coverage of insurance being not less than \$1,000,000.00.

(a) The reimbursement of actual expenses incurred by a Board member or officer in the execution of that person's Association duties shall not affect that person's status as a volunteer Board member or officer for the purposes of this section.

(b) The provisions of this paragraph B are intended to reflect the protections accorded to volunteer directors and officers of community associations under Civil Code Section 1365.7. In the event that Civil Code Section is amended or superseded by another, similar provision of the California statutes, this paragraph B shall be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

## **ARTICLE VI**

### **ASSESSMENTS**

6.1 Covenant to Pay Assessments. Each Owner, by acceptance of the deed to the Owner's Unit, is deemed to covenant and agree to pay to the Association Regular,

Special and Special Individual Assessments levied pursuant to the provisions of this Declaration. Each such Assessment shall be established and collected as hereinafter provided. The Owner may not waive or otherwise escape liability for these assessments by non-use of the Common Area or abandonment of the Owner's Unit.

All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the persons who were the Owners of the Unit at the time the Assessment was levied. Each Owner who acquires title to a Unit (whether at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Unit so purchased which become due and payable after the date of such sale, and shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. Any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner against whom assessed.

All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such Assessment is made. Any lien for unpaid Assessments created pursuant to the provisions of this article may be subject to foreclosure as provided in this Declaration.

6.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote, protect, enhance and maintain the recreation, health, safety and welfare of the residents in the Project and for the improvement, maintenance, replacement, repair and operation of the Common Area and the improvements and personal property in the Common Area that are owned or maintained by the Association, as set forth in this Declaration, and to further any other purpose that is for the common benefit of the Owners in their use and enjoyment of the Project.

### 6.3 Regular Assessments.

A. Preparation of Annual Budget: Establishment of Regular Assessments. Not less than **30** nor more than **90** days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Facilities) by preparing and distributing to all Association Members a budget satisfying the requirements of the Bylaws and this Declaration. If the Board fails to distribute the budget for any fiscal year within the time period provided for in this section, the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with the Bylaws.

B. Establishment of Assessments: Membership Approval Requirements. The total annual expenses estimated in the Association's budget (less projected income from sources other than assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year, provided that, except as provided in this Declaration otherwise, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association, conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

C. Assessments to Address Emergency Situations. The requirement of a membership vote to approve Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to assessment increases necessary to address emergency situations. For purposes of this subparagraph (c), an "emergency situation" is defined in Civil Code Section 1366(b) (as such section may be hereafter amended, supplemented or superseded), which includes the following:

(1) An extraordinary expense required by an order of a court.

(2) An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the separate interests which the Association is obligated to maintain where a threat to personal safety is discovered.

(3) An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the separate interests which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (a) above, provided that, prior to the imposition or collection of an assessment under this paragraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of assessment.

6.4 Mailing Notice of Assessment. The Board of Directors shall mail to each Owner at the street address of the Owner's Condominium, or at such other address as the Owner may from time to time designate in writing to the Association, notice of any increase or decrease in the amount of the Regular or Special Assessments for the next succeeding fiscal year no less than 30 days nor more than 90 days prior to the increased assessment becoming due.

6.5 Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment

made for that year, shall be assessed against each Owner and his or her Condominium on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Association.

6.6 Reserve Funds. Each annual regular assessment shall include a portion for reserves in such amounts as the Board in its discretion considers appropriate to meet the cost of the future repair, replacement, or additions to the major components of the Common Area Improvements and Common Facilities that the Association is obligated to maintain and repair. Reserve funds shall be deposited in a separate account and the signatures of at least two persons who shall either be Members of the Board, or one officer who is not a Member of the Board and a Member of the Board, shall be required to withdraw money from the reserve account. Except as provided below, no money shall be transferred from a reserve fund to the Association's general operating fund and reserve funds may not be expended for any purpose other than the repair, restoration, replacement, or maintenance of major components that the Association is obligated to maintain or as otherwise permitted in the Davis-Stirling Common Interest Development Act.

Notwithstanding the foregoing, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one (1) year of the date of the initial transfer, except that the Board may, on the making of a finding supported by documentation that a temporary delay is in the best interest of the Association, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve accounts, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by California Civil Code Section 1365.5 (as such section may be hereafter amended, supplemented or superseded). This special assessment is subject to the limitation imposed by California Civil Code Section 1366 (as such section may be hereafter amended, supplemented or superseded) and the restrictions imposed hereinbelow. The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of any unpaid special assessment.

When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of the Association of that decision in the next available mailing to all Members pursuant to Section 5016 of the Corporations Code (as such section may be hereafter amended, supplemented or superseded), and of the availability of an accounting of those expenses. Unless the Governing Documents impose more stringent stan-

dards, the Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members of the Association at the Association's office.

6.7 Installment Payment of Assessments. The Regular Assessment levied against each Owner and his or her Condominium shall be due and payable in advance to the Association in equal monthly installments on the first day of each month. Installments of Regular Assessments shall be delinquent if not paid by the 15th day of the month in which the Assessment is due.

6.8 Equal Assessments. Regular Assessments shall be allocated among, assessed against, and charged to each Owner initially according to the rates set forth on Exhibit "B" attached hereto and incorporated herein by reference. As and when the Association's Regular Assessment shall increase or decrease as herein provided, such increase or decrease shall be allocated, assessed, and distributed equally among the Condominium Units by adding or subtracting an equal dollar amount for each Unit regardless of the type of Unit. Special Assessments shall be allocated, assessed, distributed and charged to and among each Owner and Unit in equal shares.

#### 6.9 Special Assessments.

A. Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth in paragraph B below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Condominiums for the following purposes, among others:

(1) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then the Board of Directors shall levy and collect a Special Assessment, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(2) Capital Improvements. The Board may levy Special Assessments for capital improvements within the Common Area.

(3) Loan Repayments. The Board may levy Special Assessments to repay disaster loans or loans obtained for the purpose of repairing Common Area facilities or financing litigation.

(4) Litigation. The Board may levy Special Assessments to fund litigation.

B. Special Assessments Requiring Owner Approval. No Special Assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the Association for the fiscal year in which the Special Assessment(s) is levied shall be

made without the vote or written assent of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association, provided that this membership approval requirement shall not apply to any Special Assessment levied to address "emergency situations" as defined above.

C. Special Assessments for purposes described in this Section shall be due as a separate debt of the Owner and a lien against his or her Condominium.

#### 6.10 Special Individual Assessments.

A. Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 6.7, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the following circumstances, after the Owner has been given the notice and hearing rights to which the Owner is entitled, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents.

(1) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities, including any portion of the Unit structure which the Association is obligated to repair and maintain is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her Tenants, guests, servants, employees, or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(2) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses to accomplish: (A) any repair, maintenance or replacement to any portion of the Property that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete after at least 15 days' written notice; or (B) to otherwise bring the Owner, the Owner's Tenant or Lessee, family members, guests, invitees, and/or his or her Condominium into compliance with any provision of the Governing Documents, the amount incurred by the Association [including fines and penalties, accounting fees, management fees, court costs and reasonable attorney's fees (including those incurred prior to filing a lawsuit)] shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

B. Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, notice of such Special Individual Assessment shall be mailed to the affected Owner and the Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within 30 days after the mailing of notice of

the Assessment, or within such other time period as the Board may determine.

6.11 Maintenance of Assessment Funds. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors which has offices located within the State of California, County of Los Angeles. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees.

6.12 Collection of Assessments; Enforcement of Liens.

A. Delinquent Assessments. If any installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment or Special Individual Assessment assessed to any Owner is not paid within 15 days after the same becomes due, such payment shall be delinquent and the Board of Directors is authorized and empowered to impose a late charge for such delinquent Assessments not exceeding ten percent (10%) of the delinquent assessment or ten dollars (\$10.00), whichever is greater, or such other amount as provided by law. In addition to such late charge, such delinquent assessment(s) may, at the Board's election, bear interest at the rate of twelve percent (12%) per annum, or any other percentage provided by law, beginning thirty (30) days after the due date until the same is paid.

B. Effect of Nonpayment of Assessments.

(1) Creation and Imposition of a Lien for Delinquent Assessments. As more particularly provided in Civil Code Section 1367 or comparable superseding statute(s), the amount of any delinquent Regular Assessment, Special Assessment, Special Individual Assessment (pursuant to Section 6.13 of this Article), or Emergency Assessment, together with any late charges, interest and costs (including reasonable attorneys' fees) shall become a lien upon the Condominium of the Owner so assessed when the Association causes to be recorded, in the Office of the County Recorder, a Notice of Delinquent Assessment (or equivalent) executed by the Board or a representative of the Association authorized by the Board. The Association shall record the lien in accordance with and pursuant to applicable statutory law.

(2) Remedies Available to the Association to Collect Assessments. After the expiration of the statutory time period, prescribed by applicable law, following the recording of Notice of Delinquent Assessment, the Association may initiate legal action against the Owner personally obligated to pay the delinquent Assessment for a money judgment and/or foreclosure of said lien against the Owner's Condominium, or accept a in lieu of foreclosure, in a manner consistent with applicable statutory law. Foreclosure by the Association of said lien may be by judicial or non-judicial foreclosure.

6.13 Limitation on Right to Lien Units for Special Individual Assessments. A Special Individual Assessment imposed by the Association as a means of reimbursing the Association for costs incurred by the Association in the repair or damage to Common Areas and Common Facilities for which the Member or the Member's guests or tenants were responsible may become a lien against the Member's Unit enforceable by the sale of the Unit pursuant to Civil Code Sections 2924, 2924b, and 2924c. However, other Special Individual Assessments imposed by the Association pursuant to Section 6.10A(2), as a disciplinary measure for failure of a Member to comply with the Governing Documents, such as for fines, levied pursuant to this Declaration and/or Civil Code Section 1363(h), except for late payment penalties for delinquent Assessments, may not be characterized nor treated as an Assessment that may become a lien against the Member's Unit that is enforceable by sale pursuant to Civil Code Sections 2924, 2924b or 2924c. Special Individual Assessments relating to delinquent Assessments shall be subject to imposition of a lien and enforceable through foreclosure or sale under a power of sale for failure of an Owner to pay such Assessment, all as more particularly provided in herein.

6.14 Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed against the Owner's Condominium.

6.15 Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Condominium or otherwise may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Condominium pursuant to this Declaration.

6.16 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, a claim that (i) the Association is not properly exercising its duties and powers as provided in this Declaration; (ii) a Member has made or elects to make no use of the Common Areas; or (iii) any construction or maintenance performed or not performed by the Association shall in any way postpone Assessments or entitle a Member to claim any such offset or reduction.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

7.1 Improvements in General. No "Improvement" (as defined in Article II) of any kind shall be commenced, erected or maintained within the Property, nor shall any exterior addition to or change or alteration be made in or to any portion of the Common Area, any Unit, any Common Facility structure, or to any Exclusive Use Common Area until the plans and specifications showing the nature, color, kind, shape, height (including front, side and rear elevations), materials, and location of the same shall have been submitted to and approved in writing by the Association's Board of Directors as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation.

7.2 Submission of Plans; Action by Board. The Association shall fairly, reasonably and expeditiously render decisions regarding Owners' requests for architectural approval. Plans and specifications for the proposed improvement shall be submitted to the ARC or Board of Directors by personal delivery, or certified mail, to the Secretary of the Association.

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

The Board may condition its approval of proposals or plans and specifications for any improvement (1) upon the Applicant furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be recorded against the Project as a result of such work, (2) on such changes therein as it deems appropriate, (3) upon the Applicant's agreement to grant appropriate rights of entry to the Association for the maintenance of the improvements, (4) upon the agreement of the Applicant to reimburse the Association for any increase in common expenses attributable to the Applicant's Unit as a result of such Improvement, (5) upon the Applicant's agreement to install (at its sole cost) water, gas, electrical, or other utility meters to measure any increased consumption, or (6) upon the Applicant's agreement to complete the proposed work within a stated period of time.

The Board may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors.

A decision regarding proposed changes shall be in writing. If a proposed change is disapproved, the written decision reflecting same shall include both an explanation of why the proposed change is disapproved and a description of the procedure for reconsideration of the decision by the Board of Directors, at an open meeting. This paragraph does not require reconsideration of a decision that is made by the Board

of Directors or a body/committee that has the same membership as the Board of Directors.

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

7.5 Enforcement. In the event of an architectural violation, the Board shall have the right to suspend the right to use recreational facilities, suspend the Owner's voting rights, and levy fines, after notice and the opportunity to be heard is first provided to the violating Owner or Tenant. The Board may also pursue such legal remedies as the Board deems appropriate, including, but not limited to, a lawsuit for a temporary restraining order and/or an injunction to compel the Owner or Tenant to bring his/her Condominium into compliance with the Governing Documents, including architectural decisions made by the Board pursuant to this Section. The court may award to the prevailing party in any such action such attorney's fees and other costs as the court deems just and reasonable.

7.6 Variances. The Board, in its sole discretion, shall be entitled to allow reasonable variances in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships.

7.7 Limitation on Liability. Neither the Association, its Architectural Committee, if any, nor any member thereof, shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work of Improvement, whether or not pursuant to approved plans, drawings or specifications.

7.8 Compliance With Governmental Regulations. Review and approval by the Board of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install or modify the Improvement.

7.9 No Waiver of Future Approvals. The approval of the Board in any matter

requiring the approval and consent of the Board shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar matter subsequently submitted for approval.

## **ARTICLE VIII**

### **RESTRICTIONS ON USE OF CONDOMINIUMS AND COMMON AREA**

In addition to the restrictions established by law and Association Rules, which are not inconsistent with this Declaration, the following restrictions are hereby imposed upon the use of Condominiums, Common Areas, and Exclusive Use Common Area within the Property.

8.1 Residential Use. The use of the Condominiums within the Property is restricted to Residential Use, as defined in Article II hereof. No Owner or Tenant shall use, or permit or suffer to be used, any Condominium for any commercial, mercantile, industrial, or transient purpose, nor any other purpose inconsistent with Residential Use.

8.2 Interior Improvements. No interior Improvement to any Condominium involving structural components of the building structure, other than non-load-bearing interior walls, shall be commenced without the prior written approval of the Board. Under no circumstances shall any Owner undertake any activity or work with respect to the Owner's Condominium that will impair the structural soundness or integrity of another Condominium or impair any easement. No Owner shall undertake the joining of adjacent Condominiums, as such work will impair the structural integrity of other Condominiums as well as Association common area.

8.3 Damage to Common Area. No Owner, Tenant, invitee, guest, or contractor employed by anyone other than the Board may make any improvement to the Common Area or Common Area Facilities or remove or alter any furnishings, structure or landscaping materials, nor shall any building, fence, wall, or other structure be constructed or maintained upon the Common Area without the prior written approval of the Association. The Common Area shall not be obstructed by any person. Each Owner shall be liable to the remaining Owners for any damage to the Common Area and Common Facilities that may be sustained by reason of the negligent or intentional conduct of that Owner, that Owner's family members, contract purchasers, Tenants, guests, or invitees. Each Owner, by acceptance of his or her deed, agrees personally and for family members, contract purchasers, Tenants, guests, and invitees, to indemnify each and every other Owner, and to hold such other Owner harmless from, and to defend him or her against any claim of any person for personal injury or property damage occurring within the Condominium of the Owner, including Exclusive Use Common Area, except to the extent that the injury or damage occurred by reason of the willful or negligent act or omission of the Association or an-

other Owner or Tenant.

8.4 Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried on or conducted upon any Condominium or Common Area nor shall anything be done within the Property which is or could become an unreasonable annoyance or nuisance to other residents. Without limiting the foregoing, no Owner shall permit unreasonable noise, including, but not limited to, the operation of excessively noisy appliances or equipment, sound amplifier systems, television or entertainment systems, motor vehicles or power tools, to emanate from an Owner's Unit or from activities within the Common Area, which would unreasonably disturb any other Owner's or Tenant's enjoyment of his or her Unit or the Common Area.

8.5 Pets. No animals, livestock, or poultry of any kind, shall be raised, bred or kept in any Unit or Exclusive Use Common Area, except that one (12) domesticated dog or cat, or a reasonable number of caged birds and aquatic animals kept within an aquarium, or other animal as agreed to in writing between the Association and the Owner, may be kept in the Units or Exclusive Use Common Areas, provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers. No animal that measures more than fifteen (15) inches in height from level ground to the top of any shoulder of that animal shall be allowed within the Project. Notwithstanding the foregoing, no animals or fowl may be kept on the properties which result in an annoyance or are a nuisance or obnoxious to residents in the vicinity. No dog whose barking disturbs any other Owner or resident of the Project shall be permitted to remain at the Project. The Board, in its sole discretion, shall have the right to determine what are reasonable numbers and what constitutes a threat or nuisance.

Each person bringing or keeping a pet on the Project shall be solely responsible for the conduct of said animal. Pet owners shall be responsible for the prompt disposal of pet wastes deposited by their pets in the Common Areas. Every Owner shall be solely liable to each and all remaining Owners, their families, guests, invitees, and Tenants, for any damages and unreasonable noise or odors to person or property caused by any animals brought or kept upon the Property by an Owner or by members of his or her family, Tenants, guests, and invitees.

A. Leash Required. No Owner who possesses a dog or other animal shall permit, allow, or cause the dog or other animal to run, stray, be uncontrolled or in any manner be in, upon, or at large upon any part of the Common Area, unless it is restrained by a substantial leash and under the control of a responsible adult. No household pet shall be left chained or otherwise tethered in front of any Unit or in the Common Area. Any Owner or member of the Board may cause any unleashed dog found within the Common Area to be removed to a pound or animal shelter under the jurisdiction of the County of Los Angeles by notifying the appropriate authority.

B. Dangerous Dogs.

(1) Notwithstanding the foregoing, no domestic dogs shall be within the Common Area that are deemed by the Board to be vicious or potentially dangerous dogs. All vicious and potentially dangerous dogs must be kept indoors or in a securely fenced area within the Owner's Exclusive Use Common Area from which it cannot escape, and into which children or other individuals cannot trespass. A dog shall be deemed "vicious" for purposes of this Section if, when unprovoked: 1) it has bitten a person (however, a dog may be vicious even though it is not proven to have bitten any person); 2) in an aggressive manner, it inflicts severe injury on or kills a human being; or 3) it is previously determined to be and currently listed as a potentially dangerous dog (as determined by the Board of Directors or local governmental authority) and, after its owner or keeper has been notified of this determination, it continues to engage in behavior deemed potentially dangerous. For purposes of determining if a dog is "vicious," "severe injury" means any physical injury to a human being that results in muscle tears, disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.

(2) A dog shall be deemed "potentially dangerous" for purposes of this Section if, when unprovoked: 1) on two separate occasions within the prior 36-month period, it engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog; 2) it bites a person causing a less "severe injury" than as defined above; or 3) on two separate occasions within the prior 36-month period, it has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

## 8.6 Signs

A. Commercial Signs. No advertising signs or billboards shall be displayed on any building containing Units or posted within or upon any portion of the Common Area, except that Owners may display one sign which advertises their condominiums "For Rent," "For Lease", "For Sale", or "For Exchange" or advertise directions to the condominium on a common sign post to be reasonably located in plain view of the public. The sign shall be of reasonable dimensions and design.

### B. Noncommercial Signs.

(1) Noncommercial signs, posters, flags, or banners may be posted or displayed on or in an Owner's Unit, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or federal law.

(2) For purposes of this section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the window, door, balcony, or outside wall of the Owner's Unit, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any

other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.

(3) Noncommercial signs and posters may not be more than nine (9) square feet in size and noncommercial flags or banners may not be more than fifteen (15) square feet in size.

C. The Board may adopt reasonable rules and regulations governing placement and display of signs consistent with the law and this Declaration.

**8.7 Business Activities.** No business or commercial activities of any kind whatsoever, shall be conducted in any Unit, parking garage or building. No restrictions contained in this Section shall be interpreted in such a manner so as to prohibit any Owner or Tenant from maintaining a home office, unless other residents are disturbed by an unreasonable number of visitors to the Property, excessive noise, or additional traffic and provided further there shall be no signs advertising their home office. No oil drilling, oil refining or related development operations, or mining or quarrying of any kind, shall be permitted upon or in the Project, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of the Project or within five hundred (500) feet below the surface of the Project. No derrick or other structure designed for use in boring for water, oil, natural gas, geothermal energy, or any other natural resource shall be erected, maintained or permitted upon the Project.

**8.8 Garbage.** No rubbish, trash, or garbage shall be allowed to accumulate within or outside of any Unit. No Owner or Tenant shall allow an accumulation of trash, debris, paper, or other items which would create a fire or health hazard. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed from the Property to a public dump or trash collection area by the Owner or Tenant at his or her expense.

**8.9 Storage.** Storage of personal property shall be within a Unit, or within the Owner's designated storage space. The Board may regulate storage in the Owners' storage space, subject to conditions determined by the Board and included in the Rules and Regulations.

**8.10 Clotheslines.** No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes in any Unit or Exclusive Use Common Area in a manner which is visible from any neighboring Unit, the street or the Common Area.

**8.11 Window Covers.** Only curtains, drapes, blinds, shutters, and shades may be installed as interior window covers. No window shall be covered by paint, foil, sheets or similar items. The Board may adopt rules regulating the type, color and design of window covers. Absolutely no sunshades, awnings, canvass, ornamental screens,

or any other window covering shall be installed on the exterior of the building, including the exterior walls within the patio or balcony areas.

8.12 Antennas and Similar Devices. In order to ensure adequate aesthetic controls and to maintain the general attractive appearance of the Property, no Owner or Tenant shall place or maintain any objects, such as masts, towers, poles, television and radio antennas, or television satellite reception dishes on or about the exterior of any building or on any Common Area within the Property, except as permitted by law. A satellite dish may not be installed on Common Area walls or roofs. The Board may establish guidelines on the placement of satellite dishes which are consistent with the law.

8.13 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Unit or the Common Area except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a Unit or appurtenant structures within the Property. No hobby or carpenter shops are permitted on the Property. All woodpiles shall be prohibited upon any Condominium unless obscured from view of adjoining Condominiums and streets by a fence or appropriate screen approved by the Board. No automobile overhaul, repair or maintenance work, other than emergency work, is permitted on the Property. The Board may establish rules and regulations regarding the washing of vehicles on the Property, including a prohibition against such activity.

8.14 Parking and Vehicle Restrictions. The following parking and vehicle restrictions shall apply within the Property:

A. The Board shall have the authority to make reasonable rules and restrictions regarding parking and vehicles within the Property as may be deemed prudent and appropriate.

B. The Board shall have the authority to tow, at the Owner's expense, any vehicle parked or stored in violation of this section. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.

8.15 Behavior of Persons on the Property. Each Owner and Tenant shall be accountable to the remaining Owners and Tenants, their families, guests and invitees, for the conduct and behavior of all persons residing in or visiting the Owner or Tenant and for any property damage caused by such persons.

8.16 Activities Affecting Insurance. Nothing shall be done or kept within any Unit, Exclusive Use Common Area, or the Common Area which will increase the rate of insurance on any policy maintained by the Association without the prior written consent of the Association and no Owner shall permit anything to be done or kept within his or her Unit, Exclusive Use Common Area, or the Common Area which would

cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Unit or any part of the Common Area.

8.17 Variations. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variations from the property use restrictions set forth in this Article, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or Tenant or fail to further or preserve the common plan and scheme of development contemplated by this Declaration.

## **ARTICLE IX**

### **MAINTENANCE RESPONSIBILITIES**

9.1 Association's Responsibilities. The Association shall be solely responsible for all maintenance, repair, upkeep and replacement of the Common Area and Common Facilities, as set forth in California Civil Code Section 1364, or any and all superseding statutes, except as provided herein. The Association's maintenance, repair and replacement obligations, which may differ from California Civil Code Section 1364, or any and all superseding statutes, are specifically set forth, in detail, in the Maintenance Responsibility Check List, attached hereto as Exhibit "C." In the event of any ambiguities or conflicts in regards to the Association's maintenance, repair or upkeep obligations, the Maintenance Responsibility Check List (Exhibit "C") shall control.

A. The Association shall maintain, repair and replace sewer, water, telephone, plumbing and electrical lines located under or within the Common Area, including said lines within the walls of the Units. However, the cost to maintain, repair and replace any such lines, when servicing only one unit, shall be assessed to the Owner of the Unit that is so serviced and the cost of which shall be deemed a Special Individual Assessment.

B. The Association shall be responsible for the repair and maintenance of the Common Area or structural components of Units occasioned by the presence of wood-destroying pests or organisms, and for all pest eradication services.

C. The Association shall provide exterior maintenance of each building within the Project which houses the Units, which maintenance shall include and be limited to painting, maintaining, repairing and replacing roofs, gutters, downspouts, and exterior building surfaces, when and if required by reason of normal wear and tear or deterioration, and maintenance of landscaping within the Common Area including trees, shrubs, grass and walkways. The Association shall also maintain all hallways, corridors, entryways, stairways, elevators and other common interior areas of such buildings.

## 9.2 Owner Maintenance, Repair and Replacement Responsibilities.

A. Each Owner of a Condominium shall be responsible for the maintenance, repair, and upkeep of the interior of his or her Unit, all glass surfaces included in, attached or appurtenant to said Unit, and all appliances and equipment, located in and/or serving only said Unit. In addition, each Owner shall be responsible for the maintenance of any and all Exclusive Use Common Areas appurtenant to his or her Unit, in a clean, sanitary, workable, and attractive condition, as set forth in California Civil Code Section 1364, or any and all superseding statutes. Each Owner's maintenance, repair and replacement obligations, which may differ from California Civil Code Section 1364, or any and all superseding statutes, are specifically set forth, in detail, in the Maintenance Responsibility Check List, attached hereto as Exhibit "C." In the event of any ambiguities or conflicts in regards to the each Owner's maintenance, repair or upkeep obligations, the Maintenance Responsibility Check List shall control.

B. Each Owner of a Condominium shall be responsible for the maintenance, repair, upkeep of plumbing and electrical lines and systems servicing said Unit and located from the angle stop to the plumbing fixture and from the breaker box to the electrical fixture or outlet, as the case may be, in said Unit, and all telephone, and heating and air conditioning systems, including air conditioning compressors and equipment, within and/or servicing his or her Unit.

(I) With respect to said systems within the Common Area, the Association shall maintain, repair and/or replace same and assess the costs to the Owner of the Unit that is so serviced by way of a Special Individual Assessment.

(ii) Each Owner shall also be responsible for maintaining in an open and unobstructed condition all sewer and drainage pipes and lines serving only his or her Unit. If the Association is called upon by an Owner to investigate a stoppage or leak, the origin of which is unknown, the Association's plumber shall determine whether the repair or replacement involves a portion of the plumbing or sewer lines required to be maintained by an individual Owner. If it is, the Owner agrees to reimburse the Association for the expense within thirty (30) days. If the Owner fails to reimburse the Association, the expense may be levied against the Owner as a Special Individual Assessment, which may be subject to collection procedures set forth in Section 6.12 herein.

C. In the event an Owner shall do anything with respect to his or her Unit that might have the effect of increasing the level of noise or sounds that can be heard outside his or her Unit during normal use and occupancy of his or her Unit, including, but not limited to, the replacement of carpeting with tile, parquet or other hard floor covering, he or she shall be required to take at his/her own expense all reasonable measures to deaden, insulate and otherwise decrease the level of such noise or sounds to the minimum level reasonably possible.

D. Owners shall be responsible for the cost to repair any damage to any property caused by any component within and/or servicing his or her Unit, whether or not said damage was foreseeable to occur.

9.3 Obligation To Permit Entry by Association and Adjacent Owners. Each Owner shall be obligated to permit the Owners of adjacent Units or the representatives of such adjacent Owners to enter the Owner's Unit for purposes of performing installations, alterations, maintenance or repairs to utilities, mechanical or electrical services, including installation of television antennas and related cables, which are reasonably necessary for the use and enjoyment of his or her Unit, provided that requests for entry are made at least 24 hours in advance and that entry is at a time convenient to the Owner whose Unit is being entered upon, except in the event of an emergency when no notice shall be required. Each Owner shall also honor the right of the Association and its agents to enter his or her Unit as provided in this Declaration for maintenance, repairs and/or to gain compliance with this Declaration.

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

9.5 Non-Responsibility for Consequential Damages / Mold Remediation / Reconstruction. Except for damages for which the Association has insurance, neither the Association nor its Board of Directors, officers, manager or its employees or agents shall be liable to any Owner, or any other person, for injury, damage or loss to any Owner or any Owners' property, or any other persons or property, in the Properties resulting from any casualty, or from any water, rain, dust, sand, or any other element which may leak or flow from outside of any Unit or from any part of the building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, provided the Association, such Board Members or other persons have, upon the basis of such information as may be possessed by them, acted in good faith, and without willful or intentional misconduct. The Association's Non-Responsibility for Consequential Damages, as herein stated, includes, but is not limited to, fixtures, cabinets, paint, wall coverings, window coverings and floor coverings, costs necessary to test for the presence of mold, abate the same, and reconstruct Units damaged by said damages.

## **ARTICLE X**

### **EASEMENTS**

10.1 Encroachment Easements. If any portion of the Common Area encroaches on

any Unit or if any portion of a Unit encroaches on the Common Area, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements.

10.2 Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones, drainage and electricity and the master television antenna or cable television system, if any. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially designed and approved by the Declarant or thereafter approved by the Association's Board of Directors. The easements provided for in this Section shall in no way effect any other recorded easement on the Property.

10.3 Other Easements. Each Unit and its Owner, and the Association as to the Common Area, are hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Property and each Unit and Common Area.

10.4 Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees, and to any management company and contractor selected by the Association to enter in or to cross over the Common Area and any Unit to perform the duties of maintenance and repair of the Condominiums, Common Area or Common Facilities, provided that any entry by the Association or its agents shall only be undertaken in strict compliance with Article III, Section 3.4(C) and Article IX, Section 9.3.

## **ARTICLE XI**

### **INSURANCE**

11.1 Fire and Casualty Insurance. The Association shall obtain and maintain a policy of fire and casualty insurance naming as parties insured the Association and any Mortgagee of the Common Area, and containing the standard extended coverage and replacement cost endorsements and, in the Board's discretion, such other or special endorsements as will afford protection and insure, for the full insurable, current replacement cost, all Common Area and Common Facilities that the Association is required to repair or restore in the event of partial or total destruction thereof and, also in the Board's discretion, all or portions of the Unit, and the personal property of the Association for or against the following:

(a) Loss or damage by fire or other risks covered by the standard extended coverage endorsement;

(b) Loss or damage from theft, vandalism or malicious mischief; and

(c) Such other risks, perils or coverage as the Board of Directors may determine.

Such policy or the endorsement made a part thereof shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of this Declaration as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities. If available for a reasonable cost, the insurance policy shall include building code upgrade coverage.

The insurance shall be kept in full force and effect at all times and the full replacement value of the insured property shall be redetermined on an annual basis.

11.2 General Liability and Property Damage Insurance. The Association shall obtain and maintain a policy of comprehensive general liability and property damage insurance naming as parties insured the Association, each member of the Association's Board of Directors, any manager, the Owners of all Units, and such other persons as the Board may determine. The policy shall insure each named party against liability incident to the ownership, maintenance, and use of the Common Area and any other Association-owned or maintained real or personal property. The limits of such insurance shall not be less than three million dollars (\$3,000,000.00) covering all claims for death, personal injury, and property damage arising out of a single occurrence, or in such other minimum amount as required by *Civil Code* Section 1365.9, as amended or superseded, to protect Owners from civil liability arising solely by reason of their ownership interest in the Common Area.

11.3 Directors and Officers Liability Insurance. The Association shall obtain and maintain Directors and Officers Liability Insurance covering prior acts in order to ensure that past Board Members are protected for decisions made during their term of service. The policy shall name as insureds not only the current Board Members but also volunteer committee members, if such insurance is available. The limits of such insurance shall not be less than one million dollars (\$1,000,000.00) [*minimum if more than 100 units*], or in such other minimum amount as required by *Civil Code* Section 1365.7, as amended or superseded, to protect volunteer officers or directors from personal liability in excess of the insurance coverage.

11.4 Fidelity Bond and Other Insurance.

A. The Board shall obtain and maintain fidelity bonds or insurance.

B. To the extent such insurance is reasonably obtainable or required by any institutional First Mortgagee, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be neces-

sary or desirable, including, without limitation, demolition insurance, flood insurance, worker's compensation, commercial umbrella coverage, and boiler and machinery coverage.

11.5 Coverage Not Available. If any insurance policy or endorsement required herein is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board shall also notify the unit owners of any material adverse changes in the Association's insurance coverage.

11.6 Copies of Policies. Copies of all insurance policies shall be retained by the Association and shall be available for inspection by any Unit Owner at any reasonable time.

11.7 Individual Fire, Casualty and Earthquake Insurance Limited. The Association's blanket insurance policy maintained pursuant to Section 11.1 above shall be the primary coverage in the event of a loss covered by the Association's insurance. If any Unit Owner maintains insurance coverage which results in a reduction in insurance proceeds otherwise payable to the Association pursuant to policies obtained by the Association, the Association shall specially assess the Owner to the extent of any reduction.

11.8 Individual Assessment Loss Coverage and Other Individual Coverage.

A. Each Owner should obtain and maintain assessment loss coverage for fire, earthquake, and other casualties with a minimum limit of \$25,000.00, if available for a reasonable cost. In the event of fire, earthquake, or other casualty which results in each Owner becoming responsible for the payment of a special or emergency assessment, each Owner with Assessment Loss Coverage shall instruct the insurance carrier to pay the proceeds directly to the Association to pay for services, labor and materials provided to the Association for repair and/or reconstruction or to replenish reserve funds.

B. Each Owner may also carry the following insurance (any premises liability and property damage insurance policy shall include a waiver of subrogation clause as to the Association, other Owners, and any institutional First Mortgagee of such Unit, and shall cover damages caused by Owner's Tenant, if any):

(1) Coverage on portions of the structure not covered by the Master Policy of the Association. ("Tenant's Improvements" coverage).

(2) Loss of use coverage for living expenses.

(3) Personal property coverage.

(4) Premises liability coverage.

**C. The Association shall have no responsibility for the adequacy or extent of any such insurance coverage outlined herein.**

11.9 Trustee. All insurance proceeds payable pursuant to policies maintained by the Association may, in the discretion of the Board of Directors, be paid to a trustee to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests appear. Said trustee shall be a commercial bank, escrow company, title company, or other person or institution with trust powers within Los Angeles County that agrees in writing to accept such trust.

11.10 Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried by the Association. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

11.11 Board's Discretion to Submit Insured Losses. The Board shall have the discretion as to whether or not it is in the best interests of the Association to submit an insurance claim to its insurer.

**11.12 Losses Solely Attributable to a Unit; Deductibles. Each Owner shall be responsible to pay the deductible for any claims made under the Association's policies of insurance for losses solely attributable to the respective Owner's Unit.**

## **ARTICLE XII**

### **DAMAGE OR DESTRUCTION**

12.1 Destruction; Proceeds Exceed 75 Percent of Reconstruction Costs. If there is a total or partial destruction of the improvements in the Project, and if the available proceeds of the insurance carried by the Association are sufficient to cover not less than seventy-five percent (75%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within 90 days from the date of destruction, Owners then holding at least 25 percent (25%) of the total voting power of Owners object in writing to rebuilding.

A. If at least 25 percent (25%) of the total voting power of Owners object in writing to rebuilding, the Board shall call a meeting of Owners or conduct a vote by written ballot in order to determine whether repair and reconstruction shall take place. If a

majority of the Owners, in person or by proxy, at a duly constituted meeting or voting by written ballot determine that repair and reconstruction shall not take place, the Board shall proceed as set forth below in this Article.

B. If the repair and reconstruction shall take place, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at a meeting. If repair and reconstruction is to take place the Association shall be required to execute, acknowledge, and record in the office of the County Recorder of Los Angeles County not later than 120 days from the date of destruction, a certificate declaring the intention of the Owners to rebuild.

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

12.2 Destruction; Proceeds Less Than 75 Percent of Reconstruction Costs. If the proceeds of insurance carried by the Association are less than 75 percent (75%) of the costs of repair and reconstruction, a majority of the Owners, at a duly constituted meeting or by written ballot, shall determine whether repair and reconstruction shall take place. If such repair and reconstruction is approved, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction are to take place, the Association shall execute, acknowledge, and record in the office of the County Recorder not later than 120 days from the date of destruction a certificate declaring the intention of the Owners to rebuild.

12.3 Apportionment of Assessments. If the Owners determine to rebuild, each Owner shall be obligated to contribute an equal share to the cost of reconstruction or restoration over and above the available insurance proceeds. If any Owner fails or refuses to pay his or her proportionate share, the Association may levy a special assessment against the Condominium of such Owner, which may be enforced under the lien provisions provided in this Declaration.

12.4 Procedure If Rebuilding is Not Approved.

A. The Board or Trustee shall collect all available insurance proceeds and arrange for the sale of the Property, with or without the buildings.

B. If the Board determines that a higher sales price will result from a sale of the

Property without the Improvements, the Board shall arrange for the demolition of the Improvements. After paying all common expenses relative to the sale and for the operation of the Association prior to the date of sale, the Board or Trustee shall divide the remaining insurance proceeds among the Units according to either the square footage of each Unit, the relative fair market value of each Unit determined by the original purchase price or comparable sales data, or in equal shares. The method of distribution shall be determined by the vote of a majority of the Owners. The Association shall have the duty, within 120 days from the date of destruction, to execute, acknowledge, and record in the office of the County Recorder of the County, a certificate declaring the intention of the Owners not to rebuild.

C. After paying common expenses, the share of insurance proceeds for each Unit shall be first applied to reduce or eliminate any outstanding Mortgages thereon. Any insurance proceeds remaining after payments to the Mortgagee of such Unit shall be distributed to the Owner of the Unit to which the proceeds are allocated. As to those Units without mortgages, the Board or Trustee shall pay the Unit's share of the insurance proceeds to the Owner.

12.5 Rebuilding Contract. If the Owners determine to rebuild, the Board or its authorized representative shall, after obtaining bids from at least two contractors, award the repair and reconstruction work to the most qualified contractor. The Board shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds shall be disbursed to this contractor according to the terms of the contract. It shall be the obligation of the Association to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

## **ARTICLE XIII**

### **CONDEMNATION**

13.1 Sale by Unanimous Consent or Taking. If an action for condemnation of all or a portion of the Property is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the Owners and all institutional Mortgagees, the Property, or a portion thereof may be sold and conveyed to the condemning authority by the Board or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Condominium in the Property hereby grants and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Property, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.

### 13.2 Distribution and Sale Proceeds of Condemnation Award.

A. Total Sale or Taking. A total sale or taking of the Property is a sale or taking that: (i) renders more than 50 percent of the Condominiums uninhabitable (such determination to be made by the Board in the case of a sale and by the court in the case of a taking); or (ii) renders the Property as a whole uneconomical as determined by the vote or written consent of 66-2/3 percent of those Owners and their respective institutional Mortgagees whose Condominiums will remain habitable after the taking. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Property, after payment of all expenses relating to the sale or taking, shall be paid to all Owners and to their respective Mortgagees in the proportion that the fair market value of each Condominium bears to the fair market value of all Condominiums on the Property. The fair market value of Units shall be determined in the condemnation action, if such be instituted, or by an appraiser.

B. Partial Sale or Taking. In the event of a partial sale or taking of the Properties, meaning a sale or taking that is not a total taking, as determined in section 13.2, paragraph A, above, the proceeds from the sale or taking shall be paid or applied in the following order of priority and any judgments of condemnation shall include the following provisions as part of its terms:

(1) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then

(2) To Owners and to their respective Mortgagees, as their interests may appear, of Condominiums on the Property whose Condominiums have been sold or taken, an amount up to the fair market value of such Condominiums as determined by the court in the condemnation proceeding or by an appraiser, less such Owners' share of expenses paid pursuant to section 13.2, subparagraph B(1) (which share shall be in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Condominiums.

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

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

condemnation proceeding or by an appraiser.

13.3 Appraiser. Wherever in this Article reference is made to a determination of the value or fair market value of one or more Condominiums by an appraiser, this shall mean an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers (SREA) or other nationally recognized appraiser organization and who shall apply the SREA or other national appraisal organization's standards in determining the value or fair market value of each Condominium. The costs of such appraisals shall be paid from the condemnation proceeds as an expense of the Association.

## **ARTICLE XIV**

### **PARTITION OF COMMON AREA**

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

14.2 Power of Attorney. Pursuant to California Civil Code Section 1355(b)(9), each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Project, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Project may be had under Civil Code Section 1359 and under the circumstances authorizing partition under this Declaration. The power of attorney shall: (a) be binding on all Owners, whether they assume the obligations under this Declaration or not; (b) be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of a majority of the Owners and a majority of all institutional first Mortgagees; and (c) be exercisable only after recordation with the County Recorder of a certificate executed by those who have power to exercise the power of attorney that the power of attorney is properly exercisable under Civil Code Section 1359. This certificate shall be conclusive evidence of proper exercise in favor of any person relying on it in good faith. Each Owner shall cooperate in executing a Power of Attorney form to the Board if a title company requires it for the sale of the Property.

## **ARTICLE XV**

### **BREACH AND DEFAULT**

15.1 Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner or Tenant of any Unit, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

15.2 Nuisance. Without limiting the generality of the foregoing section, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

15.3 Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner, Tenant or Lessee of any Unit, the court may award to the prevailing party in any such action such attorneys' fees and other costs as the court deems just and reasonable. An Owner shall be responsible for attorneys' fees and costs incurred by the Association to cure the Owner's defaults and Owner's Tenants' or Lessees' defaults.

15.4 Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or Tenant or others to perform or observe any provision of this Declaration.

15.5 Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

15.6 Rights and Remedies of the Association.

A. Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's Tenants, guests, employees, invitees, or contractors, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey such Rules, covenants, or restrictions through the use of such reme-

dies as are deemed appropriate by the Board and available in law or in equity, including but not limited to, the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreational Common Facilities or suspension of the Owner's voting rights as a Member of the Association.

B. Schedule of Fines: Due Process. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for illegally parked vehicles). The Board shall distribute to each Owner, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations, or any changes thereto. Such fines may not be levied unless the Board first provides written notice to the Owner, by either personal delivery or first-class mail, at least ten (10) days prior to the meeting to consider or impose discipline upon an Owner, and provides the Owner an opportunity for a hearing before the Board. The notice shall contain the date, time, and place of the meeting, the nature of the alleged violation for which the Owner is subject to discipline, and a statement that the Owner has a right to attend and may address the Board at the meeting. The Board shall meet in executive session if requested by the Owner being disciplined. No penalty or temporary suspension of rights shall be imposed pursuant to this Section unless the Owner alleged to be in violation is given, by either personal delivery or first-class mail, at least fifteen (15) days prior written notice of the penalty imposed or temporary suspension.

C. Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (1) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (2) a traffic or fire hazard; (3) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (4) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as parking violations), the Board of Directors or its duly authorized agents may undertake immediate corrective or disciplinary action and, upon request of the offending Owner, or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

D. Rules Regarding Disciplinary Proceedings. The Board shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules and shall provide for notices and procedures satisfying the alternative dispute resolution requirements of Civil Code Section 1354 or comparable superseding statute.

E. Court Actions. Before initiating any court action seeking solely declaratory or injunctive relief to interpret or enforce the Governing Documents or declaratory or injunctive relief in conjunction with a claim for monetary damages not in excess of

\$5,000.00, the Association or Owner shall first comply with the provisions of Civil Code Section 1354, or comparable superseding statute, relating to alternative dispute resolution, except in the case of an emergency in which a temporary restraining order is necessary.

## **ARTICLE XVI**

### **AMENDMENT OF DECLARATION**

16.1 Amendment in General. This Declaration may be amended or revoked by the vote or assent of 51 percent of all Owners, in person or by proxy at a meeting or by written ballot. The percentage of Owners necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

16.2 Effective Date of Amendment. The amendment will be effective upon the recording in the Office of the Recorder of Los Angeles County a Certificate of Amendment, duly executed and certified by the President and Secretary of the Association setting forth in full the amendment so approved and that the approval requirements of Section 16.1, above, have been duly met and the distribution of a copy of the Amendment to each Owner of record. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or Mortgage recorded prior to the recording of such amendment.

## **ARTICLE XVII**

### **GENERAL PROVISIONS**

17.1 Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Condominiums and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for a term of sixty (60) years from the date of the recording of this Declaration, after which time the same shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial 60-year term or any such 10-year extension period, a recordable written instrument, approved by seventy-five percent (75%) of all Owners terminating the effectiveness of this Declaration shall be filed for recording in the Office of the County Recorder of Los Angeles County, California.

17.2 Construction of Declaration.

A. Restrictions Construed Together. All of the covenants, conditions, and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the Recitals of this Declaration.

B. Restrictions Severable. Notwithstanding the provisions of paragraph A above, the covenants, conditions, and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

17.3 Failure of Mortgagee to Respond. Any Mortgagee and/or governmental agency who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

IN WITNESS WHEREOF, this Restated Declaration of Covenants, Conditions and Restrictions has been adopted as provided above effective this \_\_\_\_ day of \_\_\_\_\_, 2010.

**THE VILLAGE CONDOMINIUM OWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_, President

By: \_\_\_\_\_, Secretary

**CERTIFICATE**

I, the undersigned, the duly elected and acting Secretary of The Village Condominium Owners Association, Inc., a California non-profit mutual benefit corporation, do hereby certify that the foregoing RESTATED DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS were duly adopted on \_\_\_\_\_, 2010.

This Certificate is executed under penalty of perjury on \_\_\_\_\_, 2010, in

\_\_\_\_\_, California.

\_\_\_\_\_, Secretary