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River Colony Owners Association

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FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF RIVER COLONY OWNERS ASSOCIATION

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(2016)

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FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RIVER COLONY OWNERS ASSOCIATION (2016)

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**FOURTH AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
RIVER COLONY OWNERS ASSOCIATION**

This FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RIVER COLONY ("Declaration") is made as of November 18, 2016, by RIVER COLONY OWNERS ASSOCIATION with reference to the facts set forth in the Article hereof entitled "Recitals."

**ARTICLE 1
RECITALS**

1.1 PROPERTY OWNED BY DECLARANT. Declarant River Colony San Diego, L.P., a California limited partnership ("Declarant") was the Owner (as defined below) of the real property situated in the City of San Diego, County of San Diego, State of California, which property is more particularly described in Exhibit "A" attached hereto and, incorporated herein ("Property"). Declarant converted the Units from apartments to condominiums. The Declarant no longer owns any interest in the Project.

1.2 ORIGINAL DECLARATION AND CONDOMINIUM PLAN. The Property (Exhibit "A") and the Additional Property (Exhibit "B") were subject to that certain Declaration of Covenants, Conditions and Restrictions for "River Colony" recorded on May 16, 1997 as Document No. 97-0229887 ("Original Declaration") and that certain River Colony Composite Condominium Plan recorded on May 16, 1997 as Document No. 97-0229886 ("Original Condominium Plan"). Declarant, as the fee title owner of all of the Property and the Additional Property, amended and restated in its entirety the Original Declaration and recorded the Amended and Restated Declaration of Covenants, Conditions and Restrictions of River Colony on September 5, 2002 and Document Number 2002-0757686 in San Diego County ("Amended and Restated Declaration").

1.3 NATURE OF PROJECT. Declarant has established a plan of condominium ownership and developed on the Property a condominium project within the meaning of California Business and Professions Code Section 11004.5(c) and California Civil Code Section 4125, to conform with the provisions of the California Subdivided Lands Law (California Business and Professions Code Section 11000, et seq.) and subjected the Property to certain limitations, restrictions, conditions and covenants as hereinafter set forth, in accordance with the provisions of California Civil Code Sections 4100 et seq., or any successor statutes or laws. To that objective, Declarant imposed on the Property certain mutually beneficial restrictions, limitations, easements, assessments and liens under a comprehensive plan of improvement and development for the benefit of all of the Owners, the Condominiums and Association Property (as defined below) and the future Owners of said Condominiums and Association Property.

1.4 DESCRIPTION OF PROJECT. Owners of a Condominium received title to a Residential Unit plus an undivided fractional interest as tenant in common to the Common Area located within the Common Area Module (as defined below) which is located directly above the Residential Module within which the Residential Unit is located. In addition, Owners of a

Condominium received certain exclusive rights of use and occupancy of a portion of the Association Property designated as an appurtenant Exclusive Use Easement, all as shown on the Condominium Plan covering that Phase. Each Owner also received certain easements for ingress, egress, use and enjoyment over the Association Property. Such easements are more particularly described in this Declaration and the deeds conveying the Condominiums to the Owners. Each Condominium has appurtenant to it a membership in the River Colony Owners Association, a California non-profit mutual benefit corporation ("Association"). All capitalized terms used in this Section are defined in Article 2 below.

1.5 FOURTH RESTATEMENT BY THE ASSOCIATION. Given that the Declarant no longer owns an interest in the Project, the Association desires to restate the "Third Amended and Restated Declaration" to eliminate the Declarant provisions and update the document as a whole. This Fourth Restated Declaration is intended to and does completely revoke, supersede and replace the "Original Declaration" (Document No. 97-0229887), the "Amended Restated Declaration" (Document No.: 2002-0757686), and the "Third Amended And Restated Declaration" (Document No. 2014-0150068) as well as any amendments thereto, whether recorded or unrecorded. The Third Amended and Restated Declaration required approval of this Fourth Restated Declaration by fifty percent plus one (50% +1) of the total voting power of the Association.

DECLARATION

The Association declares for purposes of this Fourth Amended and Restated Declaration that the Property is held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of Condominium ownership as described in California Civil Code Section 4125 or laws for the subdivision, improvement, protection, maintenance, and sale of Condominiums within the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the Property, shall be enforceable equitable servitudes and shall be binding on and inure to the benefit of the successors-in-interest of such parties. The Association further declares that it is the express intent that this Fourth Restated Declaration satisfies the requirements of California Civil Code Section 5975, and any successor statutes or laws.

ARTICLE 2 DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article shall, for all purposes of this Declaration, have the meanings herein specified.

2.1 ADDITIONAL CHARGES. The term "Additional Charges" means costs, fees, charges and expenditures, including without limitation, attorneys' fees, late charges, interest and recording and filing fees actually incurred by the Association in collecting and/or enforcing payment of assessments, fines and/or penalties.

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2.2 ADDITIONAL PROPERTY. The term "AP" means real property that the Declarant annexed into the Project over time as described in Exhibit "B" attached hereto.

2.3 ANNEXATION. The term "Annexation" means the process by which the Additional Property described in Exhibit "B", attached hereto was made subject to this Declaration.

2.4 ARCHITECTURAL COMMITTEE. The term "Architectural Committee" means the committee which may be created pursuant to the Article of this Declaration entitled "Architectural Review."

2.5 ARCHITECTURAL GUIDELINES. The term "Architectural Guidelines" means the design criteria adopted by the Board pursuant to the Article here entitled "Architectural Review."

2.6 ARTICLES. The term "Articles" means the Articles of Incorporation of the Association as they may from time to time be amended which are or shall be filed in the Office of the Secretary of State for the State of California.

2.7 ASSOCIATION. The term "Association" means the River Colony Owners Association, a California nonprofit mutual benefit corporation, its successors and assigns.

2.8 ASSOCIATION PROPERTY. The term "Association Property" means all real property owned, from time to time, in fee title by the Association. The Association Property in the first Phase of the Project shall consist of the real property identified as Association Property on Exhibit "A". The Association Property in future Phases of the Project shall be described in the Supplementary Declaration for that Phase. The Association Property includes the bearing walls located within a Residential Unit and all structural elements within a Residential in which may be required for the support of the building within which the Residential Units are located, except for the finished surfaces thereof. Except as otherwise set forth herein, any utility equipment located in a plenum area (which is the Association Property between the ceilings of the Residential Units and the floor of the Residential Units above), inside of perimeter Association Property walls or dropped ceilings or otherwise in an area designated as Association Property are a part of Association Property.

2.9 BOARD. The term "Board" means the Board of Directors of the Association.

2.10 BUDGET. The term "Budget" means the budget for the Association which sets forth all the Common Expenses to be allocated among all the Owners.

2.11 BYLAWS. The term "Bylaws" means the Bylaws of the Association as they may from time to time be amended, which are or shall be adopted by the Board.

2.12 CAPITAL IMPROVEMENT ASSESSMENTS. The term "Capital Improvement Assessments" means the assessments which are levied pursuant to the provisions of Section 6.6 of this Declaration.

2.13 CITY. The term "City" means the City of San Diego, California.

2.14 COMMON AREA. The term "Common Area" refers to that certain area within a Common Area Module (as defined herein) which is owned in undivided interests by the Owners of the Residential Units situated within the Residential Module (as defined herein) located directly beneath the Common Area Module in which the Common Area is situated. The Common Area shall be maintained as set forth in Exhibit "D."

2.15 COMMON EXPENSES. The term "Common Expenses" refers to the actual and estimated costs and expenses incurred or to be incurred by the Association, the Board or the Architectural Committee, if any, including, but not limited to, the following:

2.15.1 Maintenance, management, operation, repair and replacement of the Association Property including elevators, parking garages, lobbies, and recreational facilities;

2.15.2 The cost of all utilities metered to more than one Condominium and other commonly metered charges for Property.

2.15.3 Due but unpaid Assessments (as hereinafter defined);

2.15.4 Costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, architects and employees;

2.15.5 The costs of any utilities, trash pickup and disposal, elevator, landscaping, and other services benefitting the Owners and their Residential Units to the extent such services are paid for by the Association;

2.15.6 The costs of fire, casualty, liability, workers compensation and other insurance maintained by the Association hereunder;

2.15.7 Reasonable reserves as deemed appropriate by the Board or otherwise required pursuant to the Governing Documents;

2.15.8 The costs of bonding of the members of the Board, the Architectural Committee, if any, any professional managing agent or any other person handling the funds of the Association;

2.15.9 Taxes paid by the Association;

2.15.10 Amounts paid by the Association for the discharge of any lien or incumbrance levied against the Association Property or portions thereof;

2.15.11 Costs incurred by the Architectural Committee, if any, or other committees of the Association;

2.15.12 Costs allocated to the Association under the Use Agreement; and

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2.15.13 The costs of any other item or items designated by, or in accordance with other expenses incurred by the Association for, any reason whatsoever in connection with the operation and/or maintenance of the Association Property or in furtherance of the purposes or the discharge of any obligations imposed on the Association by the Governing Documents.

2.16 CONDOMINIUM. The term "Condominium" means an estate in the Property as defined in California Civil Code Section 4125, 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 Residential Unit and any other separate interests in the Property as are described in this Declaration, the Condominium Plan or in the deed conveying the Condominium.

2.17 CONDOMINIUM BUILDING. The term "Condominium Building" refers to each building in which the Condominiums are located.

2.18 CONDOMINIUM PLAN: ORIGINAL CONDOMINIUM PLAN. The term "Condominium Plan" means the amended and superseding condominium plan recorded pursuant to California Civil Code Sections 4120 and 4285, and any amendments to the plan, and any Supplemental Condominium Plans (as defined below), affecting any Phases that have been annexed pursuant to the provisions of this Declaration. The term "Original Condominium Plan" refers to the certain Condominium Plan recorded on May 16, 1997 as Document No. 97-0229886 which is amended and superseded by the Condominium Plan described above.

2.19 COUNTY. The term "County" means the County of San Diego, California.

2.20 DECLARANT. The term "Declarant" means River Colony-San Diego, L.P., a California limited partnership and its successors and assigns that converted the Project to Condominiums in approximately 2002.

2.21 DECLARATION. The term "Declaration" means this Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions of River Colony, as this Declaration may from time to time be further amended, modified or supplemented.

2.22 DESIGNATED EXCLUSIVE USE COMMON AREA WALLS OR FLOORS. The term "Designated Exclusive Use Common Area Walls or Doors" refers to those portions of the Common Area consisting of walls and internal equipment located within such walls or floors such as plumbing, ventilating and electrical wires, which are located between two (2) adjacent Residential Units (either horizontally or vertically) over which an Exclusive Use Easement shall be assigned by the Declarant or the Association if an Owner acquires fee title to two (2) or more adjacent Residential Units separated by such wall or floor, subject to compliance with the requirements of this Declaration.

2.23 DRE. The term "DRE" means the California Department of Real Estate and any department or agency of the California state government which succeeds to the DRE's functions.

2.24 ELIGIBLE HOLDER. The term "Eligible Holder" means any First Mortgagee who has given written notice to the Association, via certified or registered mail, specifying its name, address, and the number or address of the Condominium covered by the Mortgage and requesting written notice of any or all of the events specified in this Declaration.

2.25 ENFORCEMENT ASSESSMENTS. The term "Enforcement Assessments" means the assessments which are levied pursuant to the provisions of Section 6.7 of this Declaration.

2.26 EXCLUSIVE USE EASEMENT OR EXCLUSIVE USE EASEMENT AREA. The term "Exclusive, Use Easement" or "Exclusive Use Easement Area" means those portions of the Association Property over which exclusive easements are reserved for the benefit of certain Owners in accordance with California Civil Code Section 4145; including the Exclusive Use Patio Areas and Exclusive Use Parking Spaces as shown on the Condominium Plan or described in this Declaration to which an exclusive use easement is granted to an Owner and is appurtenant to such Owner's Residential Unit. Except as specifically provided in this Declaration and the Condominium Plan, no other portion of the Association Property shall be an Exclusive Use Easement Area.

2.27 EXCLUSIVE USE PARKING SPACES. The term "Exclusive Use Parking Spaces." means the parking spaces designated as Exclusive Use Parking Spaces on the Condominium Plan over which easements have been reserved for the benefit of certain Owners as shown in the grant deeds conveying the Condominium from Declarant to an Owner or in a subsequent grant deed.

2.28 EXCLUSIVE USE PATIO AREAS. The term "Exclusive Use Patio Areas" refers to those portions of the Association Property designated as "Exclusive Use Patio Areas" on the Condominium Plan over which an exclusive easement has been reserved for the benefit of certain Owners for patio purposes and which is appurtenant to such Owners Condominium. Each Exclusive Use Patio Area is depicted on the Condominium Plan by the symbol "PA" followed by a numerical designation that corresponds to the Residential Unit number to which such Exclusive Use Patio Area shall be appurtenant.

2.29 FHA. The term "FHA" means the Federal Housing Administration of the United States Department of Housing and Urban Development and any department or agency of the United States government which succeeds to FHA's function of insuring notes secured by Mortgages on residential real estate.

2.30 FHLMC. The term "FHLMC" means the Federal Home Loan Mortgage Corporation created by Title not the Emergency Home Finance Act of 1970, and its successors.

2.31 FINAL SUBDIVISION MAP. The term "Final Subdivision Map" means the final subdivision map covering the Project.

2.32 FIRST MORTGAGE. The term "First Mortgage" means a Mortgage which has priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Condominium in the Project.

2.33 FIRST MORTGAGEE. The term "First Mortgagee" means the Mortgagee of a First Mortgage.

2.34 FNMA. The term "FNMA" means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and its successors.

2.35 FISCAL YEAR. The term "Fiscal Year" means the fiscal accounting and reporting period of the Association selected by the Board.

2.36 GNMA. The term "GNMA" means the Government National Mortgage association administered by the United States Department of Housing and Urban Development, and its successors.

2.37 GOVERNING DOCUMENTS. The term "Governing Documents" collectively means this Fourth Restated Declaration and the Articles, Bylaws, Architectural Guidelines and the Rules and Regulations.

2.38 HAZARDOUS MATERIALS. The term "Hazardous Materials" refers to any toxic substance, material or waste which is or becomes (i) regulated by any local governmental authority, the State of California or the United States Government; or (ii) defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "Non-RCRA hazardous waste," "RCRA hazardous waste," "recyclable material," under any federal, state or local statute or regulation promulgated thereunder.

2.39 IMPROVEMENTS. The term "Improvements" means any alteration or modification to a Residential Unit, Exclusive Use Easement Areas, Association Property or the balance of the Project or any addition to a Residential Unit or the Association Property or Project including, without limitation, room partitions, structural alterations to any portion of a Residential Unit or any Association Property surrounding the Residential Unit, any additions or alterations to a Residential Unit which cause penetration(s) beyond the unfinished surfaces of the walls, ceilings or floors of a Residential Unit or impact or effect in any manner any Association Property within the Project, changes of level, grade or drainage patterns of any Exclusive Use Easement Area, fences, walls, patios, patio covers, screening walls, skylights, stairs, decks, hedges, windbreaks, window tinting, plantings (whether planted or potted), paving, tiling or other carpeting of any patio, deck or balcony areas, utility facilities, poles, signs, and all other structures or improvements of every type and kind installed or erected on the Property.

2.40 INSTITUTIONAL MORTGAGEE. The term "Institutional Mortgagee" means a First Mortgagee which is (i) a bank, savings and loan association, insurance or mortgage company or other entity or institution chartered under federal and/or state law; (ii) an insurer or governmental guarantor of a First Mortgage; (iii) any federal or state agency; (iv) the State of California as the vendor under an installment land sales contract covering a Condominium; or (v) any other institution specified by the Board in a recorded instrument, who is the Mortgagee of a Mortgage or the beneficiary of a Deed of Trust encumbering a Condominium.

2.41 INVITEE. The term "Invitee" means any person whose presence within the Project is approved by or is at the request of a particular Owner, including, but not limited to, lessees, tenants and the family, guests, employees, licensees or invitees of Owners, tenants or lessees.

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2.42 LEASE. The term "Lease" means any lease, license or other agreement whereby an occupant acquires rights to use or occupy any portion of the Residential Units.

2.43 MAINTENANCE MANUAL. The term "Maintenance Manual" refers to the manual which may be prepared by the Declarant or its agents and provided to the Association, specifying standards for maintenance of the Association Property by the Association and the Residential Units by the Owners, as updated and amended from time to time by the Association as provided herein.

2.44 MEMBER. The term "Member" means every person or entity who holds a membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of a Condominium.

2.45 MODULE. The term "Module" means each module designated on the Condominium Plan. Each Module is a three-dimensional portion of the parcel described on Exhibit "A" or in any subsequently recorded Supplementary Declaration and has been created pursuant to California Government Code Section 66427. The lower and upper boundaries of each Module are set forth on a Condominium Plan. The lateral boundaries of each Module are vertical planes which are also described and depicted in a Condominium Plan. Each Module includes all and any Improvements whether now or hereafter located within its boundaries. Except for the Common Area Modules, each Module shall be conveyed to the Association, excepting there from the Residential Units situated within the Module, if any, and subject to the easements in this Declaration. The Modules shown on the Condominium Plan consist of the Modules defined below.

2.45.1 Residential Modules. The term "Residential Modules" refers to the Modules designated as Residential Modules on the Condominium Plan.

2.45.2 Parking Garage Modules. The term "Parking Garage Module" refers to the Modules designated as the Parking Garage Modules on the Condominium Plan which may be conveyed to and owned by the Association as part of the Association Property.

2.45.3 Facilities Module. The term "Facilities Module" refers to the Module designated as the Facilities Module on the Condominium Plan which may be conveyed to and owned by the Association as part of the Association Property.

2.45.4 Common Area Module. The term "Common Area Module" refers to the Modules designated as Common Area Modules on the Condominium Plan which are owned in undivided interests by the Owners of the Residential Units situated within the Residential Module located directly beneath the applicable Common Area Module, as described in the Condominium Plan.

2.46 MORTGAGE. The term "Mortgage" means any duly recorded mortgage or deed of trust encumbering a Condominium in the Project.

2.47 MORTGAGEE. The term "Mortgagee" means a mortgagee under a Mortgage as well as a beneficiary under a deed of trust

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2.48 NOTICE AND HEARING. The term "Notice and Hearing" means the procedure which gives an Owner notice of an alleged violation of the Governing Documents and the opportunity for a hearing before the Board.

2.49 OWNER. The term "Owner" refers to an Owner of a Condominium.

2.50 PARKING GARAGE. The term "Parking Garage" refers to the parking garages situated within the Parking Garage Modules.

2.51 PERSON. The term "Person" means a natural individual or any entity with the legal capacity to hold title to real property. When the word "person" is not capitalized, the word only refers to natural persons.

2.52 PHASE. The term "Phase" means that portion of the Property which is the subject of a separate Public Report issued by the California Department of Real Estate.

2.53 PROJECT. The term "Project" means all of the Property together with all Improvements situated thereon and any Additional Property which is hereafter annexed pursuant to a Supplementary Declaration.

2.54 PROPERTY. The term "Property" means all of the real property described in Exhibit "A" of this Declaration, and any Additional Property as may hereafter be brought within the jurisdiction of the Association together with all Improvements situated thereon pursuant to a Supplementary Declaration.

2.55 PUBLIC REPORT. The term "Public Report" means the Final Subdivision Public Report issued by the California Department of Real Estate for a Phase of the Project.

2.56 RECONSTRUCTION ASSESSMENT. The term "Reconstruction Assessment" means a charge levied against the Owners and their Condominiums, representing their share of the Association's cost to reconstruct any Improvements on the Project Reconstruction Assessments which are special assessments as described in California Civil Code Section 5600.

2.57 REGULAR ASSESSMENTS. The term "Regular Assessments" means the assessments that are levied pursuant to the provisions of Section 6.4 of this Declaration.

2.58 RESIDENTIAL UNIT. The term "Residential Unit" means the elements of a Condominium which are not owned in common with the other Owners of Condominiums in the Project, such Residential Units and their respective elements and boundaries being shown and particularly described in the Condominium Plan. The dimensions of a Residential Unit are measured from the unfinished floor, walls, dropped ceiling, except as otherwise noted herein. The Residential Unit includes all Improvements situated within its boundaries, including, but not limited to, interior walls (except interior bearing walls), appliances, cabinets, interior doors, and all electrical, heating, plumbing and other utility fixtures. The Unit shall be maintained as set forth in Exhibit "D." In interpreting deeds and plans, the existing physical boundaries of the Residential Unit or Residential Unit reconstructed in substantial conformance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the Condominium Plan or any other recorded document, regardless of minor variances between

boundaries shown on the Condominium Plan or in any other recorded document and those of the building within which the Condominium and regardless of settling or lateral movement of the Condominium Building.

2.59 RULES AND REGULATIONS. The term "Rules and Regulations" refers to the handbook which sets forth the rules and regulations of the Association.

2.60 SIGNAGE. The term "Signage" refers to any signage, billboards, posters, banners, flags or any other signage medium of any type or kind.

2.61 SPECIAL ASSESSMENTS. The term "Special Assessments" means the assessments that are levied pursuant to the provisions of Section 6.5 of this Declaration.

2.62 SUPPLEMENTAL CONDOMINIUM PLAN. The term "Supplemental Condominium Plan" means any Condominium Plan which supplements a previously recorded Condominium Plan, which Supplemental Condominium Plan shall be recorded prior to the conveyance of the first Condominium covered by the Condominium Plan which is being supplemented by the Supplemental Condominium Plan. A Supplemental Condominium Plan shall also include a Condominium Plan or amendment to Condominium Plan which corrects technical errors in the originally recorded Condominium Plan.

2.63 SUPPLEMENTARY DECLARATION. The term "Supplementary Declaration" means any instrument recorded in the Office of the County Recorder which annexes all or a portion of the Additional Property or further describes or delineates other elements or restrictions applicable to certain Residential Units or allocations relating to the Assessments or modifies this Declaration as it applies to the Additional Property encumbered by the Supplementary Declaration. A Supplementary Declaration may also be recorded by Declarant to correct any technical errors in this Declaration, the Condominium Plan or any of the Governing Documents.

2.64 USE AGREEMENT. The term "Use Agreement" means the Maintenance and Reserve Agreement and Grant of Non-Exclusive License for River Colony entered into by Declarant and the Association, the terms of which have been reviewed and approved by the DRE.

2.65 VA. The term "VA" means the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

2.66 VOTING POWER. The term "Voting Power" refers to the Voting Power of the Association.

ARTICLE 3 OWNERSHIP AND EASEMENTS

3.1 OWNERSHIP OF CONDOMINIUM. Title to each Condominium in the Project shall be conveyed to an Owner. Ownership of each Condominium within the Project shall include (a) a Residential Unit, (b) an undivided interest in the Common Area located within

the Common Area Module which is situated directly above the Residential Module in which the Residential Unit is situated, as designated on the Condominium Plan and/or shown on the deed to the Condominium, (c) a membership in the Association, and (d) any exclusive or non-exclusive easement or easements appurtenant to such Condominium over the Association Property as described in this Declaration, the Condominium Plan, and the deed to the Condominium. The Owners shall have a non-exclusive easement for ingress and egress over the Association Property, subject to any exclusive easements or other easements of record and any other restrictions set forth in this Declaration.

3.2 NO SEPARATE CONVEYANCE. The interest of each Owner in the use and benefit of the Common Area and Association Property shall be appurtenant to the Condominium owned by the Owner. No Condominium shall be conveyed by the Owner separately from the interest in the Common Area or the right to use the Association Property for the benefit of such Owner. Any conveyance of any Condominium shall automatically transfer the interest in the Common Area and the Owner's right to use the Association Property as provided in this Declaration without the necessity of express reference in the instrument of conveyance. Anything in the Article hereof entitled "Amendments," to the contrary notwithstanding this Article shall not be amended; modified or rescinded until Declarant has conveyed the last Condominium within the Project; including any Phase which may be annexed to and made a part of the Project pursuant to the Article herein entitled "Annexation of Additional Property," without (i) the prior written consent of Declarant and (ii) the recording of said Written consent in the Office of the County Recorder.

3.3 DELEGATION OF USE. Any Owner entitled to the right and easement of use and enjoyment of the Association Property may delegate such Owner's rights provided in this Declaration to the use and enjoyment of the Association Property to his or her other tenants, contract purchasers or subtenants who reside in such Owner's Condominium, subject to reasonable regulation by the Board. An Owner who has made such a delegation of rights shall not be entitled to use or enjoyment of the Association Property for so long as such delegation remains in effect.

3.4 PARTITION. Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of the Project, nor shall Declarant, any Owner or any other person acquiring any interest in any Condominium in the Project seek any such judicial partition. The undivided interest in the Common Area described above may not be altered or changed as long as the prohibition against severability of interests in a Condominium remains in effect as provided in this Declaration.

3.5 EASEMENTS. The ownership interests in the Association Property, and Condominiums described in this Article are subject to the easements granted and reserved in this Declaration. Each of the easements reserved or granted under this Declaration shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Owners, and their Condominiums, the Association and Association Property and the Declarant superior to all other encumbrances applied against or in favor of any portion of the Project Individual grant deeds to Condominiums may, but shall not be required to, set forth the easements specified in this Article.

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3.5.1 Declaration Subject to Easements. Notwithstanding anything herein expressly or impliedly to the contrary, this Declaration and the Project shall be subject to all easements shown on the Final Subdivision Map and to all easements heretofore or hereafter granted by Declarant for the installation and maintenance of utilities and drainage facilities that are necessary.

3.5.2 Utilities. There are reserved and granted for the benefit of each Residential Unit, as dominant tenement, over, under, across and through the Project (including the Association Property and each other Residential Unit), as the servant tenement and for the benefit of the Association Property as dominant tenement, over, under and across each Residential Unit, as servant tenement, non-exclusive easements for the maintenance, repair and replacement of the utility facilities servicing the Project.

3.5.3 Encroachment. There are hereby reserved and granted for the benefit of each Residential Unit, as dominant tenement, over, under and across each other Residential Unit and Association Property, as servient tenements, and for the benefit of the Association Property, as dominant tenement, over, under and across each Residential Unit and Association Property as servient tenement, non-exclusive easements for encroachment, support, occupancy and use of such portions of the Residential Units, Association Property as are encroached upon, used and occupied by the dominant tenement as a result of any original construction design, accretion, erosion, additional deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building, structure, or other improvements or any portion thereof, or any other cause. In the event any portion of the Project is partially or totally destroyed, the encroachment easement shall exist for any replacement structure that is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement shall exist for as long as the encroachments exists; provided, however, that no valid easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement of encroachment may, but need not be, cured by repair and restoration of the structure.

3.5.4 Support, Maintenance and Repair. There is hereby reserved and granted a non-exclusive easement appurtenant to the Association Property and to all other Residential Units, as dominant tenements, through each Residential Unit and Association Property, as servient tenements, for the support, maintenance and repair of the Association Property and all Residential Units to the extent necessary.

3.5.5 Communications Facility. The Association shall have the right to install, maintain and repair and replace a satellite, cellular, or other communications device on the roofs of the Condominium Buildings.

3.5.6 Easements for Association Property. Subject to the provisions of this Declaration, and any Exclusive Use Easements, every Owner shall have, for himself or herself and such Owner's Invitees, a nonexclusive easement of access, ingress, egress, use and enjoyment of, in, to and over the Association Property, except that no Owner shall have the right of access to any rooftop areas, any mechanical or operating areas, or any other areas within the Parking Garage to which access has been restricted by this Declaration or the Association. Such easements shall be appurtenant to and shall pass with title to such Condominiums subject to the rights and restrictions set forth below.

(a) Suspend Rights of Members. The Board shall have the right, after Notice and Hearing, to temporarily suspend an Owner's rights as a Member pursuant to the terms of this Declaration.

(b) Dedicate or Grant Easements. The Association shall have the right, without the consent of the Owners, to grant easements over all or any portion of the Association Property for the benefit of the Association and/or the Owners.

(c) Parking.

(i) *Parking Rights.* Except as provided below, Declarant shall have the sole right to convey the Exclusive Use Parking Spaces in an Owner's grant deed. Upon conveyance of the last Condominium to an Owner under a Public Report by Declarant, the Declarant shall convey to the Association any Parking Spaces not previously conveyed by Declarant for use by the Association for guest or parking by Owners.

(ii) *Relocation Rights.* The right of an Owner to use or occupy a Parking Space which has been conveyed to such Owner shall be subject to the rights of the Declarant or the Association to relocate such Parking Space as described below. Declarant, or the Association, upon reasonable notice shall have the right to temporarily relocate an Owner's Exclusive Use Parking Spaces in order to accommodate any construction, maintenance or repairs of Improvements located within this Project. If any Exclusive Use Parking Spaces is permanently affected by such construction, maintenance or repair, Declarant or the Association shall have the right to exchange the affected Parking Spaces for another available Parking Space. Each Owner, by accepting a deed to a Condominium, hereby acknowledges that such activities of the Declarant or the Association may impair the use of such Owner's assigned Parking Spaces and may constitute an inconvenience or nuisance to the Owners, hereby consents to such impairment, inconvenience or nuisance and agrees to indemnify the Declarant or the Association against any claims with respect to such matters. If an Owner has been given at least forty-eight hours written notice to move a vehicle in order for the Association to perform its duties or obligations under this Declaration and the Owner fails to move the vehicle, the Association shall have the right to move the vehicle at the Owner's sole expense.

(d) Limit Guests. The Association shall have the right to limit, on a reasonable basis, the number of guests and tenants of the Owners using the facilities situated within the Association Property. Any such limitation or restrictions shall be set forth in the Declaration, Rules and Regulations and/or on signage posted by the Association. Residents shall be limited to a maximum of three (3) guests at the pool facility. The Association may temporarily close the pool facility if necessary to address violations of the Governing Documents or life, health and/or safety issues as determined in the sole discretion of the Board.

(e) Restricted Areas. The Association shall have the right to restrict access to certain areas of the Project including the roof, utility rooms, portions of the Parking Garage and other areas deemed unsafe for Owner or resident entry by the Association. The Association shall also have the power to restrict and/or prohibit any Owner installations of any kind in these Restricted areas.

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(f) Charge Fees. To the extent the Declarant conveys the Association any Parking Spaces the Association shall have the right to charge reasonable fees for the use of any such Parking Spaces so assigned by Declarant to the Association.

(g) Right of Access. Every Owner shall have the right to enjoy free and unobstructed passage between every such Owner's Condominium, through the Association Property to all publicly dedicated streets bordering the Project, subject to any restrictions imposed by any city, county or state.

3.6 LIGHT, AIR AND VIEW. No Owner shall have an easement for light, air or view over the Residential Unit of another Owner and no diminution of light, air or view by any Building or Improvement now existing or hereafter erected shall entitle the Owner or any Invitee to claim any easement for light, air or view within the Project; provided, however, that the following provision shall not relieve any Owner from obtaining the approvals required pursuant to Article 10 hereof with respect to any modification to such Owner's Improvements.

ARTICLE 4 THE ASSOCIATION

4.1 THE ORGANIZATION. The Association is a nonprofit mutual benefit corporation, formed under the Nonprofit Mutual Benefit Law of the State of California. On the conveyance of the first Condominium to an Owner under a Public Report, the Association shall be charged with the duties and invested with the powers set forth in this Declaration and the other Governing Documents.

4.2 ASSOCIATION ACTION: BOARD OF DIRECTORS AND OFFICERS; MEMBERS' APPROVAL. Except as to matters requiring the approval of Members as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint such election or appointment shall be in accordance with this Declaration and the Bylaws. Except as otherwise provided in this Declaration, the Articles and the Bylaws, all matters requiring the approval of Members shall be deemed approved if Members holding a majority of the total Voting Power assent to them by written consent as provided in the Bylaws or if approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws or, in certain situations set forth in Section 4.5 of this Declaration, by Written ballot without a meeting pursuant to Corporations Code Section 7513, of a simple majority of the Members, other than Declarant, constituting a quorum consisting of more than a majority of the Voting Power of the Association residing in Members other than the Declarant.

4.3 POWERS OF THE ASSOCIATION. The Association shall have all the powers of nonprofit corporation organized under the Nonprofit Mutual Benefit Corporation Law of California subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation, the powers set forth below. Notwithstanding the foregoing, the Association shall not undertake any of the activities described in Section 4.5 below unless approved by the Members.

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

4.3.2 Right of Enforcement and Notice and Hearing.

(a) **Enforcement Actions.** The Association in its own name and on its own behalf can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of the Governing Documents or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise all of these provisions. In addition, the Association can temporarily suspend the membership rights and privileges or assess monetary penalties against any Owner or other person entitled to exercise such rights or privileges for any violation of the Governing Documents or Board resolutions.

(b) **Notice Requirements.** Before a decision to impose such a suspension or monetary penalty is reached by the Board, the aggrieved Owner shall be provided with an opportunity to be heard by the Board, orally or in writing, and shall be provided with at least ten (10) days written notice of such hearing. Additionally, the Board shall provide written notice of any sanctions to be imposed and the reasons for such sanctions, not more than fifteen (15) days following the hearing. For the purposes of this Subsection, notice shall be given by any method reasonably calculated to provide actual notice. Notice may be hand delivered to the Owner or sent by first class registered or certified mail return receipt requested or overnight courier delivery and addressed to the Owner at the last address of the Owner shown on the Association's records, or any other method deemed reasonable by the Board for delivering notices.

4.3.3 Delegation of Powers and Professional Management. The Association acting by and through the Board can delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("Manager"), subject to the requirements of Section 4.6.1.

4.3.4 Association Rules. The Board shall have the power to adopt, amend and repeal the rules and regulations set forth in the Rules and Regulations as it deems reasonable. The Board may, in its discretion, promulgate rules applicable to the Owners. The rules and regulations set forth in the Rules and Regulations shall govern the use of the Association Property by all Owners and their Invitees. However, the Rules and Regulations shall not be inconsistent with or materially alter any provisions of the Governing Documents. A Copy of the Rules and Regulations as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. In case of any conflict between any of the rules and regulations set forth in the Rules and Regulations and any other provisions of this Declaration, the Articles, or Bylaws, the conflicting rules and regulations set forth in the Rules and Regulations shall be deemed to be superseded by the provisions of this Declaration, the Articles and the Bylaws.

4.3.5 Right of Entry and Enforcement. Except in the case of emergencies, in which case no prior notice need be given, the Board or any authorized representative thereof shall have the right, upon twenty-four (24) hours prior written notice and during reasonable hours, to enter into a Residential Unit for the purpose of construction, maintenance or emergency

repair for the benefit of the Association Property or the other Condominiums or to perform its obligations under the Declaration or to cure any default by an Owner under this Declaration. Such persons shall not be deemed guilty of trespass by reason of such entry. If any such repair or maintenance is due to the failure of an Owner to perform its obligations hereunder, the cost of such maintenance or repair shall be assessed against said Owner as an Enforcement Assessment in accordance with the provisions of the Article hereof entitled "Assessments." In addition, the Association shall have the right to recover from the Owner any costs associated with obtaining interior access to the Unit.

4.3.6 Easements and Rights of Way. The Association, acting by and through the Board, and without the vote of the Owners, may grant and convey to any third party easements and licenses for use and rights of way in, on, over or under any Association Property conveyed or otherwise transferred to said Association or under its jurisdiction in accordance with the provisions of this Declaration.

4.3.7 Capital Improvements. Subject to the terms of this Declaration, the Board may, on its own motion or acting on a petition signed by two-thirds (2/3) of the Owners, approve the construction, installation or acquisition of a particular capital improvement to the Association Property.

4.3.8 Personal Property. The Association, acting by and through the Board, may acquire and hold, as trustee for the benefit of its Members, tangible and intangible personal property and to dispose of the same by sale or otherwise, subject to the limitations set forth in Section 4.5.2.

4.3.9 Contract for Goods and Services. The Association shall have the power to contract for goods and services for the benefit of the Association Property and/or the Project necessary for the Association to perform its duties and obligations hereunder, subject to the limitations set forth in Section 4.5 below.

4.3.10 Architectural Committee. Subject to the provisions of Article 10, the Association shall have the right to form an Architectural Committee and to appoint and remove Members of the Architectural Committee at the sole discretion of the Board.

4.3.11 Borrow Funds. The Association shall have the right to borrow money to improve, repair or maintain the Association Property and to hypothecate any or all real or personal property owned by the Association, including pledging as collateral the assessment income collected thereon provided that, the borrowing of any money or hypothecation of any real or personal property in excess of five percent (5%) of the budgeted gross expenses of the Association shall require the approval by written ballot of a majority of a quorum of the total voting power of the Association.

4.3.12 Rights Title Policies. If any title claims regarding the Association Property, are made by any third party, the Association shall have the power to pursue such claims on any title insurance policy held by the Owners or the Association and each Owner hereby delegates, on a non-exclusive basis, and assigns to the Association any rights it may have under its title insurance policies to the extent that the title claim relates to the Association Property.

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4.3.13 Settlement of Construction Disputes. The Association shall have the power to settle and release any and all claims, causes of action, damages and suits for defects relating in any way to the design or construction of the Project or any portion thereof on behalf of all Owners and each Owner, hereby agrees to designate such authority to the Association and assigns to the Association all power and authority as is necessary for any settlement or release of any such claims.

4.3.14 Employ Personnel. The Association shall have the power to employ persons necessary for the effective operation and maintenance of the Association including legal, maintenance, management and accounting services.

4.3.15 Sewers and Storm Drains. The Association shall have the power and duty to maintain any private sewer systems, private storm drains, or private drainage facilities within the Association Property in accordance with the Declaration.

4.3.16 Rules and Regulations. The Association shall have the power, but not the duty to establish, amend, restate, delete, and create exceptions to the Rules and Regulations.

(a) **Effective Date.** All changes to the Rules and Regulations will become effective at least thirty (30) days after they are sent to the Owners for review and comment via first class mail or by any system or technology designed to record and communicate messages, and the Board votes to approve them after considering any Owner comments. This process of adopting Rules and Regulations shall also be in substantial compliance with California Civil Code Section 4340 et. seq.

(b) **Areas of Regulations.** The Rules and Regulations may concern use of the Property, signs, parking restrictions, minimum standards of property maintenance, and any other matter within the Association's jurisdiction; provided, however, the Rules and Regulations are enforceable only to the extent they are consistent with the Governing Documents.

(c) **Limits on Regulations.** The Rules and Regulations must apply uniformly to all Owners. The rights of Owners to display religious and holiday signs, symbols and decorations inside their Residential Units of the kinds normally displayed in single family residential neighborhoods shall not be abridged, except the Association may adopt time, place and manner restrictions with respect to such displays if they are visible outside of the Residential Unit. The Rules and Regulations shall not regulate the content of political signs; however, they may regulate the time, place and manner of posting of such signs. No modification to the Rules and Regulations may require an Owner to dispose of personal property that was in a Condominium prior to the adoption of such modification if such personal property was in compliance with all rules previously in force; however; this exemption shall apply only during the period of such Owner's ownership of the Condominium and shall not apply to (i) subsequent Owners who take title to the Condominium after the modification is adopted, or (ii) clarifications to the Rules and Regulations.

(d) **Use of Facilities.** The Rules and Regulations may (i) specify a maximum number of guests which an Owner, tenant or other Person may admit to the Association Property recreational facilities one time, (ii) establish rules for allowing Owners,

tenants or other Persons to use Association Property facilities for private functions, or (iii) establish admission fees, deposit requirements and other fees for the use of any facilities on Association Property.

4.4 DUTIES OF THE ASSOCIATION. In addition to the powers delegated to it by its Articles and the Bylaws, and without limiting their generality, the Association, acting by and through the Board, has the obligation to perform each of the duties set forth below.

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

4.4.2 Water and Other Utilities. The Association shall have the duty to acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other necessary utility services for the Association Property.

4.4.3 Utilities Suppliers. The Association shall have the duty to permit utility suppliers and other providers of any telecommunications, cable, internet or other services to use portions of the Association Property reasonably necessary to the ongoing development and operation of the Project and for the benefit of both the Association and Owners.

4.4.4 Maintenance of Project. The Association shall landscape, maintain and/or replace and repair the Association Property and any other portions of the Project described in Article 9 pursuant to the provisions of this Declaration.

4.4.5 Insurance. The Association shall obtain from reputable insurance companies and maintain the insurance described in the Article hereof entitled "Insurance."

4.4.6 Refuse and Rubbish Collection. The Association shall provide refuse and rubbish collection for the Owners, which cost shall be included as a Common Expense.

4.4.7 Financial Matters. The Association shall have the duty to prepare annual budgets, reports, balance sheets and operating statements for the Association as required under this Declaration and the Bylaws.

4.4.8 Use of Proceeds to Repair. If the Association receives, on its own behalf or for the benefit of the Owners, any proceeds as a result of any construction defect or other claims or litigation brought by the Association, then the Association shall apply such proceeds first for the purpose of repairing such defects or replacing reserve funds previously utilized by the Association to cause such repairs and then to the costs of such litigation.

4.4.9 Indemnification.

(a) **For Association Representative.** To the fullest extent authorized by law, the Association has the power and duty to indemnify Board members, Association officers,

Architectural Committee members, and all other Association committee members for all damages, pay legal expenses incurred, and satisfy any judgment or fine levied as a result, of any action or threatened action brought because of performance of an act or omission within what such person reasonably believed to be the scope of the Person's Association duties ("Official Act"). Board members, Association officers, Architectural Committee members, and all other Association committee members are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any person entitled to such indemnification.

(b) For Other Agents of The Association. To the fullest extent authorized by law, the Association has the power, but not the duty, to indemnify any other Person acting as an agent of the Association for damages incurred, pay legal expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act.

(c) Provided by Contract. The Association also has the power, but not the duty, to contract with any Person to provide indemnification in addition to any indemnification authorized by law on such terms and subject to such conditions as the Association may impose.

4.5 LIMITATIONS ON AUTHORITY OF BOARD. The Board shall not take any of the actions listed below except with the vote or approval by written ballot of a majority of a quorum of the Members.

4.5.1 Limit on Capital Improvements. The Board shall not, without obtaining the consent of the Members as set forth above, incur aggregate expenditures for capital improvements to the Association Property in any fiscal year in excess of ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year.

4.5.2 Limit on Sales of Association Property. The Board shall not, without obtaining the consent of the Members as set forth above, sell during any fiscal year property of the Association having an aggregate fair market value greater than ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year.

4.5.3 Limit on Compensation. The Board shall not, without obtaining the consent of the Members as set forth above, pay compensation to members of the Board for services performed in the conduct of the Association's business. However, the Board may cause a member of the Board to be reimbursed for reasonable expenses incurred in carrying on the business of the Association.

4.5.4 Warranties. The Board shall comply with the terms of any warranty in favor of the Association for any equipment or facilities within the Association Property. The Association acknowledges that certain warranties require the Association to maintain certain maintenance contracts in effect and, to the extent the Board discontinues such maintenance contracts, the effectiveness of the warranty may be impaired or eliminated.

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4.5.5 Limit on Third Person Contracts. The Board shall not, without obtaining the consent of the Members as set forth above, enter into a contract with a third person wherein the third person will furnish goods or services for the Association Property or the Association for a term longer than one year with the following exceptions:

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

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

(c) An agreement for bulk cable television services and equipment or satellite television services or equipment or internet services or equipment of not to exceed seven (7) years duration but which may provide for successive one (1) year renewal periods so long as a majority of the Owners do not object;

(d) An agreement for sale or lease of any security, fire, of other similar equipment, installation and services or telecommunications, data processing, fiber optics, cable or other similar services or technological evolutions of the foregoing, or not to exceed ten (10) years duration but which may provide for renewals for an additional ten (10) years so long as a majority of the Owners do not object;

(e) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one year without cause, penalty or other obligations upon ninety (90) days' written notice of termination to the other party;

(f) A contract approved by the DRE, including, without limitation, the Use Agreement;

(g) A management contract with a term not to exceed three (3) years, the terms of which have been approved by the VA or FHA;

(h) Any maintenance agreement for the maintenance of any portion of the Association Property which is required as a condition to the effectiveness of any warranty in favor of the Association; and

(i) Any contract for the lease or purchase of any solar energy system for the benefit of the Association and/or Owners.

4.5.6 Prohibited Functions.

(a) Property Manager. The Association Manager shall at all times be a professional manager operating as an independent contractor. The Association shall have the right to designate a portion of the Association Property for use as an on-site manager's office.

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(b) Off-site Nuisances. The Association may use any Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of the Property at the sole discretion of the Board.

4.6 TERMINATION OF CONTRACTS AND AGREEMENTS.

4.6.1 Professional Management Contracts. Any agreement for professional management of the Project shall be for a term not to exceed one (1) year without the consent of fifty-one percent (51%) of each class of Members; provided, however, that in no event shall such an agreement exceed a term of three (3) years. Any such agreement shall provide that the agreement may be terminated by either party without cause and without payment of termination fee upon not more than ninety (90) days written notice.

4.7 STANDARD OF CARE: NON LIABILITY.

4.7.1 Scope of Powers and Standard of Care.

(a) General Scope of Powers. Rights and powers conferred on the Board, the Architectural Committee or other committees or representatives of the Association by the Declaration are not duties, obligations or disabilities charged upon those Persons unless the rights and powers are explicitly identified as including duties or obligations in the Declaration or law. Unless a duty to act is imposed on the Board, Architectural Committee or other committees or representatives of the Association by the Declaration or law, the Board and the committees have the right to decide to act or not act. Any decision to not act is not a waiver of the right to act in the future.

(b) Business Affairs. This Section applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances and Architectural Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board member 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. When performing his duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial data prepared or presented by:

(i) One or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(ii) Counsel, independent accountants or other Persons as to matters which the Board member believes to be within such Person's professional or expert competence; or

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

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(iv) This Section 4.7.1 (b) is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this Section 4.7.1 (b).

(c) Association Governance. This Subsection (c) applies to Board actions and Architectural Committee decisions in connection with the interpretation and enforcement of the Declaration, architectural and landscaping control, regulation of uses within the Property, rule making, and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

4.7.2 Nonliability:

(a) General Rule. No Person is liable to any other Person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from: such Person's Official Acts, except to the extent that such injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct. The Association is not liable for damage to property in the Property unless caused by the negligence of the Association, the Board, the Association's officers, the manager or the manager's staff:

(b) Nonliability of Volunteer Board Members and Officers. A volunteer Board member or volunteer Association officer shall not be personally liable to any Person who suffers injury, including bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all applicable conditions specified in Section 5800 of the California Civil Code are met.

(c) Nonliability of Owners. Pursuant to, California Civil Code Section 5805, no Owner shall be liable for any cause of action in tort which can be brought against the Owner solely because of the Owner's undivided interest in the Common Area so long as the Association keeps one or more policies of insurance which include coverage for general liability of the Association in the amount required by California Civil Code Section 5805 and that insurance is in effect for the cause of action being brought.

ARTICLE 5 MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

5.1 MEMBERSHIP.

5.1.1 Qualifications. Each Owner of record of at least a fifty percent (50%) interest in a Condominium which is subject to assessment shall be a Member of the Association. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Association. As to ownership interests held by an entity, the Association shall have the power to determine who may exercise the Membership rights on behalf of the entity. Each Owner shall remain a Member of the Association until his or her ownership or ownership interest

in the Condominium in the Project ceases at which time his or her membership in the Association shall automatically cease. Persons or entities who hold an interest in a Condominium merely as security for performance of an obligation are not to be regarded as Members.

5.1.2 Members' Rights and Duties. Each Member shall have the rights, duties, and obligations set forth in the Governing Documents, as the same may from time to time be amended.

5.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in one or more Condominiums shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest in it shall operate automatically to transfer the appurtenant membership right in the Association to the new Owner.

5.1.4 Commencement of Voting Rights. An Owner's right to vote shall not vest until Regular Assessments have been levied upon such Owner's Condominium as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided for herein and in the other Governing Documents.

5.2 NUMBER OF VOTES. The Association shall have one (1) class of voting membership.

5.2.1 Voting by Members. Members shall be all Owners and shall be entitled to one (1) vote for each Condominium owned. When more than one (1) person holds an interest in any Condominium, all such persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium.

5.2.2 Joint Owner Votes. The voting rights for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) person or entity exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

5.2.3 Accrual of Voting Rights. No voting rights shall accrue to any Owner until Regular Assessments have first commenced for such Owner's Condominium.

ARTICLE 6 ASSESSMENTS

6.1 CREATION OF LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. Each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the

Association all assessments levied pursuant to the provisions of this Declaration. All assessments levied hereunder, together with interest, costs and reasonable attorneys' fees assessed hereunder, shall be a charge on the land and shall, be a continuing lien upon the Condominium against which each such assessment is made, the lien to be effective upon recordation of a notice of delinquent assessments. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the assessment fell due and shall bind his or her heirs, devisees, personal representatives and assigns. Unlike the lien for non-delinquent assessments, the personal obligation for delinquent assessments shall not pass to successive Owners, unless expressly assumed by such successive Owner. No such assumption of personal liability by a successive Owner (including a contract purchaser under an installment land contract) shall relieve any Owner against whose Condominium the lien was levied from personal liability for delinquent assessments. If more than one person or entity was the Owner of a Condominium, the personal obligation to pay such assessment or installment respecting such Condominium shall be both joint and several.

6.2 FUNDS HELD IN TRUST. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely for the operation, care and maintenance of the Project as provided in this Declaration. Upon the sale or transfer of any Condominium, the Owner's interest in the funds shall be deemed automatically transferred to the successor in interest of such Owner. The Board shall budget and keep at least the following accounts (the "Maintenance Funds") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made in the Association's performance of its functions:

6.2.1 General Operating Fund. A General Operating Fund for current expenses of the Association.

6.2.2 General Reserve Fund. An adequate General Reserve Fund for the deposit of Reserves attributable to Improvements within the Property which the Association is obligated to maintain. Association assessment income shall not become "Reserve Funds" until such time as the funds are actually deposited into the designated Association reserve account.

6.2.3 Miscellaneous Maintenance Funds. Any other Maintenance Funds which the Association may deem necessary.

6.3 PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to perform the obligations and duties of the Association, including, but not limited to, the improvement and maintenance of the Association Property and for any other maintenance responsibilities of the Association, and to reimburse the Association for the costs incurred in bringing an Owner into compliance with the Governing Documents. The Association shall not impose or collect any assessment, penalty or fee that exceeds the amount necessary for the purpose or purposes for which it is levied.

6.4 REGULAR ASSESSMENTS.

6.4.1 Payment of Regular Assessments. Regular Assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year, which budget

shall be prepared in accordance with the provisions of this Declaration. Regular Assessments shall be levied on a fiscal year basis. Unless otherwise specified by the Board, Regular Assessments shall be due and payable in monthly installments on the first day of each month during the term of this Declaration. Declarant's obligation for such Regular Assessments may be reduced in accordance with the terms of any Maintenance Agreement executed by Declarant and the Association.

6.4.2 Budgeting. Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a budget as described in the Article of the Bylaws entitled "Budget and Financial Statements." Increases in Regular Assessments shall be subject to the limitations set forth in Section 6.9 below. For the first fiscal year, the budget upon which Regular Assessments shall be based shall be the budget accepted by the Department of Real Estate of the State of California. Thereafter, the Board shall annually prepare the budget and distribute a copy thereof to each Member (or a summary thereof as provided in the Article of the Bylaws referenced above), together with written notice of the amount of the Regular Assessment to be levied against the Owners Condominium, not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the fiscal year.

6.4.3 Restrictions for Tax Exemption. As long as the Association seeks to qualify and be considered as an organization exempt from federal and state income taxes pursuant to Internal Revenue Code Section 528 and California Revenue and Taxation Code Section 2370, then the Board shall prepare its annual budget and otherwise conduct the business of the Association in such a manner consistent with federal and state requirements to qualify for such status.

6.4.4 Non-Waiver of Assessments. If before the expiration of any fiscal year the Association fails to fix Regular Assessments for the next fiscal year, the Regular Assessment established for the preceding year shall continue until a new Regular Assessment is fixed.

6.4.5 Supplemental Assessments. If the Board determines that the Association's essential functions may be properly funded by a Regular Assessment in an amount less than the maximum authorized Regular Assessment described above, it may levy such lesser Regular Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in Section 6.9, the Board may levy a supplemental Regular Assessment reflecting a revision of the total charges to be assessed against each Condominium.

6.5 SPECIAL ASSESSMENTS. If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason; including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on damage and destruction or condemnation of, the Association Property, the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board and does not exceed five percent (5%) of the budgeted gross expenses of the Association, it shall become a Special Assessment; provided, however, that such limitation shall not apply to Special Assessments levied by the Board to

replenish the Association's reserve account as provided in Section 8.3 of the Bylaws. Except for Special Assessments levied pursuant to Section 8.3 of the Bylaws, any Special Assessment in excess of five percent (5%) of the budgeted gross expenses of the Association shall be subject to the limitations set forth in Section 6.9 below. The Board may, in its discretion, prorate such Special Assessment over the remaining months of the fiscal year or levy the assessment immediately against each Condominium. Unless exempt from federal or state income taxation, all proceeds from any Special Assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be otherwise handled and used in a manner authorized by law or regulations of the Internal Revenue Service or the California Franchise Tax Board in order to avoid, if possible, its taxation as income of the Association. To the extent that any Special Assessment funds remain after the Board uses them for their intended purpose, the remaining funds may be added to the operations account or reserve fund at the sole discretion of the Board.

6.6 CAPITAL IMPROVEMENT ASSESSMENT. In addition to any other assessments provided for hereunder, the Association may levy a Capital Improvement Assessment for the purpose of defraying, in whole or in part, the cost of any construction or replacement of a Capital Improvement in accordance with the provisions of Section 4.3.7. Capital Improvement Assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate. Increases in Capital Improvement Assessments shall be subject to the limitations set forth in Section 6.9 below.

6.7 ENFORCEMENT ASSESSMENTS. The Association may levy an Enforcement Assessment against any Owner who causes damage to the Association Property or for bringing an Owner or his or her Condominium into compliance with the provisions of the Governing Documents and/or any other charge designated an Enforcement Assessment in the Governing Documents, together with attorneys' fees, interest and other charges related thereto as provided in this Declaration. If the Association undertakes to provide materials or services which benefit individual Owners, then such Owners in accepting such materials or services agree that the costs thereof shall be an Enforcement Assessment. The Board shall have the authority to adopt a reasonable schedule of Enforcement Assessments for any violation of the Governing Documents. If, after Notice and Hearing as required by this Declaration, the Owner fails to cure or continues such violation, the Association may impose an additional fine each time the violation is repeated, and may assess such Owner and enforce the Enforcement Assessment as herein provided for nonpayment of an assessment. The Association may also issue a continuing fine amount for so long as a violation continues to exist. A hearing committee may be established by the Board to administer the foregoing. Notwithstanding any other provision in this Declaration to the contrary, except as provided in Section 6.15 of this Declaration, Enforcement Assessments are assessments but they may not become a lien against the Owner's Condominium that is enforceable by a power of sale under California Civil Code Sections 2924, 2924b and 2924c or any successor statutes or laws. This restriction on enforcement is not applicable to late payment penalties for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees, for delinquent assessments.

6.7.1 Reconstruction Assessments. Reconstruction Assessments may be levied by the Community Board under the conditions and in the manner specified in the Article hereof entitled "Destruction of Improvements."

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6.8 SINGLE BENEFIT ASSESSMENT. The Board may establish a Single Benefit Assessment for reconstruction, capital improvements, extraordinary maintenance, or any other cost or expense not otherwise provided for in this Declaration which will benefit less than all of the Owners. Such a Single Benefit Assessment may be imposed only by a vote of fifty-one percent (51%) of the Owners of the Residential Units benefitted by the Single Benefit Assessment. Each Single Benefit Assessment shall be segregated solely to the Residential Units which derive the benefit therefrom. In the event that the Association obtains income directly related to an item which has been assessed as a Single Benefit Assessment, such income shall be allocated so as to reduce or offset such Single Benefit Assessment.

6.9 LIMITATION ON ASSESSMENTS. The Board shall levy Regular Assessments and Special Assessments sufficient to perform the obligations of the Association as provided in the Declaration and Bylaws; provided, however, except for assessment increases necessary for emergency situations, and except for Special Assessments imposed to restore funds to the Association pursuant to California Civil Code Section 5515 and except as provided in this Section: (a) the Board may not increase the Regular Assessments for any fiscal year unless the Board has complied with the provisions of California Civil Code Section 5300 (preparation and distribution of the budget), and (b) the Board may not impose a Regular Assessment that is more than twenty percent (20%) greater than the Regular Assessment for the Association's preceding fiscal year nor Special Assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the approval of Owners casting a majority of the votes of the Members affected thereby 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 I of the California Corporations Code and Section 7613 of the California Corporations Code at which a quorum was present or participated.

6.9.1 Quorum. For purposes of this Section, "quorum" means more than fifty percent (50%) of the Owners.

6.9.2 Emergency Situation. For purposes of this Section, an emergency situation is anyone of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to repair or maintain the Property or any part of it, for which the Association is responsible where a threat to personal safety in the Property is discovered; or
- (c) An extraordinary expense necessary to repair or maintain the Property or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the Budget required under the Declaration and Bylaws. However, prior to the imposition or collection of an assessment subsection, 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, and the resolution shall be distributed to the Members with the notice of assessment. Any increases authorized by this Section shall not be imposed unless the Board has complied with the budgetary requirements set forth: in the Bylaws with respect to the fiscal year for which an assessment is being levied. The "Regular Assessment for the

Association's preceding fiscal year" is deemed to be the Regular Assessment which would have existed in the absence of any subsidy of assessments agreed to be paid by Declarant. Anything in this Section to the contrary notwithstanding, the limitation on Regular Assessments and Special Assessments shall comply with the laws of the State of California at the time the Regular Assessment or Special Assessment is levied by the Community Association.

6.9.3 Notice to Owners. The Association shall provide notice by first class mail to the Owners of any increase in the Regular Assessments or Special Assessments of the Association, not less than thirty (30) days and not more than sixty (60) days prior to the increased assessment becoming due and payable.

6.10 ALLOCATION OF ASSESSMENTS TO CONDOMINIUMS. The Assessments shall be allocated to each Condominium as to which assessments have commenced in accordance with the allocation formula set forth in Exhibit "C" attached hereto and incorporated herein.

6.10.1 Rate of Assessment. Except as otherwise provided for herein, that portion of Regular and Special Assessments and Capital Improvements Assessments levied by the Board for the variable expenses identified on Exhibit "C" shall be allocated by the Board based on the unit category for each Residential Unit, as identified on Exhibit "C". All other items covered by any Regular Assessments, Special Assessments and Capital Improvement Assessments shall be fixed at a uniform rate for all Residential Units. Reconstruction Assessments shall be allocated equally to all Condominiums. Enforcement Assessments shall be levied directly to the individual Condominiums in a manner consistent with the provisions of this Declaration.

6.11 NOTICE AND ASSESSMENT INSTALLMENT DUE DATES. A single ten (10) day prior written notice of each Special Assessment and Capital improvement Assessment shall be given to each Owner. The due dates for the payment of installments normally shall be the first day of each month unless some other due date is established by the Board. Each installment of Regular Assessments, Special Assessments and Capital Improvement Assessments shall become delinquent if not paid within thirty (30) days after its due date. There shall accrue with each delinquent installment a late charge, interest charge to be set by the Board and reasonable costs of collection, including attorneys' fees, which shall not, in any event, exceed the maximum rates permitted under California Civil Code Section 5650.

6.12 ESTOPPEL CERTIFICATE. The Board on not less than ten (10) days prior written request shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular Owner is in default as to such Owners Condominium under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such Condominium. Any such statement may be relied on by any prospective purchaser or Mortgagee of the Condominium, but reliance on such statement may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

6.13 COLLECTION OF ASSESSMENTS, LIENS.

6.13.1 Right to Enforce. The right to collect and enforce assessments is vested in the Board acting for and on behalf of the Association. The Board or its authorized representative can enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 6.14.3 enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other Additional Charges described in Section 6.15 shall be maintainable without foreclosing or waiving the lien rights. Notwithstanding anything else to the contrary herein, a monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Association Property and facilities for which the Member was allegedly responsible or in bringing the Member and his or her Residential Unit into compliance with the Governing Documents of the Association may not be characterized nor treated as an assessment which may become a lien against the Member's Residential Unit enforceable by a sale of the interest hereunder. The limitation in the preceding sentence however, does not apply to any Additional Charges.

6.13.2 Creation of Lien. If there is a delinquency in the payment of any assessment, or installment on a Condominium, any amounts that are delinquent, together with the late charge and interest described in California Civil Code Section 5650, and all costs that are incurred by the Board or its authorized representative in the collection of the amounts, including reasonable attorneys' fees, shall be a lien against such Condominium upon the recordation in the Office of the County Recorder of a notice of delinquent assessment ("Notice of Delinquent Assessment") as provided in California Civil Code Section 5675. After its recordation, the Notice of Delinquent Assessment shall be mailed to all Owners of record as provided in California Civil Code Section 5675. The Notice of Delinquent Assessment may not be recorded unless and until the Board or its authorized representative has sent to the delinquent Owner or Owners, not less than fifteen (15) days before the recordation of the Notice of Delinquent Assessment, a written notice of default and a demand for payment by certified mail, which notice shall contain all of the information specified in California Civil Code Section 5675, and unless such delinquency has not been cured within said fifteen (15) day period.

6.13.3 Notice of Default: Foreclosure. The Board or its authorized representative can record a notice of default and can cause the Condominium with respect to which a notice of default has been recorded to be sold in the same manner as a state is conducted under California Civil Code Sections 2924, 2924b and 2924c, or through judicial foreclosure, and as provided in California Civil Code Section 5710. However, as a condition precedent to the holding of any such sale under Section 2924c appropriate publication shall be made. In connection with any sale under Section 2924c the Board is authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in California as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the Board or its authorized representative, shall cause to be recorded in the office of the County Recorder a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorneys' fees by any delinquent Owner. Any payments made on delinquent assessments shall be applied in accordance with California Civil Code Section 5655. On becoming delinquent in the

payment of any assessments, or installments each delinquent Owner shall be deemed to have absolutely assigned all rent, issues and profits of his Condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the Owners, shall have the power to bid upon, the Condominium at foreclosure sale and to acquire; hold, lease, mortgage and convey the Condominium and vote as an Owner of the Condominium.

6.13.4 Payments Under Protest. Notwithstanding any other provisions set forth in this Section 6.14, the Owners shall have the right to make certain payments under protest as provided in California Civil Code Section 5658.

6.14 ADDITIONAL CHARGES. In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any assessments, each Owner agrees to pay Additional Charges, incurred or levied by the board including such additional costs, fees, charges and expenditures as the Association may incur or levy in the process of collecting from that Owner monies due and delinquent. Additional Charges shall include, but not be limited to, the following:

6.14.1 Attorneys' Fees. Reasonable attorneys' fees and costs incurred in the event an attorney(s) is employed to collect any assessment or sum due, whether by suit or otherwise;

6.14.2 Late Charges. A late charge in an amount to be fixed by the Board in accordance with Civil Code Section 5650 to compensate the Association for additional collection costs incurred in the event any assessment or other sum is not paid when due or within any "grace" period established by law;

6.14.3 Costs of Suit. Costs of suit and court costs incurred as are allowed by the court;

6.14.4 Interest. Interest at twelve percent (12%) or to the extent permitted by law; and

6.14.5 Other. Any such other additional costs that the Association may incur in the process of collecting delinquent assessments or sums.

6.14.6 Assignment of Rents. Each Owner assigns to the Association, absolutely and regardless of possession of the property, all money now due or to become due under any agreement for the use or occupation of any part of any Unit, now existing or hereafter made, for the purpose of collecting all Assessments and costs and expenses due Association which are in default. The Association confers on each Owner the authority to collect and retain money due under any agreement for the use or occupation of any part of any Unit, provided that the Association may revoke the authority at any time by written notice of a default in the payment of any Assessments. Upon revocation the Association may collect and retain the money until the delinquent Assessments and related charges are satisfied, whether the money is past due and unpaid or current. The Association's rights under the provision are subordinate to the rights of any First Mortgagee.

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6.15 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 laws of California in effect at the time any assessment or installment becomes delinquent or any lien is imposed.

6.16 SUBORDINATION OF LIEN TO FIRST MORTGAGES. The lien of assessment herein shall be subordinate to the lien of any First Mortgage now or hereafter placed upon any Condominium subject to assessment, and the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure (excluding a transfer by a deed in lieu of foreclosure) of a First Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from any assessments, thereafter becoming due or from the lien of any subsequent assessment. Where the Mortgagee of a First Mortgage or other purchaser of a Condominium obtains title to the same as a result of foreclosure (excluding a transfer by a deed in lieu of foreclosure) such acquirer of title, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Condominium that became due prior to the acquisition of title to such Condominium by such acquirer, except for a share of such charges or assessments resulting from a reallocation of such charges or assessments that are made against all Condominiums.

6.17 NO OFFSETS. All assessments shall be payable in the amounts specified by the particular assessment and no offsets against such amount shall be permitted for any reasons, including, without limitation, a claim that the Association is not properly exercising its, duties of maintenance, operation or enforcement.

6.18 PERSONAL LIABILITY OF OWNER. No Owner may exempt himself or herself from personal liability for assessments, nor any part thereof, levied by the association, nor release the Condominium owned by him or her from the liens and charges hereof by waiver of the use and enjoyment of the Association Property and facilities thereof, or by abandonment of such Owner's Condominium.

6.19 TRANSFER OF PROPERTY. After transfer or sale of property within the Project, the selling Owner or Owners shall not be liable for any assessment levied on such Owner or Owner's Condominium after the date of such transfer of ownership if written notice of such transfer is delivered to the Association. The selling Owner shall still be responsible for all assessments and charges levied on his or her property prior to any such transfer.

6.20 FAILURE TO FIX ASSESSMENTS. The omission by the Board to fix the assessments hereunder before the expiration of any year, for that or the next year, shall not be deemed either a waiver or modification in any respect of the provisions of this Declaration or a release of the Owner from the obligation to pay the assessments or any installment thereof for that or any subsequent year but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

6.21 PROPERTY EXEMPT FROM ASSESSMENTS. The Association Property shall be exempt from the assessments; charges and liens created herein. Although no land or improvements devoted to dwelling use in the Project shall be exempt from Assessments by the

Association, Declarant and the Owners shall be exempt from paying any portion of Regular Assessments which is for the purpose of defraying expenses and reserves directly attributable to the existence of any Improvements on the Association Property which are not complete at the time assessments commence why exemption shall be in effect only until the earlier to occur of the following: (i) a notice of completion for the subject Association Property has been recorded, or (ii) the Association Property has been placed into use.

ARTICLE 7 USE RESTRICTIONS

7.1 SINGLE FAMILY RESIDENCES. The Residential Units, excluding the Exclusive Use Easement Areas, shall be used as a dwelling for a single family and for no other purpose. An Owner may rent such Owner's Condominium to a single family provided that the Condominium is, rented pursuant to a lease or rental agreement which is (a) in writing, and (b) subject to all of the provisions of this Declaration. The maximum occupancy of any Unit shall be two persons per bedroom.

7.2 BUSINESS OR COMMERCIAL ACTIVITY. No part of the Project may ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including any activity for which the provider is compensated or receives any compensation, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or, requires or does not require a license. This Section does not preclude any of the above-described activities provided that (a) such activities that comply with law; (b) the patrons or clientele of such activities do not visit the Condominium or park automobiles or other vehicles in the Project; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside the boundaries of the Condominium; (d) no such activity increases the Association's liability or casualty insurance obligation or premium; and (e) such activities are consistent with the residential character of the Project and conform with the provisions of this Declaration.

7.3 NUISANCES. Noxious and offensive activities on the Project or on any public street abutting or visible from the Project are prohibited. All horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residential Unit and its contents, are also prohibited. Noisy, unsightly, unusually painted or smoky vehicles, large power equipment and large power tools, off-road motor vehicles or items which may unreasonably interfere with television or radio reception to any Condominium and objects which create or emit loud noises or noxious odors may not be located; used or placed in the Project or on any public street abutting or visible from the Project, or exposed to the view of other Owners without the Board's written approval. Rear staircases serving one or more Residential Units are intended solely to provide secondary ingress and egress and emergency access. Rear staircases are to be kept open, accessible, and clear of debris at all times. Under no circumstances may any items be kept, stored or displayed on the staircases. The Association is entitled to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner may (a) permit or cause anything to be done or kept on the Project or on any public street abutting or visible from the Project which may (i) increase the rate of insurance in the Project, (ii) result in the cancellation of such insurance, or (iii) obstruct or interfere with the rights of other Owners, or (b) commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all requirements of the local or state health authorities and with all other laws regarding occupancy

and use of a Condominium. Each Owner is accountable to the Association and other Owners for the conduct of persons residing in or visiting the Owner's Condominium. Any damage to the Association Property, personal property of the Association, or property of another Owner caused by such persons shall be repaired at the sole expense of the Owner of the Condominium where such persons are residing or visiting.

7.4 SIGNS. Subject to Civil Code Sections 712 and 713, no sign, advertising device or other display of any kind shall be displayed in the Project or on any public street in or abutting the Project except for the following signs, so long as they comply with law:

7.4.1 entry monuments, community identification signs, and traffic or parking control signs maintained by the Association;

7.4.2 for each Condominium, one (1) nameplate or similar Owner name or address identification sign which complies with Architectural Committee rules;

7.4.3 for each Condominium, one (1) sign advising of the existence of security services protecting a Condominium which complies with Architectural Committee rules;

7.4.4 for each Condominium, one (1) sign advertising the Condominium for sale or lease that complies with the following requirements:

(a) the sign is not larger than eighteen inches (18") by thirty inches (30") in size; and

(b) the sign is of a color and style authorized by the Architectural Committee.

7.4.5 Other signs or displays authorized by the Architectural Committee.

7.5 PARKING AND VEHICULAR RESTRICTIONS.

7.5.1 Authorized Vehicles. The following vehicles are "Authorized Vehicles" standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles and pickup trucks having a manufacturers rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Project intended for parking of motorized vehicles; however, no Owner may park a vehicle in a manner which the Association determines either restricts the passage of pedestrians or vehicles over garage areas, driveways, or sidewalks in the Project or extends beyond the limits of the space where the vehicle is parked. The Association has the power to identify additional vehicles as Authorized Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles.

7.5.2 Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": (a) recreational vehicles (e.g., motorhomes, travel trailers, camper vans and boats), (b) commercial-type vehicles (e.g., stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, and limousines), (c) buses or vans designed to accommodate more than ten (10) people, (d) vehicles having more than two (2) axles, (e) trailers, (f) inoperable vehicles or parts of

vehicles, (g) aircraft, (h) any vehicle or vehicular equipment deemed a nuisance by the Association, and (i) any, other vehicles not classified as Authorized Vehicles. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle unless the vehicle is expressly authorized in writing by the Association. The Association has the power to identify additional vehicles as Prohibited Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles.

7.5.3 General Restrictions. Subject to the restriction on, Prohibited Vehicles, all vehicles owned or operated by or in the control of an Owner or a resident of an Owner's Condominium and kept in the Project must be parked in the assigned parking spaces of that Owner to the extent of the space available; however, each Owner shall ensure that each assigned parking space accommodates at least one (1) Authorized Vehicle having four (4) or more wheels. No repair, maintenance or restoration of any vehicle may be conducted within the Project. No vehicle may be left unattended in emergency access drives. Unattended vehicles may be towed by the City or by the Association without notice and at the vehicle owner's expense.

7.5.4 Parking Regulations. The Board may establish additional regulations regarding parking areas not assigned to Condominiums, including designating "parking," "guest parking," and "no parking" areas; may establish reasonable regulations for parking areas assigned to Condominiums, and may enforce all parking and vehicle use regulations applicable to the Project. Parking spaces designated for guest parking are for temporary parking by guests and other invitees of Owners or the Association. No Owner or other resident of the Project may park or store any vehicle in a guest space. Enforcement actions the Association may take include removing violating vehicles from the Project pursuant to California Vehicle Code Section 22658.2 or other applicable laws. If the Association fails to enforce any of the parking or vehicle use regulations, the City may enforce such regulations. The Association shall have the right to require Owners to display identifying parking stickers on their vehicles.

7.5.5 Parking Spaces. The Owner of a Condominium may lease to other Owners in the Project the Exclusive Use Parking Space(s) which is a part of his or her Condominium, subject to all the requirements of this Declaration and the Rules and Regulations, as such documents may be amended from time-to-time. The conveyance of Condominium by an Owner shall terminate the lease of a parking space. Owners shall not sell or otherwise transfer their assigned Exclusive Use Parking Space.

7.5.6 Storage. No Owner may install any storage units, shelves, cabinets or other storage facilities in its Exclusive Use Parking Space(s). So long as Declarant owns any Residential Unit in the Project, this Section shall not be amended without the consent of Declarant.

7.6 ANIMAL REGULATIONS. The only animals that may be raised, bred or kept in any Residential Unit are dogs, cats, fish, birds, reptiles and other usual household pets provided that they are not kept, bred or raised for commercial purposes, in unreasonable quantities or sizes or in violation of the Declaration. As used in the Declaration, "unreasonable quantities" ordinarily means more than two (2) pets per Residential Unit; however, the Association may determine that a reasonable number in any instance may be more or less. Should a dispute arise between Owners concerning any animal an Owner is allowing to be kept, bred, or raised within the Project, such Owners must attempt to remedy the issue themselves

without involving the Association. However, the Association may prohibit the maintenance of any animal which, in the Association's sole opinion, constitutes a nuisance to any other Owner, Resident or the Association. The Board is vested with the sole discretion to label an animal a nuisance and thus may require the permanent removal of any animal from the Project which it deems a nuisance upon seven (7) days' written notice. If the Owner or occupant fails to do so, the Board may, but is not required to, remove the pet via legal action or other available remedies. Animals must be either kept in an enclosed area or on a leash held by a person capable of controlling the animal. As a condition to being allowed to keep a dog in the Project, an Owner shall provide to the Association upon request a certificate from a professional dog trainer certifying that such Owner's dog has attended obedience training classes. Each Person is liable for any unreasonable noise, for personal injury and for damage to personal property or the Common Area caused by any animals brought or kept on the Project by such Person. Each Person shall clean up after such Person's animals. Any Person who keeps any animal, insect or reptile in the Project has to indemnify, defend and hold harmless the Association, its officers, directors, contractors, agents and employees from any claim brought by any Person against the Association, its officers, directors, agents and employees for personal injuries or property damage caused by such animal, which are the sole responsibility of such Person.

7.7 ANTENNAE.

7.7.1 Authorized Antenna Requirements. Owners are prohibited from installing any antennae on the exterior of a Residential Unit for any purpose, except for an "Authorized Antenna," which may be installed so long as the proposed location for such installation is reviewed by the Architectural Committee before installation to ensure that the visibility of the Authorized Antenna is minimized with respect to other Owner. The Architectural Committee may require that the, location of the Authorized Antenna be moved so long as such review by the Architectural does not (a) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (b) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna, or (c) preclude acceptable quality reception.

7.7.2 Authorized Antenna Defined. An "Authorized Antenna" means (a) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, (b) an antenna designed to receive video programming service, including multichannel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement, (c) an antenna designed to receive television broadcast signals, and (d) a mast supporting an antenna described in items (a), (b), and (c) above.

7.7.3 Additional Restrictions. The Association may adopt additional restrictions on installation or use of an Authorized Antenna on an Owner's Condominium as a part of the Association's Rules and Regulations so long as such restrictions do not (a) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (b) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna, or (c) preclude acceptable quality reception. The Association may prohibit the installation of an Authorized Antenna if the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of managers, agents or employees of the Association and other Owners, or for any other safety related reason established by the Association.

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7.7.4 Prohibitions. The Association may also (a) prohibit an Owner from installing an Authorized Antenna on property which such Owner does not own or is not entitled to exclusively use or control under the Declaration, or (b) allow an Owner to install an antenna other than an Authorized Antenna subject to the architectural standards and review by the Architectural Committee.

7.7.5 Restatement of Legal Authority. This Section is intended to be a restatement of the authority granted to the Association under the law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna shall be interpreted to amend, modify, restate or interpret this Section.

7.8 TRASH. Trash shall be disposed of in specific areas designated by the Association. Storage of bidding materials, refuse or any other materials in the Project is prohibited. No clothing, fabrics or unsightly articles may be hung, dried or aired on the Project so that it is visible from other Residential Units or the street Articles which are unsightly may be defined in the Rules and Regulations. Exterior fires (other than cooking fires in approved barbecue equipment) are prohibited. The cost of regular trash collection and removal and trash bin rentals shall be borne by the Association and shall constitute a portion of the Common Expenses.

7.9 INSTALLATIONS.

7.9.1 Generally. This Section 7.9 does not apply to Improvements installed (a) by Declarant, (b) by the Association, or (c) with the approval of the Architectural Committee. No Owner may cause or permit any mechanic's lien to be filed against the Project for labor or materials alleged to have been furnished or delivered to the Project or any Condominium for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may, discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

7.9.2 Outside Installations. The following items are prohibited: (a) outside installations, including visible clotheslines, balcony, patio or deck covers, wiring, air conditioning equipment (except as installed by Declarant), water softeners, other machines and other Improvements, (b) Improvements protruding through the walls or roofs of buildings or secured to deck or balcony railings, and (c) other exterior additions or alterations to any Condominium, including wooden planters. Outdoor patio or lounge furniture, plants and barbecue equipment may be kept pursuant to the Rules and Regulations. The Association reserves the right to regulate the colors of such outdoor furniture, including umbrellas. Owners may keep and use a gas barbeque on the patio or deck of the Condominium. However, no charcoal barbecues are allowed in the Project. Owners shall not install or erect any outdoor lighting except for temporary holiday lighting which is allowed during the month of December.

7.9.3 Inside Installations. All window coverings that are visible from outside a Residential Unit must be white in color. The Rules and Regulations may identify other types and colors of exposed window coverings that are permitted or prohibited in the Project. No Owner may tint any window in a Residential Unit without the prior written consent of the Architectural Committee. Nothing may be done in any Condominium or in, on or to the Association Property which may impair the structural integrity of any building in the Project or which structurally

alters any such building except as otherwise expressly provided in this Declaration. No alteration, repair or replacement of wall coverings in Condominiums which may diminish the effectiveness of the sound control engineering in the buildings in the Project shall be made. All flooring in Units, including first floor Units, shall be constructed with sound control matting or other noise mitigation measures consisting of at least one-half inch cork or one-half inch rubber matting. Owners desiring to replace floor coverings in all Units must obtain the prior written consent of the Architectural Committee in order to ensure that the replacement flooring and its installation is compatible with the Architectural Committee's noise mitigation standards.

7.10 FURTHER SUBDIVISION. Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide a Condominium in any manner, including any division of such Owner's Condominium into time-share estates or time-share uses. This provision does not limit the right of an Owner to (a) rent or lease all such Owner's Condominium by a written lease or rental agreement subject to this Declaration; (b) sell such Owner's Condominium; or (c) transfer or sell any Condominium to more than one Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. Any failure by the tenant of the Condominium to comply with the Declaration constitutes a default under the lease or rental agreement. Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof for the term of this Declaration, nor may Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Project seek any such judicial partition. No Condominium in the Project may be partitioned or subdivided without the written approval of the Mortgagee of any first Mortgage on that Condominium.

7.11 DRAINAGE. No one may interfere with or alter the established drainage pattern over the Project unless adequate alternative provisions are made for proper drainage with the Board's prior written approval.

7.12 WATER SUPPLY SYSTEM. No individual water supply, sewage disposal or water softener system is permitted in any Condominium unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of any water district having jurisdiction, the City, the Board or, if appointed, Architectural Committee, and all other governmental authorities with jurisdiction.

7.13 VIEW OBSTRUCTIONS. Each Owner acknowledges that (a) there are no protected views in the Project, and no Condominium is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping or other installation of Improvements by Declarant, other Owners or Owners of other property in the vicinity of the Project may impair the view from any Condominium.

7.14 RIGHTS OF DISABLED. Subject to the provisions of Article 10, each Owner may modify, and thereafter maintain such modifications to, his or her Residential Unit and the route over the Association Property leading to the front door of his or her Residential Unit, at his sole expense, to facilitate access to his or her Residential Unit by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons in accordance with California Civil Code Section 4760. When the need for such modification(s) ceases, the Owner shall restore the Common Area to its original condition at his or her sole cost.

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7.15 WINDOW COVERINGS. All window coverings shall be white in color. Window tinting and window coverings which differ from that described above, shall be subject to the approval of the Board.

7.16 USE OF EXCLUSIVE USE PATIO AREAS. Improvements including, without limitation, potted plants, other landscaping features and furniture within the Exclusive Use Patio Areas shall be subject to the Rules and Regulations and the Architectural Guidelines and any Improvements within such areas shall require the approval of the Board, except as originally installed by Declarant Unless installed by Declarant, all plants kept in the Exclusive Use Patio Areas shall be kept in pots or planters which do not allow water to drain outside of such pot or planter, and no vegetation shall be permitted to extend beyond the railings, walls and/or other boundaries of the Exclusive Use Patio Areas, except as approved by the Board. No Owner shall change or alter the surface of any Exclusive Use Patio Areas without the consent of the Board. The use of charcoal barbeques in Patio Areas is prohibited. Further, the use of fire pits of any type is prohibited on the Patio Areas as well as within the Project. All Exclusive Use Patio Areas shall be kept in clean and orderly condition by the Owners thereof, and the Patio Areas shall not be used to store personal property except for that which is permitted by the Rules and Regulations. Owners shall not attach anything to the iron railings on the patios without the prior written approval of the Association pursuant to Article 10 of the Declaration. If anything has to be removed from the iron railing in order for the Association to perform its maintenance obligations, the cost of removal shall be the Owner's responsibility.

7.17 WATER BEDS AND LIMITATIONS ON SIZE OF AQUARIUMS. No water beds shall be permitted in any Residential Unit and no Owner can maintain in his or her Residential Unit any aquarium or other container holding thirty (30) or more gallons of water unless the approval of the Board has been obtained. Each Owner acknowledges that substantial damage to other Residential Units and/or Association Property may occur as a result of a violation of this restriction.

7.18 DECORATING BY OWNER. Each Owner shall have the right, at his or her sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim and perimeter walls of the Residential Unit, and the surfaces of the bearing walls and partitions located within the Residential Unit, subject to the Owner complying with any restrictions or limitations set forth in the Architectural Guidelines and, if such work will result in a penetration of the unfinished surfaces of the ceilings, walls or floors, obtaining the consent of the Board.

7.19 HARD SURFACE FLOORS. No Owner shall install any hard surface flooring (including without limitation tile or hardwood floors) or replace any flooring with any hard surface flooring unless the prior written approval of the Board has been obtained. As a condition to approving the installation or replacement of hard surface flooring, the Owner shall submit to the Board a construction drawing and specification clearly indicating the type of flooring to be installed and the underlayment to be provided to mitigate against impact noises such as footfalls. The drawing and specification must clearly identify all materials, their composition and thickness. At a minimum, Owners shall utilize half-inch cork or half-inch rubber mat as underlayment to minimize impact noises. Owners shall also take appropriate steps to mitigate against any cracking via the use of slip sheets or other similar products at the time of installation,

and install appropriate barriers to prevent water penetration that might damage flooring. The Association shall not be responsible for any damage to hard surface flooring regardless of the cause. Owners assume the risk in installing hard surface flooring and shall be solely responsible for any damage to the flooring caused by any source.

7.20 OUTSIDE DRYING AND LAUNDERING. No visible exterior clothesline shall be erected or maintained or hung on balconies or railings within the Project and there shall be no exterior drying or laundering of clothes or any other items on any Exclusive Use Easement Area or Association Property.

7.21 STORAGE. No Owner shall use any Exclusive Use Patio Area for storage purposes, including, without limitation, the storage of bicycles, except in, the enclosed storage closets within the Exclusive Use Patio Areas. In no event shall the storage closets in the Exclusive Use Patio Areas be used for the storage of any Hazardous Materials or any other noxious, toxic or odorous substances. Such storage areas shall be subject to additional limitations set forth in the Rules and Regulations.

7.22 TOXIC OR NOXIOUS MATTER; DISPOSAL OF TOXIC AND HAZARDOUS WASTE PRODUCTS; EROSION AND DRAINAGE CONTROL. All toxic and hazardous waste products shall be properly disposed of within the Project in compliance with applicable law including any applicable Storm Water Pollution Prevention Plan and any program established by the Association with respect thereto. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, anti-freeze, solvents, paints, paint thinners, wood preservatives and other such fluids shall not be discharged into any street or any storm drain or storm water conveyance system within the Project. Use and disposal of pesticides, fungicides, herbicides, insecticides, fertilizers and other such chemical treatments shall meet Federal, State, County and City requirements as prescribed in their respective containers. All Owners and Association shall use the "California Storm Water Best Management Practices Handbook" guidelines to eliminate or reduce surface pollutants from landscaping or other surface Improvements.

7.23 COMPLIANCE WITH LAWS, ETC. Nothing shall be done or kept in any Residential Unit or in the Association Property that might increase the rate of, or cause the cancellation of, insurance for the Project, or any portion of the Project. No Owner shall permit anything to be done or kept in his or her Condominium that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body, including any laws, ordinances or statutes pertaining to the use or storage of any hazardous, contaminated or toxic materials. No Owner shall allow furniture, furnishings, or other personalty belonging to such Owner to remain within any portion of the Association Property except portions subject to Exclusive Use Easements appurtenant to such Owner's Condominium and except as may otherwise be permitted by the Board or the Rules and Regulations. Window tinting and coverings shall be subject to the approval of the Board.

7.24 VIBRATIONS. No Owner shall attach to the walls or ceilings of any Residential Unit any fixtures or equipment which will cause vibrations or noise or other unreasonable annoyance to the Owners of the other Residential Units or to the Association Property.

7.25 SOUND ATTENUATION. In any multi-family dwelling, sound may be audible between Residential Units, particularly where the sound level of the source is sufficiently high and the background noise in an adjacent Residential Unit is very low. Each Owner shall endeavor to minimize any noise transmission from his or her Residential Unit and shall adhere to any of the Rules and Regulations which are designed to minimize noise transmission.

To minimize the noise transmission from a Residential Unit, each Owner (other than Declarant) shall adhere to the following:

(a) No holes or other penetrations shall be made in demising walls (party walls) without the permission of the Architectural Committee. No penetrations of any sort shall be made in the ceiling of any Residential Unit. Acoustical sealant shall be packed around the point of penetration of all pictures and other items hung from the wall that require nailing or screwing.

(b) To maximize the sound insulation capabilities of each Residential Unit, no Owner shall install any hard surface or wood flooring in any Residential Unit unless (i) such Owner receives the permission of the Architectural Committee, and (ii) such installation will not increase the level of sound transfer to the adjacent Residential Units above the level existing prior to such installation. The installation of any hard surface or wood flooring approved by the Architectural Committee shall comply with the provisions of this Declaration, the Rule and Regulations, and any other standards for the installation of hard surface or wood flooring promulgated by the Architectural Committee, and as set forth above in Section 7.19.

(c) No modifications shall be made to any Residential Unit which would result in a reduction in the minimum impact insulation class of the Residential Unit.

(d) Loudspeakers for music reproduction and television shall not be supported from or contact demising walls and shall be elevated from the floor by a proper acoustic platform.

(e) Pianos shall have at least ½ inch neoprene pads under the supports to minimize vibration transmission into the structure.

(f) All furniture shall sit upon rubber castors or felt pads.

7.26 RENTAL OF RESIDENTIAL UNITS. Except for Declarant, an Owner shall be entitled to rent all, but not a portion of, the Owner's Residential Unit subject to the restrictions contained in this Declaration. Any rental or leasing agreement shall be in Writing, shall provide that the lease or rental is subject to the Governing Documents and shall provide that any failure to comply, with any provision of this Declaration or the Governing Documents shall be a default under the terms of the lease agreement. A copy of this Declaration and the Rules shall be made available to each tenant or lessee by the Owner prior to occupancy. The Owners shall, at all times, be responsible for their tenant's or lessee's compliance with all of the provisions of this Declaration and the Rules. No Owner may lease a Residential Unit for hotel, motel or transient purposes or any other purpose inconsistent with the provisions of this Declaration or for a period of less than thirty (30) consecutive days. All Owners who rent their Residential Units shall submit names and contact numbers for their tenants to the management company for the Project.

7.27 ROOF ACCESS. No Owner, nor its contractors or agents, is ever permitted access to the rooftop of the Condominium Buildings.

7.28 LIMITATIONS UPON SMOKING. The Association finds that the smoking of tobacco or any other weed or plant is a nuisance and health hazard to the residents of River Colony due to the nature of the building construction and proximity in which the residents live to one another. In order to promote the health, safety and welfare of the residents, tobacco smoke, or smoke from any weed or plant, as well as the smoking of tobacco, or any weed or plant, shall be prohibited in any portion of the Common Area, and Exclusive Use Common Area including the Exclusive Use Patio Areas and Balconies, Exclusive Use Parking Spots, pool area, clubhouse, and Parking Garage. Additionally, residents who smoke within their Units must prevent smoke from drifting into the Common Area or into neighboring Units, as this will be a violation of this Section as well as a Nuisance pursuant to Section 7.3 above. Residents that smoke must take steps to prevent smoke from drifting into other Units and the Common area by utilizing, among other things, air filtration systems, sealing penetrations, and sealing vents/ducts. The Board reserves the right to eventually convert the entire Development to a smoke free Development should the Board determine, in its sole discretion, that there is good cause to do so.

7.29 BARBEQUES. Pursuant to newly adopted City of San Diego Municipal Code section 55.0101 charcoal, gas, or any other open flame barbeques are now prohibited on the patios and balconies of the Units. Residents shall only be permitted to use electric grills in these areas that do not produce an open flame.

7.30 LIMITATION OF LIABILITY. Each Owner on behalf of himself, his guests, invitees, tenants and residents by acceptance of a deed to a Unit within the Property agrees that the Association, Board, Officers, Directors, managers, employees and agents of the Association shall be released, held harmless and not be liable in damages or otherwise for any injury to person or property that may occur on the Property arising out of or relating to the acts or omissions of the Association, including negligence, but excepting any willful misconduct or gross negligence on the part of the Association.

ARTICLE 8 DISCLOSURES

Because much of the information included in this Article has been obtained from other sources (e.g., governmental and other public agencies and public records) and (b) is subject to change for reasons beyond the control of the Association, the Association does not guarantee the accuracy or completeness of any of the information in this Article. Further, the Association will not undertake to advise Persons of any changes affecting the disclosures in this Article.

8.1 NO REPRESENTATIONS OR WARRANTIES. No representations or warranties, express or implied, have been given or made by the Association or its agents in connection with the Property, its physical condition, zoning, compliance with laws; fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a condominium project, except as expressly provided in this Declaration, or as submitted to the DRE.

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8.2 SECURITY AND PRIVACY DISCLAIMER. The Association has not undertaken to provide any security or privacy for the Property or, for any Person, personal property or Condominium in the Property. Neither the vehicular nor pedestrian gates in the Property (collectively "Access Facilities"), nor the elevators, nor the elevator lobbies will prevent, unauthorized entries into the Property. Furthermore, neither the Access Facilities nor the lobbies will, be staffed, nor are they intended to provide security or, privacy for the Property or for any Person, personal property or Condominium in the Property. By accepting and recording a deed to a, Condominium in the Property, each Owner understands, acknowledges and agrees that, except as stated in this Declaration, the Association has not made any representations or warranties concerning the privacy or safety of Persons, personal property or Condominiums in the Property.

8.3 INDEMNITY. The Association shall not be liable or responsible for any damage to Improvements constructed or modified by an Owner or that is the result of Improvements constructed or modified by an Owner. Improvements should not be installed, constructed or modified without the assistance of qualified consultants.

8.4 PROPERTY LINES. The boundaries of each Condominium within the Property and the Common Area Modules and Association Property are delineated on subdivision (tract) maps, lot line adjustments, parcel maps or Condominium Plans that are public records and are available at the office of the County Recorder.

8.5 COMPLIANCE WITH REQUIREMENTS REGARDING PROJECT STORM WATER POLLUTION. Each Owner acknowledges that water that enters a storm drain flows directly to natural sources of water, including waterways, creeks, drains, rivers, lakes and that erosion has an impact on the environment. Unlike the water in the sewer system in the Residential Unit which is being purchased by Owner, which flows to wastewater treatment plants, water that enters a storm drain flows directly, without any treatment, to waterways, creeks, streams, rivers, lakes and/or oceans. Accordingly, the National Pollutant Discharge Elimination system ("NPDES"), the Federal Clean Water Act, and the policies and ordinances of the City prohibit discharging anything other than natural rain water into storm drainage systems. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, antifreeze, solvents, paints, paint thinners, wood preservatives, detergents, pet waste, paints and other such materials and pollutants shall not be discharged into any storm water conveyance systems. Owner further acknowledges that the disposal of such pollutants and materials into a storm drain system may result in significant penalties and fines and that such Owner may be responsible for any activities by Owner's contractors (e.g. painters, landscapers, etc.) who dispose of such pollutants from an Owner's Residential Unit or Exclusive Use Easement Area into a storm drain system. Owners are encouraged to consult with the City, and other governmental authorities, concerning the proper disposal of any toxic or hazardous materials. Dumping any such materials into sewers, gutters or storm drains is against the law.

8.5.1 Storm Water Pollution Prevention Best Management Practices. All landscaping shall be maintained by the Association in a manner that will prevent soil erosion and minimize sediment transport. To the extent that the Declarant has installed any erosion protection devices (e.g., sandbags) the Association shall not remove such devices unless and until all landscaping has been installed, and has been sufficiently grown so as to prevent soil erosion and transport of any sediment. All trash receptacles within the Project shall be covered and closed at

all times. The Association and the Owners shall comply with all applicable Best Management Practices ("BMP") and perform all maintenance that may be imposed by any water quality management plan that may affect the Property. The costs of the Association's portion of maintenance, if any, shall be treated as Common Expenses.

ARTICLE 9 IMPROVEMENTS

9.1 MAINTENANCE OBLIGATIONS OF OWNERS

9.1.1 Owners' Responsibilities. Subject to any provisions of the Governing Documents, each Owner's maintenance, repair and replacement responsibilities shall include the items set forth in the Maintenance, Repair and Replacement Matrix attached hereto as Exhibit "D" and incorporated by this reference as if fully set forth here. To the extent of any conflict between Exhibit "D" and the Governing Documents Exhibit "D" shall control. To the extent that any building component is not addressed in Exhibit "D," it shall be maintained, repaired and replaced consistent with California Civil Code Section 4775.

9.1.2 No Alterations. No bearing walls, ceilings, floors, other structural or utility bearing portions of the buildings housing the Residential Units nor walls enclosing any patios or decks may be pierced or otherwise altered or repaired without approval from the Architectural Committee. Each Owner shall pay when due all charges for any utility service which is separately or sub-metered to his or her Residential Unit.

9.1.3 Exclusive Use Easement Areas. Each Owner shall, at such Owner's sole expense, keep the Exclusive Use Easement Areas appurtenant to such Owner's Residential Unit clean, free from debris and reasonably protected against damage, subject to the approval of the Board. An Owner shall promptly make the necessary repairs to or replacement of the floor surface in any Exclusive Use Patio Area at his or her sole cost. However, no Owner is responsible for structural repairs so long as the need for such repairs is not caused by the willful or negligent acts of the Owner or his Invitees. Each Owner shall also maintain any internal or external telephone wiring wherever located which is designed to serve only his Residential Unit, and is entitled to reasonable access over the Association Property for such purposes, subject to reasonable limits imposed by the Association

9.1.4 Standards of Maintenance. Any such maintenance, repair or replacement of any of the foregoing which is visible from outside of a Residential Unit shall be in conformance with the existing design, aesthetics and architecture of the Project and shall be approved by the Board. Maintenance, repair and replacement of any Exclusive Use Easement Areas by an Owner shall be conducted in such a manner as shall be deemed necessary in the judgment of the Board to (i) preserve the attractive appearance thereof, (ii) protect the value thereof, (iii) comply with all third party warranties covering such areas, and (iv) to maintain the established system of drainage (as described below). Owners shall not allow any water to pond in the Exclusive Use Patio Areas located on the second and third levels of the Condominium Buildings, including, without limitation, rainwater and any water used to clean such areas.

9.1.5 Mold and Mildew. Mold is a type of fungus which occurs naturally in the environment. Residential home construction is not, and cannot be designed to exclude mold

spores. Mold growth requires moisture and this is the only mold growth factor that can be controlled in a residential setting. Moisture can occur not only from water intrusion, but also from indoor relative humidity. By minimizing moisture, an Owner can reduce or eliminate mold growth in the Owner's Residential Unit. Therefore, each Owner agrees to regularly inspect Owner's Residential Unit for plumbing leaks, water accumulation near the foundation, water intrusion through windows, doors and roofs or any signs of mold. Owner agrees that if there is any water damage or water intrusion to Owner's Residential Unit, Owner will take immediate action to prevent conditions which cause mold or mildew to develop. All Owners shall promptly notify the Association in writing of any occurrence within or around an Owner's Residential Unit which could potentially cause mold growth, including, but not limited to, spills, leaks and overflow.

9.2 FAILURE TO MAINTAIN. Every Owner must perform promptly all maintenance and repair work within his or her own Unit which if omitted would affect the Project as a whole or a part belonging to other Owners, and shall be expressly responsible for damages and liabilities that his or her failure to do may cause. If an Owner fails to (i) maintain the areas and items set forth herein and in the attached Maintenance Matrix, or (ii) make the repairs required herein in the manner described in Section 9.1.4 above, and such failure results in damage to any Association Property, the Board shall give written notice to such Owner, stating with particularity the work of maintenance or repair which the Board finds to be required, including any work required to repair damaged Association Property resulting from such failure, and requesting that the same be carried out within a period of thirty (30) days from the giving of such notice. If the Owner fails to carry out such maintenance or repair within the period specified by the notice, the Board shall cause such work to be completed and shall assess the cost thereof to such Owner as an Enforcement Assessment in accordance with the procedures set forth in this Declaration. Notwithstanding the foregoing, if an Owner fails to maintain the floor surface of an Exclusive Use Patio Area and damage to Association Property results, the Association shall perform the necessary repairs and shall assess the cost thereof to such Owner as set forth above.

9.3 MAINTENANCE OBLIGATIONS OF ASSOCIATION.

9.3.1 Maintenance of Association Property. Except for the maintenance responsibilities of Owners described in Exhibit "D", the Association shall be responsible for maintaining, repairing, replacing and otherwise caring for all Association Property as set forth in Exhibit "D" as well. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Association Property. The Association shall keep such Association Property in good condition and repair, and provide for all necessary maintenance services and cause all acts to be done which may be necessary or proper to assure the maintenance of such Association Property in good condition.

9.3.2 Termite Eradication. If the Association adopts an inspection and preventive program for the prevention and eradication of infestation by wood destroying pests and organisms, the Association, on no less than fifteen (15) nor more than thirty (30) days' notice, may require each Owner and occupants of the Owner's Residential Unit to vacate such Residential Unit to accommodate Association efforts to eradicate such infestation. The notice must state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage

caused to a Residential Unit by such entry by the Association or by any person authorized by the Association shall be repaired by the Association as a Common Expense. All costs involved in operating the inspection and preventive program as well as repairing and replacing the Association Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of wood destroying pests or organisms are a Common Expense.

(a) Additional Items. The Association shall also be responsible for maintaining any Improvements a majority of the Voting Power of the Association designates for maintenance by the Association.

(b) Charges to Owners. All costs of maintenance, repairs and replacements for the Property and shall be paid for as Common Expenses as provided in this Declaration

9.4 INSPECTION OF THE PROJECT. The Board shall require reasonable compliance with all provisions of this Declaration and cause the Property to be inspected by the Board, management or the Architectural Committee for any violation thereof.

9.5 DAMAGE BY OWNERS. Each Owner is liable to the Association for damage to the Association Property if the damage is sustained due to the act or omission of an Owner, his guests, his contractor, tenants or invitees, or any other persons deriving their right to use the Association Property from the Owner, or such Owner's respective family, tenants and guests. The Association may, after Notice and Hearing, (a) determine whether any claim shall be made on the Association's insurance, and (b) levy a Special Assessment equal to the cost of repairing the damage or any deductible paid and the increase, if any, in insurance premiums directly attributable to the damage caused by such Owner or the person for whom such Owner may be liable as described in this Declaration. If a Condominium is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with the joint owners to the contrary. After, Notice and Hearing, the cost of correcting the damage shall be a Special Assessment against such Owner.

9.6 INTERIOR WATER DAMAGE. Notwithstanding any other provision in the Governing Documents, each Owner shall be solely responsible at his sole expense for effecting the repair or replacement of any damage to any and all interior items of his Unit caused by water intrusion from a Common Area source, including but not limited to, windows, supply pipes, irrigation, roofs, Unit upgrades, and back-ups from drains and sewers. Each Owners' responsibility shall include, without limitation, any personal property, decorations, interior surfaces, floor and wall coverings, appliances, fixtures or other items within his Unit. An Owner may obtain and maintain at his sole expense such insurance as necessary to protect against any damage or loss of property due to water intrusion, including the cost of repair or replacement of damaged items for which such Owner is responsible. If water intrusion is caused by a source within a Unit and such water intrusion causes damage to another Unit or the Common Area, then the Owner of the Unit causing the water intrusion is responsible for all damages.

ARTICLE 10

ARCHITECTURAL REVIEW

10.1 MEMBERS OF COMMITTEE. The Architectural Committee shall be composed of three (3) members. The Board may appoint and remove all members of the Architectural Committee. Architectural Committee members appointed by the Board must be Owners. Board members may serve as Architectural Committee members. If the Board does not appoint such a Committee, the Board shall serve as the Committee and any reference in this Article 10 to the "Committee" shall also mean the Board.

10.2 POWERS AND DUTIES.

10.2.1 General Powers and Duties. The Architectural Committee shall consider and act upon all plans and specifications submitted for its approval, including inspection of work in progress to assure conformance with plans approved by the Architectural Committee, and shall perform such other duties as the Board assigns to it.

10.2.2 Issuance of Standards. The Architectural Committee shall issue and update its Architectural Guidelines. The Architectural Guidelines may require a fee to accompany each application for approval, or may identify additional factors which the Architectural Committee will consider in reviewing submissions. The Architectural Committee may provide that fees it imposes be uniform, or that fees be determined in any other reasonable manner. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior material and colors.

10.2.3 Retaining Consultants. The Architectural Committee has the power but not the duty to retain Persons to advise the Architectural Committee in connection with decisions.

10.3 REVIEW OF PLANS AND SPECIFICATIONS.

10.3.1 Improvements Requiring Approval. No construction installation or alteration of an Improvement, including landscaping, in the Property may be commenced until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the Architectural Committee; however, any Improvement may be repainted without Architectural Committee approval so long as the Improvement is repainted the identical color which it was last painted. Without limiting the generality of the foregoing, the provisions of this Article apply to the construction, installation and alteration of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714, the City Building Code, zoning regulations, and other laws.

10.3.2 Application Procedure. Until changed by the Board, the address for the submission of such plans and specifications is the Association's principal office. The form of application used by the Architectural Committee may include spaces allowing "Adjacent Owners" to sign or initial the application confirming that they have been notified of the application. The Architectural Committee shall establish a definition of "Adjacent Owners" in its

design guidelines. Applications will be complete and may be approved or disapproved by the Architectural Committee even if all of the Adjacent Owners do not initial the applications so long as the Applicant certifies that the Applicant requested that the Adjacent Owners sign the applications.

If the Architectural Committee receives plans and specifications it determines are not complete, the Architectural Committee may reject the application for approval. The Architectural Committee shall transmit its decision and the reasons therefor to the Owner submitting the plans and specifications ("Applicant") at the address listed in the application for approval within forty-five (45) days after the Architectural Committee receives all required materials. Any application submitted pursuant to this Section shall be deemed approved unless the Architectural Committee transmits written disapproval or a request for additional information or materials to the Applicant within forty-five (45) days after the date the Architectural Committee receives all required materials.

10.3.3 Standard for Approval. The Architectural Committee shall approve plans and specifications submitted for its approval only if it determines that (a) installation, construction or alterations of the Improvements in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, (b) the appearance of any structure affected by the proposed Improvements will be in harmony with the surrounding structures, (c) installation, construction or alteration of the proposed Improvements will not detract from the beauty, wholesomeness and attractiveness of the Property or the enjoyment thereof by the Owners, (d) maintenance of the proposed Improvements will not become burden on the Association, and (e) the proposed Improvements are consistent with this Declaration.

The Architectural Committee may condition its approval of proposals or plans and specifications for any Improvement on any of the following: (i) the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Property as a result of such work, (ii) such changes therein as it considers appropriate, (iii) the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (iv) the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (v) the Applicant's agreement to reimburse the Association for the cost of such maintenance, or (vi) the Applicant's agreement to complete the proposed work within a stated period of time and may require submission of additional plans and specifications or other information before approving or disapproving material submitted. The Applicant shall meet any review or permit requirements of the City before making any construction, installation or alterations permitted under this Declaration. The Architectural Committee's approval or disapproval shall be based solely on the considerations listed in this Article. The Architectural Committee is not responsible for reviewing, nor may its approval of any plan or design be deemed approval of: any plan or design from the standpoint of structural safety or conformance with building or other codes. The Architectural Committee may consider the impact of views from other Residential Units or Condominiums and reasonable privacy right claims as factors in reviewing, approving or disapproving any proposed landscaping, construction or other Improvement. However, neither the Declarant nor the Association warrants that any views in the Property are protected. No Residential Unit or Condominium is guaranteed the existence or unobstructed continuation of any particular view.

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10.4 MEETINGS AND ACTIONS OF THE COMMITTEE. The Architectural Committee shall meet as necessary to perform its duties. The Architectural Committee may, by resolution unanimously adopted in writing, designate an Architectural Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee except the granting of variances. In the absence of such designation, the vote or written consent of a majority of the Architectural Committee constitutes an act of the Architectural Committee. All approvals issued by the Architectural Committee must be in writing. Verbal approvals issued by the Architectural Committee or any individual Architectural Committee member are not valid, are not binding on the Association and may not be relied upon by any Person.

10.5 NO WAIVER OF FUTURE APPROVALS. The Architectural Committee's approval of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the Architectural Committee's approval does not waive any right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

10.6 COMPENSATION OF MEMBERS. The Architectural Committee's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

10.7 INSPECTION OF WORK. The Architectural Committee or its duly authorized representative may inspect any work for which approval of plans is required under this Article ("Work"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the Architectural Committee-approved plans for the Work or with the requirements of this Declaration ("Noncompliance").

10.7.1 Time Limit. The Architectural Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the Work is completed and the Architectural Committee receives written notice from the Owner that the Work is completed. If the Architectural Committee fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

10.7.2 Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days after the date of notice from the Architectural Committee, the Architectural Committee shall notify the Board in writing of such failure. After Notice and Hearing the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a Period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Association may Record a Notice of Noncompliance (if allowed by law) and commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

10.8 VARIANCES. The Architectural Committee may authorize variances from compliance with any of the architectural provisions of this Declaration including restrictions on height, size, floor area, or placement of structures, or similar restrictions, when circumstances

such as topography, natural obstructions, hardship, aesthetic, or environmental consideration require. Such variances must be evidenced in writing, must be signed by a majority of the Architectural Committee, and become effective on Recordation. The Board must approve any variance recommended by the Architectural Committee before any such variance becomes effective. If variances are granted, no violation of the covenants, conditions and restrictions in this Declaration shall be deemed to have occurred with respect to the matter for which the variances were granted. The granting of a variance does not waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision of this Declaration covered by the variance, nor does it affect the Owner's obligation to comply with all laws affecting the use of his Residential Unit.

10.9 PRE-APPROVALS. The Architectural Committee may authorize pre-approval of certain specified types of construction activities if, in the exercise of the Architectural Committee's judgment, preapproval of such types of Improvements is appropriate in carrying out the purposes of the Declaration.

10.10 APPEALS. The Board may adopt policies and procedures for the appeal of Committee decisions to the Board. If the Board has not adopted any appeals process, then all appeals shall be per Civil Code §4765. If the Board is serving as the Committee, then there shall be no right of appeal.

ARTICLE 11 INSURANCE

11.1 LIABILITY INSURANCE. The Association shall obtain and maintain comprehensive public liability insurance (including coverage for medical payments) insuring the Association, the Board and the Architectural Committee, if any, any manager, and the Owners and occupants of Condominiums and their Invitees against any liability incident to the ownership or use of the Association Property and the performance by the Association of its duties under this Declaration. Such policy shall include, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than Three Million Dollars (\$3,000,000) and shall, at all times, be in conformance with the requirements of Section 5805 of the California Civil Code. Such insurance shall cover all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, property of others and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

11.2 PROPERTY INSURANCE. The Association shall keep any Improvements within the Association Property and those portions of the Residential Units to be maintained by the Association insured against loss by fire and the risks covered by a "Bare Walls" policy or industry equivalent policy or policies of fire and casualty insurance with coverage for the full insurable replacement value of the improvements in the Common Area, excluding the Units. Insurance proceeds for Improvements in the Association Property (excluding Residential Units) and personal property owned by the Association, shall be payable to the Association. In the event of any loss, damage or destruction to the Association Property, the Association shall cause the same to be replaced; repaired or rebuilt in accordance with the provisions of this Declaration.

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THE "BARE WALLS" FIRE AND CASUALTY INSURANCE MAINTAINED BY THE ASSOCIATION DOES NOT COVER THE OWNER'S OR OCCUPANT'S PERSONAL PROPERTY, NOR ANY FURNITURE, UNIT UPGRADES, APPLIANCES, FLOOR COVERINGS, WALL COVERINGS, CABINETS, OR FIXTURES WITHIN THE UNIT AND DOES NOT COVER PERSONAL LIABILITY FOR DAMAGES OR INJURIES OCCURRING WITHIN UNIT.

11.2.1 Description of Policy Coverages. The policy shall cover the following real and personal property:

(a) Association Property. All Improvements within the Association Property including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the Condominium Building and not located within a Residential Unit; fences; monuments; lighting fixtures; exterior signs; personal property owned or maintained by the Association; and recreational facilities; but excluding land, foundations, excavations, and other items typically excluded from property insurance coverage; and

(b) Landscaping. Lawn, trees, shrubs and plants located in the Association Property.

11.2.2 Covered Cause of Loss. The policy shall provide coverage against losses caused by fire and all other hazards normally covered by a "Bare Walls" policy or its industry equivalent.

11.2.3 Primary. The policy should be primary and noncontributing with any other insurance policy covering the same loss.

11.2.4 Endorsements. The policy shall contain the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent applicable), inflation guard, ordinance or law, and replacement cost, and such other endorsements as the Board in its discretion shall elect.

11.2.5 Waiver of Subrogation. The Association waives all rights of subrogation between the Association and the Owners and their Invitees. All insurance policies obtained by the Association should include a waiver of subrogation rights against any Owner and their Invitees to the extent that such a waiver can be obtained; provided that a failure or inability of the Association to obtain such a waiver shall not defeat or impair the waiver of subrogation rights between the Association and the Owners and their Invitees set forth herein. Insurance proceeds for Improvements in the Association Property and personalty owned by the Association, shall be payable to the Association.

11.2.6 Additional Insureds. The policies, shall name as insured the Association, the Owners, the management company of the Association, if requested by the Association, and all Mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the Trustee (as defined below).

11.3 INDIVIDUAL INSURANCE. Each Owner shall also maintain property insurance with Unit improvement coverage in a reasonable amount protecting against losses to

personal property located within the Residential Unit and to any upgrades or Improvements located within the Residential Unit, and liability insurance against any liability resulting from any injury or damage occurring within the Residential Unit. The Association's "Bare Walls" insurance policy will not provide coverage for any of the following: floor coverings, wall coverings, fixtures, personal property, cabinets, Unit upgrades, and Unit improvements. Owners shall be responsible for reimbursement of the Association's deductible in the event of damage to the Common Area or to another Owner's Unit where the damage was caused by the Owner, his or her guests, invitees, licensees, etc. Additionally, Owners shall also be responsible to reimburse the Association for its deductible where damage to the Common Area occurs due to the failure of an element or item that is within the Owner's maintenance responsibility, regardless of the Owner's negligence in maintaining that element or item.

All Owners hereby waive all rights of subrogation against the Association, and any insurance maintained by an Owner must contain a waiver of subrogation rights by the insurer as to the Association provided, however, that a failure or inability of an Owner to obtain such a waiver shall not defeat or impair the waiver of subrogation rights between the Owners and the Association set forth herein. No Owner shall separately insure any property covered by the Association's property insurance policy as described above. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association to the extent of the diminution. The Association may levy a reimbursement assessment against the Owners' Condominium to collect the amount of the diminution.

Owners failing to obtain or maintain insurance as required by this Section shall be responsible for all damages to the Association, other Units, and the Owner's Unit caused by the failure to obtain or maintain said insurance. Said damages include, but are not limited to: cancellation of Association's insurance policy, increase in premiums, out of pocket payments, etc. Each Owner must provide proof of such insurance to the Association before January 31st of each year by providing management with a copy of the policy declaration page. Also, the Association may request at any time and the Owner shall provide a copy of the declaration page for the policy within ten (10) days of the request. If an Owner fails to timely provide proof of his or her insurance policy pursuant to this Section, the Association may levy a fine or other appropriate sanction against the Owner, subject to the provisions of the Association's Governing Documents. The Association shall have the power and authority to set minimum policy limits and standards that must be met in terms of an Owner's insurance policy; such limits shall be established by a Board Resolution or Rule and Regulation.

11.4 FIDELITY BOND. The Association shall maintain a fidelity bond in an amount equal to at least the estimated maximum of funds, including reserves, in the custody of the Association or a management agent at any given time during the term of the fidelity bond; provided, however, that the bond shall not be less than a sum equal to three (3) months aggregate of the Regular Assessments on all Residential Units plus reserve funds of the annual assessments naming the Association as obligee and insuring against loss by reason of the acts of the Board, officers and employees of the Association, and any management agent and its employees, whether or not such persons are compensated for their services.

11.5 WORKER'S COMPENSATION INSURANCE. The Association shall maintain worker's compensation insurance to the extent necessary to comply with all applicable

laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.

11.6 ERRORS AND OMISSIONS INSURANCE. The Association shall maintain a policy insuring the Association's officers and directors against liability for their negligent acts or omissions while acting in their capacity as officers and directors. The limits of such insurance shall be not less than One Million Dollars (\$1,000,000) for all claims arising out of a single occurrence or such other minimum amount which meets the requirements of California Civil Code Section 5800.

11.7 OTHER INSURANCE. The Association shall maintain other types of insurance as the Board determines to be necessary to fully protect the interests of the Owners.

11.8 COPIES OF POLICIES. Copies of all such insurance policies of the Association (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and open for inspection by Owners at reasonable times. All such insurance policies shall (i) provide that they shall not be cancelable or substantially modified by the insurer without first giving at least ten (10) days' prior notice in writing to the Association, and (ii) contain a waiver of subrogation by the insurer(s) against the Association and First Mortgagees, Board and Owners. In addition to the foregoing, the Association shall provide such information regarding the insurance of the Association as may be required by applicable law or under the Bylaws.

11.9 REVIEW OF INSURANCE. The Board shall review the adequacy of all insurance at least once every year. The review shall include a replacement cost appraisal of all insurable Association Property Improvements without respect to depreciation. The Board shall adjust and modify the policies to provide coverage and protection that is customarily carried by and reasonably available to prudent Owners of similar property in the area in which the Project is situated.

11.10 BOARD'S AUTHORITY TO REVISE INSURANCE COVERAGE. Subject to the provisions of Section 11.1 and the requirements regarding insurance set forth in the Bylaws, the Board shall have the power and right to deviate from the insurance requirements contained in this Article 11 in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Article 11, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available, Or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums.

11.11 TRUSTEE. All insurance proceeds payable under Sections 11.2 and 11.3, subject to the rights of Mortgagees under Section 11.12, shall be paid to the Association as trustee (the "Trustee"), to be held and expended for the benefit of the Owners, Mortgagees and

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others, as their respective interests shall appear. If repair or reconstruction is authorized, the Board shall have the duty to contract for such work as provided for in this Declaration.

11.12 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 pursuant to Sections 11.1 and 11.2. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

11.13 DISTRUBITION TO MORTGAGEES. Any Mortgagee has the option to apply insurance proceeds payable directly to an Owner on account of a Condominium as provided in this Declaration in reduction of the obligation secured by the Mortgage of such Mortgagee.

11.14 COMPLIANCE WITH FEDERAL REGULATIONS. Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by the Federal National Mortgage Association ("FNMN"). The Government National Mortgage Association ("GNMA"), and the Federal Home Loan Mortgage Corporation ("FHLMC"), so long as any of the above is a Mortgagee or an Owner of a Condominium, except to the extent such coverage is not available or has been waived in writing by the FNMA, GNMA, and FHLMC as applicable. If the FNMA or FHLMC requirements conflict, the more stringent requirements shall be met.

11.15 REOUINED WAIVER. All of the Association's insurance policies insuring against physical damage, must provide, if reasonably possible, for waiver of:

11.15.1 Subrogation of claims against the Owners and tenants of the Owners;

11.15.2 Any defense based on coinsurance;

11.15.3 Any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association;

11.15.4 Any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured;

11.15.5 Any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount-less than the replacement value of the Improvements insured;

11.15.6 Notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium;

11.15.7 Any right to require any assignment of any Mortgage to the insurer;

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11.15.8 Any denial of an Owner's claim because of negligent acts by the Association or other Owners; and

11.15.9 Prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

11.16 INSURANCE POLICY DEDUCTIBLES. The Board of Directors shall have the power, at its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

(a) Owners shall be responsible for the cost of any deductible if the damage or loss occurs to the Owners' real or personal property, or other property for which the Owner is responsible ("Owner Property").

(b) Association shall be responsible for the cost of any deductible if the damage or loss occurs to any real or personal property owned by the Association, or for which the Association is responsible ("Association Property").

(c) If the damage or loss occurs to any Owner property and any Association property or to more than one Owner's Property, the responsibility for the payment of any deductible shall be apportioned among the affected parties on the basis of the ratio of each party's cost of repair to the total costs of repair.

(d) The foregoing notwithstanding, if the damage or loss is caused by any Owner, or resident, guest, tenant or invitee of an Owner, such Owner shall be liable for the full amount of the deductible.

ARTICLE 12 DESTRUCTION OF IMPROVEMENTS AND CONDEMNATION

12.1 RESTORATION DEFINED. As used in this Article 12, the term "restore" shall mean repairing, rebuilding or reconstructing damaged Improvements to substantially the same condition and appearance in which it existed prior to fire or other casualty damage.

12.2 INSURED CASUALTY. If any Improvement required to be maintained by the Association is damaged or destroyed from a risk covered by the insurance required to be maintained by the Association, then the Association shall, to the extent permitted under existing laws, restore the Improvement to the same condition as it was in immediately prior to the damage or destruction. The Association shall proceed with the filing and adjustment of all claims arising under the existing insurance policies. The insurance proceeds shall be paid to and held by the Association or an insurance trustee selected under the provisions of Section 12.5.

12.3 RESTORATION PROCEEDS.

12.3.1 Sufficient Proceeds. The costs of restoration of the damaged Improvement shall be paid first from any insurance proceeds paid to the Association under existing insurance policies. If the insurance proceeds exceed the costs of restoration, the excess proceeds shall be

paid into reserves and held for the benefit of the Association. If the insurance proceeds are insufficient to restore the damaged Improvement, the Board shall then add to the insurance proceeds all reserve account funds designated for the repair or replacement of the damaged Improvement. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. If the aggregate amount of insurance proceeds and such reserve account funds are insufficient to pay the total costs of restoration, a Special Assessment against all Owners shall be levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in this Declaration and by law. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored.

12.3.2 Insufficient Proceeds. If the total funds available to the Association are still insufficient to restore the damaged Improvement, then the Board first shall attempt to impose an additional Special Assessment pursuant to Subsection (a) below; and second to use a plan of alternative reconstruction pursuant to Subsection (b) below. If the Members do not approve such actions, then the entire building of which the damaged Improvement is a part shall be sold pursuant to Subsection (c) below.

(a) **Additional Special Assessment.** If the total funds available to restore the damaged Improvement as provided in this Section 12.3.2 are insufficient, then a meeting of the Members shall be called for the purpose of approving a Special Assessment to make up all or a part of the deficiency ("Additional Special Assessment"). If the amount of the Additional Special Assessment approved by the Members, and the amounts available pursuant to Section 12.3.1 above, are insufficient to restore the damaged Improvement, or if no Additional Special Assessment is approved, the Association shall consider a plan of alternative reconstruction in accordance with Subsection (b).

(b) **Alternative Reconstruction.** The Board shall consider and propose plans to reconstruct the damaged Improvement making use of whatever funds are available to it pursuant to this Section 12.3.2(a) above ("Alternative Reconstruction"). All proposals shall be presented to the Owners. If two-thirds of the voting power of the Owners whose Residential Units were materially damaged, as determined by the Association ("Affected Owners") and a majority of the voting power of the Members, including the Affected Owners, agree to any plan of Alternative Reconstruction, then the Board shall contract for the reconstruction of the damaged Improvement in accordance with the plan of Alternative Reconstruction making use of whatever funds are then available to it. If no plan of Alternative Reconstruction is agreed to, then the provisions of Subsection (c) shall apply.

(c) **Sale of Building.** If the damaged Improvement is part of a Condominium Building ("Damaged Building"), the damage renders one or more of the Condominiums uninhabitable, and the Improvements will not be restored in accordance with the provisions of Subsections (a), (b) and (c) above, the Board, as the attorney-in-fact for each Owner of a Condominium in the Damaged Building, shall be empowered to sell the Damaged Building, including all Residential Units therein, in their then present condition, on terms to be determined by the Board, provided that the Board receives adequate assurances that the purchaser shall, and has the financial capability to: (i) restore the Damaged Building (either by renovation or removal and rebuilding), (ii) remove the Damaged Building (including foundations), grade the Project, and appropriately landscape or otherwise improve the Project, or

(iii) perform any combination of the foregoing. Any work to be performed by the purchaser with respect to any of the foregoing shall be subject to the provisions of Article 12 and the provisions of the Declaration. In lieu of selling the Damaged Building to a third Person, the Association may purchase the Condominium Building on satisfaction of the following conditions:

(i) Members holding 67% of the total voting power (including the votes allocated to the Condominiums within the Damaged Building) approve of the purchase;

(ii) the purchase price is the fair market value of the Damaged Building as of the date of sale as determined by an appraisal made by a qualified and independent real estate appraiser;

(iii) any special assessment needed to fund the purchase price shall be levied against all Condominiums, including the Condominiums within the Damaged Building;

(iv) the Association has an adequate source of funds to repair, renovate or rebuild all or a portion of the Damaged Building and/or to remove and appropriately landscape the remaining portions of the Project. For this purpose, no Condominium that is being purchased shall be subject to any assessment intended to be used as a source of such funds.

(d) Distribution of Proceeds. The proceeds from the sale, together with the insurance proceeds received and any reserve funds allocated to the Damaged Building, after deducting therefrom the Association's sale expenses, including commissions, title and recording fees, and legal costs; shall be distributed among the Owners of Condominiums in the Damaged Building and their respective Mortgagees, in proportion to the respective fair market values of these Condominiums immediately prior to the date of the event causing the damage as determined by an independent appraisal made by a qualified real estate appraiser selected by the Board.

If a Damaged Building is removed and not restored so that the new building contains the same number of Condominiums as the removed building, the Board shall take appropriate steps to adjust the property interests of the remaining Condominium Owners and to effect such amendments as may be necessary to the Declaration, the Condominium Plan and the Map to reflect the revised property interests and other related changes.

12.4 REBUILDING CONTRACT. If there is a determination to restore, the Board or its authorized representative shall obtain bids from at least two (2) licensed and reputable contractors and shall accept the repair and reconstruction work from whomever the Board determines to be in the best interests of the Members. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the insurance proceeds shall be disbursed to the contractor according to the terms of the contract. The Board shall take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date. Such construction shall be commenced no later than one hundred eighty (180) days after the event requiring reconstruction and shall thereafter be diligently prosecuted to completion. Such construction shall return the Project to substantially the same condition and appearance in which it existed prior to the damage or destruction.

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12.5 INSURANCE TRUSTEE. All property insurance proceeds payable to the Association under the policy described in Section 12.2, subject to the rights of Mortgagees under Article 15, may be paid to a trustee as designated by the Board to be held and expended for the benefit of the Owners and Mortgagees, as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the country in which the project is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Association will have the duty to contract for such work: as provided for in this Declaration.

12.6 AUTHORITY TO EFFECT CHANGES. If any building or portion thereof containing Condominiums is damaged or destroyed or in need of renovation or rehabilitation and the building is repaired or reconstructed, the Condominium Building may be repaired or reconstructed in a manner that alters the boundaries of the Residential Units or Association Property provided the following conditions are satisfied.

(i) the alteration has been approved by the Board of Directors, by Members holding a majority of the total voting power of the Association, and by the holders of any First Mortgages to the extent required herein;

(ii) the Board of Directors has determined that the alteration is necessary in order to comply with current building code requirements, to meet current building construction standards and procedures, or to improve the conditions and quality of the Condominium Building;

(iii) the alteration does not materially change the location of any Residential Unit or materially reduce the size of any Residential Unit without the consent of the Owner and the holders of any First Mortgages thereon. For purposes herein, a material reduction in the size of the Residential Unit shall mean any alteration that increases or decreases the square footage of the interior floor space of the Residential Unit by more than 10% from that which was originally constructed by Declarant;

(iv) the Board of Directors has determined that any alteration that will relocate or reduce the Association Property will not unreasonably interfere with the rights of the Owners and occupants to use and enjoy the Association Property;

(v) the Condominium Plan is amended to reflect the alteration to the Residential Units or Association Property.

Each Owner irrevocably appoints the Association as that Owner's attorney-in-fact (except for the Secretary, U.S. Department of Veterans' Affairs) and irrevocably grants to the Association the full power in the name of the Owner to effect any alteration to any Residential Unit or Association Property as authorized above, including, but not limited to, the execution, delivery and recordation of any Condominium Plan amendments, deeds or other instruments.

12.7 MINOR REPAIR AND RECONSTRUCTION. The Board shall have the duty to repair and reconstruct Improvements, without the consent of Members and irrespective of the amount of available insurance proceeds, in all cases or partial destruction when the estimated cost of repair and reconstruction does not exceed five percent (5%) of the annual budgeted gross

expenses of the Association. The Board is expressly empowered to levy a Reconstruction Assessment for the cost of repairing and reconstructing improvements to the extent insurance proceeds are unavailable, such assessment to be levied as described above (but without the consent or approval of Members, despite any contrary provisions in this Declaration).

12.8 DAMAGE OR DESTRUCTION TO A UNIT. If there is damage or destruction to any Residential Unit, the Owner thereof shall, at its own cost and expense, perform interior repair and restoration which shall be completed as promptly as practical and in a lawful and workmanlike manner, and, to the extent required under Article 10 and the Architectural Guidelines, in accordance with plans approved by the Board as provided in Article 10 herein.

12.9 CONDEMNATION OF ASSOCIATION PROPERTY. If any portion of the Association Property is taken by condemnation, eminent domain or any proceeding in lieu thereof, then the Owners of the Association Property, and their Mortgagees as their respective interests then appear, shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds would be distributed pursuant to the provisions above; provided, however, that should it be determined to repair or rebuild any portion of the Association Property, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in this Article for repairing damaged or destroyed portions of the Association Property. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in this Article for determining whether to rebuild or repair following damage or destruction.

12.10 INTERIOR DAMAGE. With the exception of any casualty or damage covered by insurance kept by the Association, restoration and repair of any damage to the interior of any individual Residential Unit, including all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Residential Unit so damaged. If a determination to rebuild the Properties after partial or total destruction is made, as provided in this Article, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Design Review Architectural Committee as provided in this Declaration.

ARTICLE 13 PARTITION AND SEVERABILITY OF INTERESTS

13.1 SUSPENSION. The right of partition is suspended pursuant to California Civil Code Section 4610 as to the Project. Nothing in this Declaration shall prevent partition or division of interest between joint or, common owners of any Condominium.

13.2 PARTITION. Notwithstanding the foregoing, judicial partition shall be permitted as set forth below.

13.2.1 No Partition. There shall be no termination of the Project and the Common Area Modules of the Project shall remain undivided with no judicial partition thereof except:

(a) With the approval after substantial destruction or condemnation of the Project occurs, of at least sixty-seven percent (67%) of the total voting power of the Association and approval by Eligible Holders who represent at least fifty-one percent (51%) of the Condominiums that are subject to Mortgages held by Eligible Holders; or

(b) With the approval, for reasons other than substantial destruction or condemnation of the Project, of at least sixty-seven percent (67%) of the total voting power of the Association and approval by Eligible Holders who represent at least sixty-seven percent (67%) of the Condominiums that are subject to Mortgages held by Eligible Holders; or

(c) As allowed by California law, including Civil Code Section 4610, as the same may be amended from time to time An Eligible Holder who receives a written request to give such approvals who does not deliver or mail the requesting party a negative response within thirty (30) days shall be deemed to have given such approval provided such written request was delivered by certified mail or registered mail with "return receipt" requested. Nothing in this Section shall be deemed to prohibit partition of a cotenancy in a Condominium.

13.3 DISTRIBUTION OF PROCEEDS. Proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as specified or apportioned in the judgment of partition, or if not so specified, as their interests appear in proportion to the fair market value of the Residential Units at the date of the sale as determined by an independent appraisal conducted by a member of the American Institute of Real Estate Appraisers with the designation of a Member Appraisal Institute (MAL) or if such institute no longer exists, an appraiser of comparable experience.

13.4 POWER OF ATTORNEY. Each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Project, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Project may be had under California Civil Code Section 4610. The power of attorney shall:

13.4.1 Be binding on all Owners, whether they assume the obligations under this, Declaration or not;

13.4.2 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 seventy-five percent (75%) of the Owners and seventy-five percent (75%) of all Institutional Mortgagees; and

13.4.3 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 the authority of this Declaration. This certificate shall be conclusive evidence of proper exercise in favor of any person relying on it in good faith; provided, however, that said power of attorney shall not apply to the Administrator of Veterans' Affairs.

13.5 PROHIBITION AGAINST SEVERANCE. An Owner shall not be entitled to sever such Owner's Residential Unit from such Owner's membership in the Association, and shall not be entitled to sever such Owner's Residential Unit and such Owner's membership from

such Owner's undivided interest in the Common Area and Association Property for any purpose. None of the component interests in a Condominium can be severally sold, conveyed, encumbered, hypothecated, or otherwise dealt with, and any violation of attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to such Owner's Residential Unit over the Association Property from such Owner's Condominium, and any attempt to do so shall be void. It is intended hereby to restrict severability pursuant to California Civil Code Section 4630. Notwithstanding the foregoing, the suspension of such right of severability contained herein shall not extend beyond the period set forth in Section 13.2 in which the right to partition the Project is suspended thereunder.

13.6 CONVEYANCES. After the initial sales of the Condominiums, any conveyance of a Condominium by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this Section shall preclude the Owner of any Condominium from creating an estate for life or years, cotenancy or joint tenancy in the ownership of the Condominium with, any other person or persons.

ARTICLE 14 RIGHTS OF MORTGAGEES

14.1 CONFLICT. Notwithstanding any contrary provision contained elsewhere in the Governing Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees as specified herein.

14.2 LIABILITY FOR UNPAID ASSESSMENTS. Any Institutional Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the First Mortgage (except upon a voluntary conveyance to the Institutional Mortgagee via deed in lieu of foreclosure) or by foreclosure of the First Mortgage shall take the property free of any claims for unpaid assessments or charges against the Condominium which accrue prior to the acquisition of title to the Condominium by the Institutional Mortgagee.

14.3 PAYMENT OF TAXES AND INSURANCE. All taxes, assessments and charges that may become a lien prior to the lien of any First Mortgagee shall be levied only to the individual condominium and not the Project as a whole. Institutional Mortgagees may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against any Association Property or Improvements situated thereon and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Association Property. Institutional Mortgagees making such payments shall be owed immediate reimbursement for such expenditures from the Association and, on demand, the Association shall execute an agreement in favor of all Institutional Mortgagees reflecting entitlement to reimbursement.

14.4 NOTICE TO ELIGIBLE HOLDERS. An Eligible Holder, upon written request to the Association, is entitled to timely written notice of the following events:

14.4.1 Any condemnation loss or casualty loss that affects either a material portion of the Project or the Residential Unit on which the Eligible Holder holds a First Mortgage;

14.4.2 Any delinquency in the payment of assessments or charges owed by the Owner of a Condominium that is subject to a First Mortgage held by the Eligible Holder if the delinquency is not cured within sixty (60) days after its due date;

14.4.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

14.4.4 Any proposal to take any action specified in this Article or in the Article hereof entitled "Destruction of Improvements and Condemnation;"

14.4.5 Any default by the Owner-Mortgagor of a Condominium that is subject to First Mortgage held by the Eligible Holder in the performance of his or her obligations, under this Declaration or the Bylaws which is not cured within sixty (60) days; or

14.4.6 Any proposed action that requires the consent of a specified percentage of the Eligible Holders.

14.5 RESERVE FUND. The Association shall maintain as a reserve fund a reserve account fund sufficient to pay for maintenance, repair and periodic replacement of the Association Property Improvements that the Association is obligated to repair or replace.

14.6 INSPECTION OF BOOKS AND RECORDS. Upon request, any Owner or First Mortgagee shall be entitled to inspect the books, records and financial statements of the Association, the Governing Documents, and any amendments thereto during normal business hours or under other reasonable circumstances.

14.7 FINANCIAL STATEMENTS. The Association, at its expense, shall prepare an audited financial statement or financial review (at the option of the Board of Directors) for the immediately preceding fiscal year and furnish the same within one hundred twenty (120) days after written request from any Institutional Mortgagee.

14.8 VOTING RIGHTS OF MORTGAGEES. For purpose of this Section a Mortgagee shall be entitled to one (1) vote for each First Mortgage owned.

14.9 ACTIONS REQUIRING ELIGIBLE HOLDER APPROVAL. Unless at least sixty-seven percent (67%) of the Eligible Holders have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission, seek to abandon or terminate the Project;
- (b) By act or omission abandon, partition, subdivide, encumber, sell or transfer any property or improvements owned, directly or indirectly, by the Association for the benefit of the Condominiums and the Owners. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Project by the Association and Owners shall not be deemed a transfer within the meaning of this Section);
- (c) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of

Residential Units the exterior maintenance of Residential Units, or the upkeep of lawns, plantings or other landscaping in the Project;

(d) By act or omission change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner;

(e) Partition or subdivide a Condominium;

(f) Fail to maintain fire and extended coverage insurance on insurable portions of the Association Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost; and/or

(g) Use hazard insurance proceeds for losses to any property or Improvements owned by the Association other than for the repair, replacement or reconstruction of such property and Improvements.

14.10 VOTES FOR TERMINATION OF PROJECT. Any election to terminate the legal status of the Project as a Condominium project shall require:

14.10.1 The approval of at least fifty-one percent (51%) of the Eligible Holders and sixty-seven percent (67%) of the total voting power of the Association if the election to terminate the legal status is a result of substantial destruction or a substantial taking in condemnation of the property within the Project; or

14.10.2 The approval of sixty-seven percent (67%) of the total voting power of the Association and sixty-seven percent (67%) of the Eligible Holders, if Section 14.10.1 is not applicable.

14.11 CONDEMNATION OR DESTRUCTION. In the event a portion of the Project is either condemned or destroyed or damaged by a hazard that is insured against, restoration or repair shall be performed substantially in accordance with the provisions of the Declaration and the original plans and specifications for the Project unless fifty-one percent (51%) of the Eligible Holders approve the taking of other action by the Association.

14.12 SELF-MANAGEMENT. The vote or approval by written ballot of sixty-seven percent (67%) of the total voting power of the Association and fifty-one percent (51%) of the Eligible Holders shall be required to assume self-management of the Project.

14.13 MORTGAGEE PROTECTION. A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any First Mortgage made in good faith and for value as to any Condominium in the Project; provided, however, that the conditions contained in this Declaration shall be binding upon and effective against any Owner of a Condominium if the Condominium is acquired by foreclosure, trustee's sale or otherwise.

14.14 SUBORDINATION. The lien of the assessments, including interest, costs (including attorneys' fees), and late charges subject to the limitations of California Civil Code Section 5680, provided for herein shall be subordinate to the lien of any First Mortgage with

respect to any Condominium. Sale or transfer of any Condominium shall not affect the assessment lien.

14.15 DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS.

No Owner, or any other party, shall have priority over any right of Institutional Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominiums or Association Property. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Project is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected Institutional Mortgagees naming the Mortgagees, as their interests may appear.

14.16 VOTING RIGHTS ON DEFAULT. In case of default by any Owner in any payment due under the terms of any Institutional Mortgage encumbering such Owner's Condominium, or the promissory note secured by the Mortgage, the Mortgagee or his representative, on giving written notice to such defaulting Owner or Owners, and placing of record a notice of default, is hereby granted a proxy and can exercise the voting rights of such defaulting Owner attributable to such Condominium at any regular or special meeting of the Members held such time as such default may continue.

14.17 FORECLOSURE. If any Condominium is encumbered by a First Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments, shall not affect or impair the lien of the First Mortgage. On foreclosure of the Mortgage, the lien for assessments, or installments that has accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Condominium free of the lien for assessments, or installments, that has accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Condominium. The subsequently accrued assessments or other charges may include previously unpaid assessments provided all Owners, including the foreclosure-purchaser, and his successors and assigns are required to pay their proportionate share as provided in this Section.

14.18 NON-CURABLE BREACH. Any Mortgagee who acquires title to a Condominium by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or that is not practical or feasible to cure.

14.19 LOAN TO FACILITATE. Any Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by an assignment-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article.

14.20 APPEARANCE AT MEETINGS. Because of its financial interest in the Project, any Mortgagee may appear (but cannot vote except as may be provided for herein) at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made the subject of remedial proceedings or assessments.

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14.21 RIGHT TO FURNISH INFORMATION. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

14.22 INAPPLICABILITY OF RIGHT OF FIRST REFUSAL TO MORTGAGEE. No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium shall be granted to the Association without the written consent of any Mortgagee of the Condominium. Any right of first refusal or option to purchase a Condominium that may be granted to the Association (or other person, firm or entity) shall not apply to any conveyance or transfer of title to such Condominium, whether voluntary or involuntary, to a Mortgagee that acquires title to or Ownership of the Condominium pursuant to the remedies provided in its Mortgage or by reason of foreclosure of the Mortgage or deed or assignment in lieu of foreclosure.

ARTICLE 15 AMENDMENTS

15.1 AMENDMENTS. The Declaration may be amended at any time and from time to time provided that the vote or approval by written ballot of at least thirty-three and one-third percent (33 1/3%) of the total voting power of the Association is obtained. Such amendment shall become effective upon the recording of a Certificate of Amendment signed and acknowledged by the President or Vice President of the Association and the Secretary or Assistant Secretary of the Association certifying that such votes or approval by written ballot have been obtained. For the purposes of recording such instrument, the President or Vice-President and Secretary or Assistant Secretary of the Association are hereby granted an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying and executing and recording said amendment with the Office of the County Recorder.

15.2 RELIANCE ON AMENDMENTS. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

ARTICLE 16 ENFORCEMENT

16.1 TERM. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association or any Member, their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by sixty-seven percent (67%) of the then Members has been recorded, at least one (1) year prior to the end of any such period in the manner required for a conveyance of real property, in which it is agreed that this Declaration shall terminate at the end of the then applicable term.

16.2 ENFORCEMENT AND NON-WAIVER.

16.2.1 Rights of Enforcement of Governing Documents. The Association or any Owner shall have a right of action against any Owner, and any Owner shall have a right of action against the Association, to enforce by proceedings at law or in equity, all covenants,

conditions, and restrictions, now or hereafter imposed by the provisions of the Governing Documents or any amendment thereto, including the right to prevent the violation of such covenants, conditions or reservations and the right to recover damages or other remedies for such violation except that Owners shall not have any right of enforcement concerning Assessment liens. The Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the Rules and Regulations, unless the Association refuses or is unable to effectuate such enforcement, in which case any Owner who otherwise has standing shall have the right to undertake such enforcement. Failure of the Association or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

16.2.2 Procedure for Enforcement. Notwithstanding anything to the contrary set forth in Section 16.2.1, in enforcing any action under the Governing Documents for injunctive relief, declaratory relief and/or monetary damages, the parties shall comply with the provisions of California Civil Code Section 5925 et seq. and any successor statutes or laws. The Board shall annually provide to the Members a summary of the provisions of California Civil Code Section 5925 et seq. and any successor statutes or laws, which shall include the language required and shall be delivered in the manner provided in Civil Code Section 5310.

ARTICLE 17 GENERAL PROVISIONS

17.1 HEADINGS. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

17.2 ARTICLES, SECTIONS AND EXHIBITS. The Article and Section headings have been inserted for convenience only, and may not be considered in resolving questions of interpretation or Construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration, all attached to this Declaration are incorporated herein by this reference.

17.3 PRIORITIES AND INCONSISTENCIES. If there are conflicts or inconsistencies between this Declaration and the Articles, Bylaws, Rules and Regulations, a Supplemental Declaration, or Condominium Plan, then the provisions of this Declaration shall prevail.

17.4 STATUTORY REFERENCES. All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

17.5 SEVERABILITY. The provisions of this Declaration shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any provision or provisions of it shall not invalidate any other provisions.

17.6 CUMULATIVE REMEDIES. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver.

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17.7 VIOLATIONS AS NUISANCE. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any Member of the Board, the manager, or the Association.

17.8 NO RACIAL RESTRICTION. No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his or her Residential Unit on the basis of race, sex, color or creed.

17.9 LIBERAL CONSTRUCTION. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

17.10 NOTIFICATION OF SALE OF CONDOMINIUM. Concurrently with the consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and his or her Mortgagee and transferor, the common address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all Communications required or permitted to be given by the Association, the board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to his or her transferor if the Board has received no notice of transfer as above provided, by certified mail return receipt requested, at the mailing address above specified. Notices, shall also be deemed received twenty-four (24) hours after being sent by overnight courier or upon delivery if delivered personally to any occupant of a Condominium over the age of twelve (12) years.

17.11 NUMBER, GENDER. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

17.12 EXHIBITS. All exhibits referred to in this Declaration are attached to this Declaration and incorporated by reference.

17.13 BINDING EFFECT. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

17.14 EFFECT OF DECLARATION. This Fourth Restated Declaration amends and supersedes in its entirety the Original Declaration and Amended and Restated Declaration as well as any amendments, whether recorded or unrecorded.

17.15 EASEMENTS RESERVED AND GRANTED. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in the first deed by Declarant to any Condominium.

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17.16 RESIDENT RELOCATION. Notwithstanding any other portion of this Fourth Restated Declaration, no Owner or Resident shall be entitled to the payment of or reimbursement for relocation costs of any kind if they are forced to vacate their Unit due to damage or so that repairs of any kind may be made to the Unit, Exclusive Use Common Area and/or Common Area, regardless of the cause of the damage or work.

17.17 DRAFTING ERRORS. The Board of Directors for the Association shall have the power, via unanimous vote of the Board, to unilaterally further amend this Declaration in order to address any typographical or clerical errors associated with this restatement process and recordation of this Fourth Restated Declaration. This provision shall not be valid after twenty-four (24) months from the date of recordation of this Declaration with the County of San Diego.

17.18 CONFLICTS. If there are conflicts or inconsistencies between the provisions of California law, this Declaration, the Articles of Incorporation, the Bylaws, and the Rules and Regulations, the provisions of California law, the Declaration, the Articles of Incorporation, the Bylaws, and the Rules and Regulations (in that order) shall prevail.

CERTIFICATION AND CERTIFICATE OF AMENDMENT

(California Civil Code Section 4270)

We, the undersigned, do hereby certify the following:

1. That we are the duly elected and acting President and Secretary of River Colony Owners Association, a California nonprofit mutual benefit corporation;
2. That we have counted the ballots of the Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions for River Colony Owners Association, and they conform and are of the necessary number for amending said Declaration pursuant to Article 15, Section 15.1 of the Declaration.

Executed this 18 day of Nov., 2016, in the City of San Diego, County of San Diego, State of California.

RIVER COLONY OWNERS ASSOCIATION
a California nonprofit mutual benefit corporation

By: Michael Sabella

Print Name: MICHAEL SABELLA

Title: BOARD President

By: Donald Porter

Print Name: Donald Porter

Title: Board Secretary

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

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

State of California) ss.

County of San Diego)

On Nov. 18, 2016, before me, CHERYL COOK SINGLETON, NOTARY PUBLIC,
 Date Here Insert Name and Title of the Officer
 personally appeared MICHAEL SABERHA,
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature Cheryl Cook Singleton
 Signature of Notary Public

Notary Seal



Description of Attached Document: _____

Type of Document: _____

Document Date: _____

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

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

State of California) ss.

County of San Diego)

On Nov. 18, 2014, before me, CHERYL COOK SINGLETON, Notary Public
Date Here Insert Name and Title of the Officer
 personally appeared DONALD PORTER,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature Cheryl Cook Singleton
Signature of Notary Public

Notary Seal

Description of Attached Document: _____

Type of Document: _____

Document Date: _____

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EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

PROPERTY:

PARCEL 2 OF PARCEL MAP NO. 15299, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON JULY 15, 1998 ("PARCEL MAP") INCLUDING ALL RESIDENTIAL MODULES, COMMON AREA MODULES, GARAGE MODULES AND FACILITIES MODULE SHOWN ON THAT CERTAIN AMENDED RIVERSIDE COLONY CONDOMINIUMS - CONDOMINIUM PLAN RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 4, 2002 AS DOCUMENT NO. 0753689 ("CONDOMINIUM PLAN").

ASSOCIATION PROPERTY:

PARCEL 2 OF PARCEL MAP, EXCEPTING THEREFROM RESIDENTIAL UNITS WITHIN RESIDENTIAL MODULE 1, AS SHOWN ON THE CONDOMINIUM PLAN DESCRIBED ABOVE AND FURTHER EXCEPTING THEREFROM RESIDENTIAL MODULES 2 THROUGH 6, COMMON AREA MODULES 1 THROUGH 6, GARAGE MODULES 1 AND 2, AND FACILITIES MODULE.

EXHIBIT "B"

LEGAL DESCRIPTION OF THE ADDITIONAL PROPERTY

RESIDENTIAL MODULES 2 THROUGH 6, COMMON AREA MODULES 2 THROUGH 6, GARAGE MODULES 1 AND 2 AND THE FACILITIES MODULE, AS SHOWN ON THAT CERTAIN AMENDED RIVER COLONY CONDOMINIUMS – CONDOMINIUM PLAN RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DEIGO COUNTY ON SEPTEMBER 4, 2002 AS DOCUMENT NO. 0753689.

EXHIBIT "C"

ALLOCATION OF ASSESSMENTS TO CONDOMINIUMS

Unit Category	Percentage of Allocable Share of Variable Expenses per Unit Category by Phase +						Allocable Share of Variable Expenses ++	Uniform Expenses	Total Monthly Assessment
Phases	1	2	3	4	5	6	AT BUILDOUT		
A*	1.69 %	1.71%	1.87%	2.40%	4.71%	2.44%	A	X	A + X
B**	1.67%	1.73%	1.90%	2.00%	1.75%	1.83%	B	X	A + X
C***	1.50%	1.50%	2.67%	1.50%	0.72%	0.00%	C	X	A + X
Total Monthly Assessment									Y

- * Unit Category A includes those Residential Units labeled as Unit "A" on the Condominium Plan
- ** Unit Category B includes those Residential Units labeled as Unit "B" on the Condominium Plan
- *** Unit Category C includes those Residential Units labeled as Unit "C" on the Condominium Plan
- + An Owner's percentage of allocable share of variable expenses and its allocable share of variable expenses may change in future Phases, and the figures set forth above are subject to modification. By setting forth the figured herein, Declarant makes no representation that such figures will remain constant in the future.
- ++ Variable expenses include (i) insurance, (ii) domestic gas, if common, (iii) domestic water, if common, (iv) painting, and (v) roofing

EXHIBIT "D"

RIVER COLONY OWNERS ASSOCIATION ASSOCIATION/OWNER MAINTENANCE, REPAIR & REPLACEMENT MATRIX

The following is a listing of the items within the Project, the maintenance, repair, and replacement duty for which Owners and the Association are responsible in accordance with the Fourth Restated Declaration of Covenants, Conditions, and Restrictions. This does not eliminate an Owner's responsibility to request and receive architectural approval pursuant to the Governing Documents. To the extent this Matrix is inconsistent with any provisions in the Governing Documents, the matrix shall prevail and control.

COMPONENT(S)	OWNER	ASSOC
Air Conditioning System - Each Unit	X	
Appliances - Built-in	X	
Appliances - Free Standing	X	
Attic Space, excluding insulation		X
Bathtub Waste and Overflow	X	
Bearing Walls, studs, frames, tie-downs, other structural items (excluding drywall)		X
Building Exterior Surfaces		X
Building Foundations / Slabs		X
Building Interiors for Units	X	
Cabinets - in Units	X	
Cable TV Wiring	X	
Carpeting - in Units	X	
Caulking - Exterior		X
Caulking - Interior	X	
Ceilings	X	
Common Area Improvements and Facilities		X
Common Area Flashing/Waterproofing (excluding Exclusive Use Common Areas)		X
Common Area Iron Railings (excluding Exclusive Use Common Area)		X
Doorbell - Exterior Components/Button Switch	X	

COMPONENT(S)	OWNER	ASSOC
Doorbell - Interior Components; Wiring	X	
Doors - Knobs & Bells	X	
Doors - Entry - Frame & Door	X	
Doors - Entry - Locks and Hardware	X	
Doors - Entry - Painting - Exterior Surface		X
Doors - Entry - Painting - Interior Surface	X	
Doors - Entry - Weather Stripping/Waterproofing	X	
Doors - Garage		X
Doors - Interior	X	
Doors, Screen/Storm/Security	X	
Doors, Sliding Glass / French Doors	X	
Doors, Sliding Glass / French Door - Frame and Tracks	X	
Doors, Sliding Glass - Screen	X	
Drainage Systems (e.g., ditches, catch basins in Common Area)		X
Drains - Bathtubs, Showers, Sinks (including gooseneck) – to the point each component ties into pipe servicing multiple units.	X	
Drains - Patio/Deck/Balcony	X	
Driveway - Concrete & Asphalt Surfaces		X
Driveway - Cleanliness		X
Dryer Vents	X	
Drywall - Damage Repairs (e.g., cracks, inside minor localized water damage, dents, holes, etc.)	X	
Drywall - Interior - Replace (except where replacement is necessitated by an Association repair obligation)	X	
Electrical Panel/Circuit Breakers/Interior	X	
Electrical Switches, Sockets, Wall Plates - Interior	X	
Electrical Wiring - Interior - to the point that it joins the electric meter owned by the electric company.	X	
Exhaust Fans	X	
Exterior Lighting Fixtures Attached to Unit		X

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COMPONENT(S)	OWNER	ASSOC
Exterior Lighting Fixtures (Common Area)		X
Fences - Common Area if installed by Association		X
Fireplaces - Chimney - Exterior & Spark Arrestor		X
Fireplace - Chimney Flue	X	
Fireplace - Flue - Interior – firebox (Cleaning)	X	
Fireplace - Fire Brick/Box	X	
Fireplace - Mantle, Trim and Facing	X	
Floor Coverings - Carpet, Vinyl and Tile	X	
Floor Coverings - Common Area		X
Garbage Disposal	X	
Glass - Recreation Area/Facilities		X
Glass - Unit Windows/Doors	X	
Gutters & Downspouts for Unit		X
Heating equipment and systems servicing the Unit	X	
Improvement (Owner Installed)	X	
Insulation - Unit (lead bearing walls and attic)		X
Insulation - Unit (Non lead bearing walls)	X	
Interior Faucets – Unit	X	
Interior Fixtures – Unit	X	
Interior Fixtures - Common Area/Facilities		X
Interior Lighting Fixtures – Unit	X	
Interior Surfaces of Unit, including interior non-bearing walls and surfaces of interior bearing walls as well as any damage caused by water or other source.	X	
Landscaping – Exclusive Use Areas (unless obligation has been assumed by Owner)		X
Landscaping - Common Area; Greenbelt		X
Lighting Fixtures - Common Areas and at Unit Entry.		X
Lighting Fixtures – Patio / Balcony and closet	X	
Painting - Interior	X	

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COMPONENT(S)	OWNER	ASSOC
Painting - Exterior		X
Patio/Balcony Deck Surface	X	
Patio/Balcony Deck – Deck Flashing and Waterproofing	X	
Patio/Balcony Deck Railings and Stucco Walls - Painting (Inside/Outside Surfaces)		X
Patio/Balcony Deck Railings and Stucco Walls – Replacement or Painting	X	
Patio/Balcony plywood substrate and framing	X	
Patio/Balcony Closet Door, Casing and Stripping	X	
Plumbing drains and drainage systems serving the Unit, to the point where they join a line that services multiple Units	X	
Plumbing Fixtures/Trim - Interior (Toilets/Tubs/Sinks/Faucets, Etc.)	X	
Plumbing Lines – Servicing a single Unit regardless of location	X	
Plumbing Lines – Servicing multiple Units		X
Pool, Pool Building, Jacuzzi, Equipment		X
Pressure Regulators		X
Recreation Area		X
Roof Decking/Sheathing		X
Roof Flashing & Other Roofing Components		X
Roof Shingles/Tiles		X
Roof Underlayment		X
Roof Vents		X
Sewer Backups – Inside Unit	X	
Sewer Lines - Common Use		X
Sewer Lines - Single Use	X	
Sidewalks - Common Areas		X
Slab, Concrete (excluding patios and balconies)		X
Sliding Patio Door Flashing/Waterproofing	X	
Sliding Patio Door Frames & Tracks	X	

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COMPONENT(S)	OWNER	ASSOC
Sliding Patio Door Hardware	X	
Sliding Patio Doors	X	
Spraying for Household Pests (Ants, Fleas, etc.) - Interior	X	
Spraying for Landscaping Pests – Exterior of Unit		X
Streets		X
Stucco Painting/Coloring		X
Stucco Repair & Replacement		X
Telephone Wiring (regardless of location)	X	
Television, cable, and satellite dish equipment and connections servicing the Unit	X	
Toilet - Wax Ring, Bathtub and All Sinks, and Overflow Valve	X	
Trim - Wood - Exterior - Maintenance & Replacement		X
Trim - Wood - Exterior - Painting		X
Walls - Bearing, Studs, Frames, Tiedown, Other Structural Items		X
Walls - Non-Bearing (Interior)	X	
Wallpaper/Paneling	X	
Water Heater - Common Area		X
Window Replacement	X	
Window and Slider Screens	X	
Window Cleaning of Exterior and Interior Surface	X	
Window Flashing/Waterproofing	X	
Window Frames and Glass	X	
Window Hardware	X	
Wiring - Cable TV (regardless of location)	X	
Wiring - Electrical - From Breaker to Interior	X	
Wiring - Electrical - From Outside to Breaker in Unit		X
Wiring – Telephone (regardless of location)	X	

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