VIEUX CARRE HOMEOWNERS ASSOCIATION

Incorporating Association and Proposed New Amended and Restated Bylaws and CC&Rs

August 26, 2026

Dear Members:

Our Association's current Bylaws and Declaration of Covenants, Conditions and Restrictions ("CC&Rs") are nearly 25 years old. There have been many changes in the law and best practices since when they were written which have resulted in our documents being outdated, incomplete, or inaccurate concerning important aspects of our Association.

As a result, the Association's Board of Directors has been working with the Association's legal counsel over the last two years to develop the proposed new Amended and Restated Bylaws and Amended and Restated CC&Rs that are included with this letter. Also enclosed is your ballot to vote on the proposed new documents.

In addition, our Association is currently not a corporation in the State of California. The vast majority of homeowner associations in California are all incorporated as nonprofit mutual benefit corporations which is what is being proposed for our Association.

The primary benefit of incorporating the Association is to limit the individual owner's potential liability for the obligations of the Association. In an unincorporated association the members may be held "jointly and severally" liable for the obligations of the association. This means that each member can be held individually responsible if Association assets are not sufficient to pay for all of the Association's liabilities (such as a judgment in a lawsuit) as opposed to liability for only the member's proportionate ownership interest in a corporation.

Member Approval Requirement

To incorporate the Association, a majority of a quorum where a quorum is one-third (1/3) of the total voting power of the Association must vote "FOR" incorporating the Association. With 45 Units in the Association, this means **at least 15 valid ballots must be received and a majority must then vote in favor** of incorporation to be approved.

To approve the proposed new Second Amended and Restated Bylaws, a majority of a quorum where a quorum is one-third (1/3) of the total voting power of the Association must vote "FOR" the new Second Amended and Restated Bylaws. With 45 Units in the Association, this means **at least 15 valid ballots must be received and a majority must then vote in favor** of the proposed new Second Amended and Restated Bylaws to be approved.

To approve the proposed new Second Amended and Restated CC&Rs, a majority of the total voting power of the Association must vote "FOR" the Second Amended and Restated CC&Rs. With 45 Units in the Association, this means **at least 23 votes must be in favor** of the proposed new Second Amended and Restated CC&Rs to be approved.

Voting Process
The election is being conducted by mail using the secret ballot "double envelope" system. Your ballot and return envelope are enclosed. Voting instructions are on the ballot. Please review and submit your ballot today.

Election Meeting Information
An election meeting will be held at 6:00 p.m. on September 30, 2026, where the envelopes will be opened, and the ballots counted by the Inspector(s) of Election at the following location: 22521 Avendia Empresa, Suite 120, Rancho Santa Margarita, CA 92688

This meeting will also be broadcast over zoom; the zoom information will be posted to: www.thehoaelectionguys.com/vieuxcarre

***Your vote is very important*.** If you have any questions about the proposed documents before you vote, please feel free to contact our Community Manager, Julia King, at julia@oaktreeprops.com or at (562) 204-6946.

Thank you for taking the time to participate in this important election!

Sincerely,

Board of Directors

VIEUX CARRE HOMEOWNERS ASSOCIATION
SECRET BALLOT

To vote on incorporating the Association and the proposed new Bylaws and CC&Rs as described in the Notice to Members dated August 26, 2026

1. Incorporate the Association as a nonprofit mutual benefit corporation

FOR ☐ **AGAINST** ☐

2. Second Amended and Restated Bylaws

FOR ☐ **AGAINST** ☐

3. Second Amended and Restated Declaration of Covenants, Conditions and Restrictions

FOR ☐ **AGAINST** ☐

VOTING INSTRUCTIONS: Mark your votes above. Place this ballot in the smaller "inside envelope." **DO NOT SIGN THIS BALLOT. DOING SO WILL WAIVE YOUR RIGHT TO A SECRET BALLOT.** Place the smaller envelope inside the larger return envelope, fill in your return address information and sign the envelope where provided, affix first-class postage, and mail to:

Vieux Carre Homeowners Association
c/o The HOA Election Guys
27472 Portola Pkwy #205-412
Foothill Ranch, CA 92610

Or, you may hand deliver your ballot, in the enclosed envelopes, to the Inspector(s) of Election at the above address.

DO NOT INCLUDE ANY OTHER CORRESPONDENCE WITH THIS BALLOT

The deadline for returning ballots is 5:00 p.m. on September 29, 2026. The Board of Directors may extend the deadline.

The Election Rules governing our Association's elections are posted at the following website address: www.TheHOAElectionGuys.com/vieuxcarre

PLEASE CAST YOUR BALLOT NOW

VIEUX CARRE HOMEOWNERS ASSOCIATION

SUMMARY OF SIGNIFICANT FEATURES AND CHANGES IN THE PROPOSED REVISED GOVERNING DOCUMENTS

BACKGROUND OF GOVERNING DOCUMENT UPDATE PROJECT

Vieux Carre Homeowners Association is a "common interest development" and, as such, it is governed by provisions of California law, including the Corporations Code and the Civil Code (the Davis-Stirling Common Interest Development Act). Our Association's current governing documents were written in 2002. Since then, there have been many changes in the law which have resulted in our existing Bylaws and Declaration of Covenants, Conditions and Restrictions ("CC&Rs") being outdated, incomplete, or inaccurate concerning important aspects of our operations. For this reason, the Board has been working with the Association's legal counsel to develop the updated governing documents that are enclosed with this summary.

OBJECTIVES OF THE PROJECT

The objectives of the governing document update project are to: (i) incorporate the Association by preparing Articles of Incorporation, (ii) update the Bylaws and CC&Rs to reflect the many changes that have occurred in the law since our community was established, (iii) provide clarity about issues that have caused confusion in the existing documents and to do so in a manner that reflects the principles contained in the current documents and applicable law, and (iv) reorganize the documents so that the updated and clarified information will be more understandable to the membership, Board and committee members, the manager, and others who have an interest in the community.

The "New" Davis-Stirling Act became effective on January 1, 2014. The proposed documents reflect the new numbering scheme contained in the New Davis-Stirling Act. For instance, Civil Code section 1351(a) under the "old" law is now referred to by its new number location, Civil Code section 4080.

There are other changes to the documents that are what we call "Best Practices" which are recommended changes that will help the Association operate more effectively and efficiently. Those too are discussed more fully below.

THIS SUMMARY AND FORMAT OF THE DOCUMENTS

Because the information in the documents has been significantly reorganized, it was not possible to prepare new documents in such a way that they can be usefully "redlined" or "compared" to the old documents. To assist you in reviewing the proposed new documents, we have asked legal counsel to prepare this "executive summary." This summary provides a road map of how the information in the new documents is organized and outlines features and changes in the documents that the Board feels are significant. It should not be solely relied upon in making your decision on how to vote. Each document is discussed below.

The re-organization of the documents (objective (iii), above) is a result of certain changes in the law (i.e., it makes sense to put certain things together because of new requirements in the law) and an effort to make the order of the topics within each document more logical and sequential and to eliminate redundancy between the Bylaws and the CC&Rs.

ARTICLES OF INCORPORATION

Our Association is currently not incorporated. Most homeowner associations in California are incorporated. The Board is proposing that the Association incorporate in order to provide the individual Members with some limitation of personal liability for obligations of the Association. This is accomplished by filing articles of incorporation with the California Secretary of State.

If approved by a majority of a quorum of the Members, our Association would be incorporated as a nonprofit mutual benefit corporation under the name "Vieux Carre Homeowners Association." Incorporating does not affect the way in which the Association operates internally. The proposed Articles of Incorporation establish the Association as a corporate entity and include provisions that are required under the Corporations Code and provisions that are required for a homeowners association under the Davis-Stirling Act.

BYLAWS

The **Bylaws** of a homeowners association govern administrative matters and matters of corporate governance. This is distinct from the CC&Rs, which address real property rights, interests, and obligations and related real property matters. The Amended and Restated Bylaws are updated to include a number of specific "member protective" provisions that have been added to the law. The Amended and Restated Bylaws conform to the current requirements of the Corporations Code and the Davis-Stirling Act, particularly those that detail the duties and powers of the Association and the Board's many disclosure obligations to the Members.

Article 1 – General Provisions: This Article is basically the same as Articles I and II of the current Bylaws and states the corporate name, location, purpose of the Association and definitions.

Article 2 – Membership and Voting: This Article covers provisions in Article III of the current Bylaws and discusses membership and voting rights. Every Owner of a Unit is automatically a Member, and every Unit is entitled to one (1) vote. New statutory requirements for Owner's annual duty to provide preferred delivery method of Association communications have been added. Contains provisions about how membership voting is to be conducted.

The Davis-Stirling Act was amended several years ago to require that common interest development associations use certain voting and election procedures that are different from the procedures contained in the Corporations Code and used by other (non-CID) corporations. Our existing Bylaws (which were drafted before this change in the Davis-Stirling Act) do not reflect the provisions of the current law.

Highlights of changes from our existing Bylaws include: All voting by Members will be by mail using either a written ballot or the "secret ballot" method created by the voting and election law; Ballots will be opened at either a member meeting or a Board meeting but no voting by Members will take place at a meeting; and proxies will no longer be used, since they are irrelevant if there is no voting at member meetings. Since there will not be any voting at meetings (other than tabulating the ballots that were sent out and returned), there is no quorum requirement for Member attendance at meetings.

Consistent with the reduced quorum requirement of our current Bylaws, the quorum for a valid vote will be twenty-five percent (25%) of the total voting power of Members. Under the Amended and Restated Bylaws, every Member will receive a ballot and at least twenty five percent (25%) of the Members must return a ballot for the result of the vote to be valid, with the following exceptions: (i) elections of directors will be like public elections in which the number of ballots cast will constitute a quorum, (ii) when the law requires a Member vote to approve certain changes in assessments, the quorum requirement is more than half of all the owners, and (ii) there is no quorum requirement for member attendance at member meetings. These lower or no quorum provisions are designed to help the Association operate more effectively and efficiently.

Article 3 – Board of Directors: Nomination, Selection, Term of Office, Removal: This Article covers provisions in Articles IV and V of the current Bylaws. It spells out the process of nominating and electing Board members. The number of directors has been reduced from five (5) to three (3) and their term of office remains two (2) years. For continuity on the Board, the directors serve "staggered" terms of office. Directors are volunteers and are not entitled to receive compensation.

Only Members are eligible to be elected to or serve on the Board of Directors. Co-owners of one (1) or more Units may not serve on the Board at the same time. Candidates for the Board must be Members for at least one year, not be delinquent in the payment of regular and/or special assessments pursuant to statutory requirements, and not have a criminal conviction that would, if elected, prevent the Association from purchasing or terminate fidelity bond coverage. Candidates may be nominated by a nominating committee or by placing their own name in nomination before the nomination deadline. The names of all qualified candidates received by the Board by the published deadline for nominations will be included on the ballot sent to the Members for the election of directors. Because ballots must be sent out at least thirty (30) days in advance and voting will begin as soon as ballots are mailed out, taking nominations from the floor at an election meeting is not feasible.

Please Note: If by the published deadline for nominations the number of candidates is less than or equal to the number of seats to be filled (in other words, there is no question about the outcome of the election) and certain procedural requirements are followed, the Board can declare the candidates elected by acclamation and notify the Members of their election without going through the cost and unnecessary process of balloting. Election by acclamation is intended to permit the Association to avoid a costly election ballot mailing when there is an uncontested election.

In the election of directors, Members may cast one (1) vote per candidate for each vacancy being filled, and the candidates receiving the highest number of votes are elected, up to the number of directors to be elected. Any election which results in a tie shall be determined by a runoff election between the tied candidates.

Cumulative voting (giving more than one (1) vote to a candidate for the Board) is not permitted in the new Bylaws. When the Association was first formed and the developer still controlled the votes and the Board, cumulative voting made it possible for homeowners to elect and keep a representative on the Board. But the developer has been long gone and cumulative voting is no longer needed to ensure owner representation on the Board. Cumulative voting is complicated and confusing. In addition, when cumulative voting is permitted, it is almost impossible for the Members to remove an individual director (even if there is due cause) without the disruption of removing the entire Board of Directors.

Article 4 – Powers and Duties of the Board of Directors: This Article describes the duties of the Board, including many important periodic notifications and disclosures to the membership which have been added by changes in the law. It also describes the various powers of the Board, including entering into contracts with third parties for goods and services, adopting and enforcing rules, collecting assessments and paying expenses, and managing association property. However, certain actions must also be approved by a vote of the members such as entering into contracts for more than one year, making capital improvements, or selling association property. Provisions in this Article are mainly addressed in Articles VII and VIII of the current Bylaws and Article V of the current CC&Rs.

Article 5 – Meetings of Directors: This Article deals with meetings of the Board and the rights of the membership to have notice of Board meetings and to speak to the Board as provided by law. Board meetings are held quarterly and are open to any owner who wants to attend (except for executive session meetings, which can only be held for certain purposes as specified by law). Directors and Members both are entitled to notice of Board meetings. Members must be given at least four (4) days' notice of open Board meetings and at least two (2) days' notice of executive session meetings by law. The notice must include the agenda except in the case of an emergency meeting. Permitted reasons for executive sessions are listed. Items not on the agenda cannot be decided by the Board except in very limited emergency situations. Provisions in this Article are mainly addressed in Article VI of the current Bylaws.

Article 6 – Officers and Their Duties: Describes the positions of the corporate officers. All of the principal offices (president, secretary, and treasurer) must be held by members of the Board. Provisions in this Article are addressed in Article IX of the current Bylaws.

Article 7 – Minutes; Books and Records; Funds: Concerns Association record keeping and financial management, as well as Member rights to review the Association's accounting books and records, minutes of proceedings, and other records. The law requires the Board to keep minutes of all open Board meetings and Members are entitled to have copies of minutes thirty

(30) days after the Board meets. Provisions in this Article are addressed in Article XI of the current Bylaws.

Article 8 – Amendments: Consistent with the current Bylaws, future amendments of the Bylaws will require approval of a majority of a quorum of the Members. To allow the Association to keep the Bylaws up to date with changes in the law, this Article also authorizes the Board to approve an amendment if it is necessary to eliminate a conflict between the Bylaws and the law or if it is to correct a typographical error, and the amendment is prepared by the Association's legal counsel. The idea is to provide a mechanism for this limited category of changes to be made in an expeditious and low-cost manner so that it will be easier to keep the documents current with future changes in the law. Provisions in this Article are addressed in Article XII of the current Bylaws.

Article 9 – Miscellaneous: States which of the governing documents will control in the event of a conflict. The likelihood of conflicts is reduced under the Amended and Restated Bylaws and the Amended and Restated CC&Rs because they do not cover overlapping subject matter. Provisions in this Article are addressed in Article XIII of the current Bylaws.

DECLARATION OF CC&Rs

The **Declaration of Covenants, Conditions and Restrictions (**or **CC&Rs)** of a common interest development address real property rights, restrictions, interests, and obligations and related real property matters. This is different and distinct from the Bylaws which govern administrative matters and matters of corporate governance of the Association.

The proposed Amended and Restated CC&Rs have been drafted using consistent terminology and are organized to collect in each part of the document the provisions that relate to a particular topic and to avoid repetition or excessive cross-referenced provisions. Obsolete provisions have been removed. The remaining content has been updated to conform to current law and has been organized into a more logical order.

Article 1 – Definitions: This Article is basically the same as Article I of the current CC&Rs and contains a comprehensive set of definitions to clarify the terminology used in the Bylaws and the CC&Rs and help ensure the same words are used with a consistent meaning throughout the documents.

Article 2 – Easements and Property Rights: This Article is basically the same as Articles II and VI of the current CC&Rs and deals with partition of common property and collects together the provisions concerning various easement rights.

Article 3 – Homeowners Association: This Article is basically the same as Article III of the current CC&Rs and describes the Association generally and the fact that the Association has authority over the condominium project. To avoid repetition and the potential for inconsistent provisions in the Bylaws and the CC&Rs, detailed provisions concerning corporate governance such as powers and duties of the Board are in the Bylaws only.

Article 4 – Assessments and Liens: Provisions in this Article are addressed in Article IV of the current CC&Rs and have been updated to conform to the Davis-Stirling Act in terms of categories of assessments and enforcement. Annual and Special Assessments are allocated among the Units in the same manner as the current CC&Rs. A new category of “Enforcement Assessment” has been added for fines and costs for violations of the Association’s governing documents and “Reimbursement Assessment” to reimburse the Association for costs incurred by the Association to repair damage caused by an owner or bring into compliance a violation by the owner of the Association’s Governing Documents.

This Article describes the procedures that by law are available to the Association to enforce the obligation to pay assessments. These provisions are designed to ensure that the Association is able to raise the funds needed to conduct the Association’s affairs in a timely manner and that each Member pays his or her fair share.

If an owner does not pay assessments when they are due, the Association must give certain notifications to the owner before a notice of delinquent assessments can be recorded and foreclosed upon. Delinquent owners are responsible for late charges, interest, and collection costs in addition to the unpaid assessments. Owners are also personally responsible for payment of assessments if there is not enough equity in the Unit to pay what the owner owes to the Association. If an owner is delinquent but is still collecting rent from a tenant who is renting the Unit, the Association can direct the tenant to pay the rent to the Association to collect what the owner owes to the Association. (This right does not interfere with any rights of lenders to do the same thing if the owner is delinquent on a mortgage loan.)

Article 5 – Use Restrictions: Contains the provisions concerning residential use of the property, such as use of the common area, conducting businesses, vehicles and parking, pets, and signs. Provisions in this Article are addressed in Article VII of the current CC&Rs.

Provisions have been added to clarify home business use, restrictions on maximum number of occupants per Unit, limiting the number of rentals, prohibiting short term rentals, vehicle restrictions, and restricting the use of open flame devices.

Please Note: There is a new proposed provision at Section 5.2 that will prohibit smoking of any substance anywhere within the Common Area, including Exclusive Use Common Area. This provision is designed to protect the health of owners and residents and to preserve our property values.

Please Note: There is a new provision at Section 5.6.2 which limits the number of Residential Units that can be rented at one time to 25% or six (6) Residential Units. The purpose of this restriction is to support property values by enhancing the owner-occupied character of the community and to more efficiently enforce our CC&Rs and Rules. The ability to obtain loans from different lending sources can diminish in communities with high rental rates which in turn can impact property values in the community.

Under the proposed Section 5.6.2, at least 6 of the 21 Residential Units must be owner-occupied. All current owners at the time the amendment is recorded would be grandfathered and would be able to rent their Residential Units as long as they continue to own them even if it exceeds the new limit. Upon sale or transfer the grandfathered Residential Unit would become subject to the limit. If more than 6 Residential Units are being rented when a Unit is sold, the Unit would have to be sold for owner-occupancy and not for rental. Grandfathered Residential Units will not lose their grandfathered status unless a transfer results in reassessment by the county tax assessor or requires providing a "Real Estate Transfer Disclosure Statement" (for instance, transfer to a living trust would not be considered a "sale or transfer"). Over time, as currently-rented grandfathered Units are sold, the number of rentals will gradually be reduced to the limit then in effect. Section 5.6.2 contains procedures to ensure that all rental requests will be handled in the same way, and also permits the Board to make temporary exceptions in case of hardship.

Article 6 – Maintenance of Property: Describes and clarifies the respective maintenance, repair, and replacement responsibilities of the Association and the individual Unit owners. Provisions in this Article are addressed in Articles V and IX of the current CC&Rs.

Article 7 – Architectural Control: Describes when architectural approval is required. State law has imposed procedural requirements and other standards on architectural control functions of homeowner associations. Describes the application, approval, and inspection procedures consistent with applicable law and with sufficient detail so that the procedures will remain generally consistent from year to year and so all Members can know what their rights and obligations are when they want to make changes to their Units. The Board may adopt architectural rules as long as they are consistent with the CC&Rs.

Requests for architectural approval must be made in writing. Architectural decisions must also be made in writing, must be made within thirty (30) days after an owner submits a complete application, and if an application is denied, an explanation must be given for the decision. If the architectural committee or the Board does not act in a timely manner, the owner may demand "internal dispute resolution" (meet and confer with the Board). All architectural decisions must be made in good faith in accordance with the standards in the CC&Rs. The Board may grant reasonable variances to deal with special circumstances as long as the variance is not contrary to the intention of the CC&Rs, and variances do not set precedents for other situations. Provisions in this Article are addressed in Article VII of the current CC&Rs.

Article 8 – Insurance: This Article describes the insurance policies to be carried by the Association, including particular insurance policies that may give the Members and the volunteer directors and officers the benefit of certain limitations on liability as provided by law. Provisions in this Article are addressed in Article VIII of the current CC&Rs.

Consistent with the current CC&Rs, the Association must carry a hazard/casualty policy which covers not only the Common Area but also includes original builder's grade interior improvements within the Units such as partition walls and doors or fixtures. Unit Owners are responsible for certain kinds of insurance which the Association policies do not cover such as personal property and interior improvements. It is the owner's sole responsibility to carry such insurance and if owners do not carry insurance, they are still financially responsible.

Responsibility for insurance deductibles is also clarified.

Article 9 – Damage or Destruction: Contains provisions dealing with major damage or destruction of the condominium project. These provisions are intended to provide appropriate authority and flexibility, recognizing that the particulars of the Association's response will necessarily depend on the circumstances in each case. Provisions in this Article are addressed in Article VIII of the current CC&Rs.

Article 10 – Eminent Domain: Contains provisions dealing with eminent domain or condemnation of all or any part of the condominium project by governmental agencies. Provisions in this Article are addressed in Article VIII of the current CC&Rs.

Article 11 – Rights of Mortgagees: Describes the rights of mortgagees. Provisions in this Article are addressed in Article IX of the current CC&Rs.

Article 12 – Enforcement; Liens; Dispute Resolution: This Article describes the enforcement powers that by law are available to the Association if Members fail or refuse to comply with the governing documents and Members' right to enforce the CC&Rs as well. Also describes the process for handling delinquent assessment payments consistent with current law. Provisions in this Article are addressed in Articles IV and IX of the current CC&Rs.

Article 13 – Duration and Amendment: Consistent with the current CC&Rs, future amendments will require approval from a majority of the total voting power of the Association. Also contains the same provision as in the Bylaws authorizing certain kinds of amendments to be adopted by the Board if they are to conform with current law or correct typographical errors. Provisions in this Article are addressed in Article IX of the current CC&Rs.

Article 14 – General Provisions: This Article contains general provisions concerning the document which are addressed in Article IX of the current CC&Rs.

* * * *

The Board would like to thank you for taking the time to review this information. Please be sure to participate in the election on these important documents by promptly returning your ballot.

SECOND AMENDED AND RESTATED BYLAWS
OF
VIEUX CARRE HOMEOWNERS ASSOCIATION

Adopted: ____________________

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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SECOND AMENDED AND RESTATED BYLAWS
OF
VIEUX CARRE HOMEOWNERS ASSOCIATION

ARTICLE I – Definitions, Name and Purpose

1.1 Definitions and Interpretation. Unless expressly defined herein, the definitions for capitalized terms used in these Bylaws shall have the meaning set forth in Article I of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vieux Carre and any amendments thereto, as Recorded in the Official Records of Los Angeles County, California ("Declaration").

1.2 Name and Principal Office. The name of the Association is Vieux Carre Homeowners Association ("Association"). The principal office of the Association shall be located in Los Angeles County, California, or at such other place reasonably convenient to the development as the Board of Directors may establish from time to time.

1.3 Purpose. The purpose of the Association shall be as set forth in its Articles of Incorporation.

ARTICLE II – Membership and Voting

2.1 Qualifications. Every Owner of a Condominium shall automatically be a Member of the Association and retain such membership until such time ownership of a Condominium ceases, at which time such Owner's membership shall automatically cease. Ownership of a Condominium is the sole qualification for membership. Memberships are appurtenant to, and may not be separated from, the fee ownership of such Condominium. The rights, duties, privileges, and obligations of all Members are as provided in the Association's "governing documents" as such term is defined in *Civil Code* section 4150.

2.2 Transfer of Membership. The Membership of any Owner may not be transferred, pledged, or alienated in any way, except upon the transfer of ownership to the Owner's Condominium and then only to the transferee of such Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold a Condominium to a contract purchaser under an agreement to purchase may delegate such Owner's Membership rights to such contract purchaser. Such delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all charges and assessments attributable to such contract seller's Condominium that accrue before title to the Condominium is transferred. Until satisfactory evidence of such transfer is presented to the Association, the purchaser will not be entitled to vote on Association matters.

2.3 Owner's Duty to Annually Provide Preferred Delivery Information. As required by Applicable Law, each Member shall annually provide written notice to the Association of all of the following: (i) the Member's preferred delivery method for receiving notices from the Association, including either a mailing address, a valid email address, or both, (ii) an alternative or secondary delivery method, if any, to which notices from the Association are to be delivered, including either a mailing address, a valid email address, or both, (iii) the name, mailing address and valid email address (if available) of the Owner's legal representative, if any, including any person with power of attorney or other person who can be contacted in the event of the Member's extended absence from the Condominium, and (iv) whether the Condominium is Owner-occupied, is rented out, or if the Condominium is vacant. If a Member fails to provide notice to the Association of the information set forth in (i), (ii), and (iii) above, the last mailing address provided in writing by the Member or, if none, the Condominium property address, is deemed to be the address to which the Association shall deliver notices. For purposes of this Section, a "valid email address" is one that, after a notice is sent, does not result in a bounce back or other error notification indicating failure of the message to be delivered. If the Association delivers a notice to a Member's email address and finds that the email address provided is not valid, the Association shall resend the notice to a mailing or email address as provided by the Member.

2.4 Voting Rights. The Association has one class of membership. Members are entitled to one (1) vote for each Condominium owned.

2.5 Joint Ownership. When more than one (1) person holds an interest in any Condominium, each co-Owner may attend any Association meeting, but only one (1) such co-Owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-Owners owning the majority interests in a Condominium may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed, and the vote for each Condominium shall be exercised, if at all, as one. Where no voting co-Owner is designated or if any such designation is revoked, the vote for the Condominium shall be exercised as the co-Owners owning the majority interests in the Condominium agree. Unless the Association receives a written objection in advance from a co-Owner, it shall be conclusively presumed that the voting co-Owner is acting with all other co-Owners' consent. No vote may be cast for any Condominium if the co-Owners owning the majority interests in such Condominium fail to agree on how to vote or take other action. The non-voting co-Owner or co-Owners are jointly and severally responsible for all obligations imposed on the jointly-owned Condominium and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Governing Documents are binding on all Owners and their successors in interest.

2.6 Majority of Quorum. Unless otherwise provided in the Governing Documents, any action that may be taken by the Association may be taken by a majority of a quorum of the Association's Total Voting Power.

2.7 Quorum. In any election of directors to the Board of Directors, the number of valid ballots received shall constitute a quorum. For all other elections, except as otherwise provided in the Governing Documents or otherwise required by Applicable Law, the presence, in person (physically or electronically) or by written ballot, of at least twenty-five percent (25%) of the Association's Total Voting Power constitutes a quorum. Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, despite the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of a quorum. No action by the Members on any matter is effective if the votes cast in favor of such action are fewer than the minimum number of votes required by the Governing Documents to approve such action.

2.8 Proxies. Use of proxies for membership votes is prohibited.

2.9 Place of Meetings of Members. Meetings of Members shall be held at a suitable place within the development or at a location close to the development that is convenient to the Members as designated by the Board. Meetings of Members other than to count or tabulate ballots may be conducted entirely by teleconference, without any physical location being held open for the attendance of any director or member, if the requirements of *Civil Code* section 4926 are satisfied.

2.10 Annual Meetings of Members. The annual meetings of Members shall be held near the anniversary date of the first annual meeting of Members or as otherwise designated by the Board.

2.11 Special Meetings of Members. The Board shall call a special meeting of Members for any lawful purpose (a) as directed by resolution of a majority of a quorum of the Board, (b) by request of the President of the Association or (c) upon receipt of a petition signed by Members representing at least five percent (5%) of the Association' s Total Voting Power.

2.12 Voting by Members. Any vote on any matter specified in *Civil Code* section 5100(a), which at the time these Bylaws were adopted include: (i) elections regarding assessments legally requiring a vote, (ii) election and removal of directors, (iii) amendments to the Governing Documents, or (iv) the grant of exclusive use of Common Area pursuant to *Civil Code* section 4600, shall be by "secret ballot" pursuant to *Civil Code* sections 5100 through 5145. The deadline for returning a secret ballot shall be at least thirty (30) days from the date of mailing. Any membership vote on any other matter may be by written ballot as described in *Corporations Code* section 7513, and the deadline for returning a written ballot shall be a reasonable time, which may be less than thirty (30) days.

2.13 Notice of Member Meetings. The Association shall cause to be sent to each Owner of record, and to each first mortgagee who has filed a written request for notice with the Association, a notice of each annual meeting of Members and each special meeting of Members. The notice must be sent at least ten (10) days but not more than ninety (90) days before such meeting; *except that*, in the case of a special meeting pursuant to a petition from the Members, notice of such special meeting shall be given to Members within twenty (20) days after receipt of such petition, and the special meeting must be held not less than thirty-five (35) nor more than one hundred fifty (150) days after the petition is received. The notice shall state the date, time, and place of the meeting, and in the case of a special meeting, shall state the purpose for the meeting. No business may be transacted at a special meeting except as stated in the notice.

2.14 Record Dates. The Board may fix a date in the future as a record date for determining which Members are entitled to notice of any meeting of Members. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for notice to Members, the record date for notice is the close of business on the business day preceding the day on which notice is given. In addition, the Board may fix a date in the future as a record date for determining the Members entitled to vote at any meeting of Members. The record date so fixed must be no more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for determining Members entitled to vote, Members on the day of the meeting who otherwise are eligible to vote are entitled to vote at the meeting.

2.15 Adjourned Meetings. If a quorum is not present at the time and place established for a meeting, a majority of the Members who are present, either in person (physically or electronically) or by written ballot, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days after the original meeting date, at which meeting the quorum requirement is the presence in person or by written ballot of Members holding at least twenty (20%) of the Association's Total Voting Power. Adjourned meetings may be held without the notice required by these Bylaws if notice thereof is given by announcement at the meeting at which such adjournment is taken.

2.16 Order of Business. Meetings of Members must be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. The order of business at all meetings of Members shall include the following: (a) roll call to determine the voting power represented at the meeting, (b) proof of notice of meeting or waiver of notice, (c) reading of minutes of preceding meeting or waiver of reading, (d) reports of officers, (e) reports of committees, (f) unfinished business, and (g) new business.

2.17 Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary, shall be presumed to be evidence of the truth of the matters described therein. A recitation in the minutes executed by the Secretary that proper notice of the meeting was given constitutes prima facie evidence that notice was given properly.

ARTICLE III – Board of Directors

3.1 Number. The affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) persons.

3.2 Qualifications for Nomination. Only persons who satisfy all of the following qualifications shall be eligible to be elected to or serve as a director on the Board: (i) is a Member or in the case of a Member that is not a natural person (such as a corporation or other legal entity), an officer, director, principal, managing member or authorized representative of the entity, (ii) is not delinquent in the payment of regular and/or special assessments pursuant to the requirements of *Civil Code* section 5105(d), and (iii) does not have a criminal conviction that would, if elected, prevent the Association from purchasing the fidelity bond coverage required by *Civil Code* section 5806 or terminate the Association's existing insurance coverage required by *Civil Code* section 5806 as to that person should the person be elected. Co-Owners of one (1) or more Condominiums may not be nominated for or serve on the Board at the same time.

3.3 Term of Office. The term of office of each director elected to the Board shall be two (2) years. Each director shall hold office until the director's successor has been elected or until the director's death, resignation, disqualification, removal or judicial adjudication of mental incompetence. The term of office of each director elected, appointed or designated to fill a vacancy created for any other reason shall be the balance of the unserved term of the director's predecessor. There is no limit on the number of terms that a director may serve. In the next annual election of directors following the approval of these Bylaws, the Members shall elect five (5) directors. The three (3) directors who receive the largest number of votes shall serve a two (2) year term and the two (2) directors who receive the least number of votes shall serve a one (1) year term. All directors thereafter shall serve staggered two-year terms with three (3) directors and two (2) directors up for election in alternating years.

3.4 Nomination Procedure. Nominations of candidates for election to the Board of Directors may be made by a "Nominating Committee" or by self-nomination, as follows:

3.4.1. Nominating Committee. Prior to any election of directors, the Board may appoint a Nominating Committee to nominate candidates for election to the Board. If appointed, the Nominating Committee shall nominate as many candidates for election to the Board as it shall in its discretion determine but shall endeavor to nominate not less than the number of positions on the Board that are to be filled in the election. All nominations shall be made from among persons who satisfy the qualifications set forth in Section 3.2 and shall be made prior to the deadline for nominations. If no Nominating Committee is appointed, the Board may serve as the Nominating Committee.

3.4.2. Self-nomination. Any Member who satisfies the qualifications set forth in Section 3.2 may place his or her name in nomination for election to the Board by giving written notice to the Association. Notice of self-nomination must be received prior to the deadline for nominations.

3.5 Election by Acclamation. Notwithstanding the secret balloting requirements of Section 2.12 or anything to the contrary in the Governing Documents, if, as of the published deadline for nominations, the number of qualified candidates nominated is not more than the number of directors to be elected, as determined by the inspector(s) of elections, then the persons nominated and qualified to be elected may be declared by the Board to be elected by acclamation if all of the conditions stated in *Civil Code* section 5103 have been met.

3.6 Election of Directors. Voting for directors shall be by secret written ballot in accordance with Section 2.12, or any method allowed by Applicable Law. In all elections of directors, every Member may cast, in respect to each position on the Board to be filled, one (1) vote for each Condominium owned. The candidates receiving the largest number of votes shall be elected. Cumulative voting (i.e., giving more than one vote to any candidate) shall not be permitted. Voting for write-in candidates (i.e., voting for any person not nominated prior to the deadline for nominations) is not permitted.

3.7 Tie Elections. Any election which results in a tie shall be determined by a runoff election between the tied candidates.

3.8 Vacancies. A vacancy shall exist on the Board (i) in the event of the death, resignation, or removal (by the Members) of any director, (ii) in the event of a declaration of a vacancy by the Board as provided below in Section 3.8.3, (iii) if the authorized number of directors is increased, or (iv) if the Members fail to elect the full authorized number of directors. A vacancy on the Board may be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum (as long as there are at least two (2) directors). If the vacancy is not filled by the Board, a replacement director may be elected by the Members.

3.8.1. Resignation of Directors. A director may resign at any time by giving written notice to the Board, the President, or the Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified in the resignation notice. Unless specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective. If a director's resignation is effective at a later time, a successor may be appointed to take office as of the date when the resignation becomes effective.

3.8.2. Disqualification of Directors. The Board of Directors, by a majority vote of the directors who meet all of the qualifications for directors as set forth in Section 3.2, may declare vacant the office of any director who fails or ceases to meet any required qualification that was in effect at the beginning of that director's current term of office.

3.8.3. Failure to Perform Duties. The Board of Directors, by a majority vote of a quorum of directors, may declare vacant the office of any director who (i) fails within sixty (60) days after receiving notice of election to accept office, either in writing or by attending a meeting of the Board as a director, or (ii) is absent from three (3) consecutive meetings of the Board, or (iii) fails to adhere to any code of conduct for directors as adopted from time to time by the Board.

3.9 Removal of Directors by Members. Directors may be removed before the expiration of their term of office with or without cause by the vote of Members representing a majority of the Association's Total Voting Power.

3.10 Director Conflict of Interest. As provided in *Civil Code* section 5350, no director or member of a committee shall be permitted to vote on matters of (i) discipline of the director or committee member, (ii) an assessment against the director or committee member for damage to the Common Area or facilities, (iii) a request, by the director or committee member, for a payment plan for overdue assessments, (iv) a decision whether to foreclose on a lien on the separate interest of the director or committee member, (v) review of a proposed physical change to the separate interest of the director or committee member, (vi) a grant of exclusive use of Common Area to the director or committee member, and (vii) as provided in *Corporations Code* section 7233, any contract or other transaction in which a director or committee member has a material financial interest. As provided in *Corporations Code* section 7234, the interested director or committee member may be counted in determining the presence of a quorum at a meeting of the Board or of a committee but should recuse themselves from any vote on the above listed matters.

3.11 Compensation of Directors. No director shall receive compensation for any service he or she may render to the Association as a director. However, upon approval by the Board, any director may be reimbursed for his or her expenses actually incurred in the performance of his or her duties.

3.12 Limitation of Liability. As provided in *Corporations Code* section 7231, no director, officer, committee member, employee, or other agent of the Association shall be liable to any Owner or any other person or entity, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person if such person acted in good faith and in a manner such person reasonably believed 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.

ARTICLE IV - Board of Directors Powers and Duties

4.1 Powers and Duties. The Board generally has the powers and duties to do all things necessary for the management and operation of the Association as set forth in Applicable Law and the Association's Governing Documents.

4.2 Specific Duties. Without limiting the scope of the Board's general duties, the Board's specific duties shall include the following:

4.2.1. Supervision. The Board shall supervise all officers, agents, and employees (if any) of the Association, and ensure that their duties are properly performed.

4.2.2. Maintenance of Common Area. The Board shall supervise and ensure the proper maintenance, repair, and replacement of the Common Area consistent with the Governing Documents.

4.2.3. Maintain Insurance. The Board shall procure and maintain adequate casualty, liability, and other insurance consistent with the requirements of the Governing Documents.

4.2.4. Enforcement of Governing Documents. The Board shall enforce the Governing Documents on its own initiative or upon receipt of written complaint from an Owner or a resident, in accordance with the procedures set forth in the Governing Documents.

4.2.5. Maintain Records and Minutes. The Board shall cause to be kept a complete record of all its acts and the corporate affairs of the Association, including adequate and correct books and records of account, and minutes of the proceedings of the Members, the Board, and any committee appointed by the Board having decision-making authority.

4.2.6. Annual Budget Report. In accordance with *Civil Code* section 5300(a), the Board shall distribute an annual budget report, not less than thirty (30) days and not more than ninety (90) days prior to the end of the Association's Fiscal Year. The annual budget report shall conform to the requirements of *Civil Code* section 5300(b) and (e) and section 5550.

4.2.7. Notice of Changes in Insurance. In accordance with *Civil Code* section 5810, as soon as reasonably practicable, the Board shall provide notice to all Members if any of the Association's policies described in the Association's annual budget report have lapsed or been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible for any of those policies. If the Board receives any notice of non-renewal of an Association policy described in the Association's annual budget report and replacement coverage will not be in effect by the date the existing coverage will lapse, the Board shall immediately provide notice thereof to the Members.

4.2.8. Annual Policy Statement. In accordance with *Civil Code* section 5310(a)(1) through (12), not less than thirty (30) days and not more than ninety (90) days before the end of the Fiscal Year, the Board shall distribute to the Members an annual policy statement.

4.2.9. Prospective Purchasers. To the extent required by *Civil Code* section 4530(a), the Board shall provide or cause to be provided to a requesting Owner, within ten (10) days of a written request therefor, the items specified in *Civil Code* section 4525(a), or any of them.

4.2.10. Owners' Contact Information. The Board shall annually solicit from each Owner the information as set forth in Section 2.3. The Board shall include in its annual solicitation of Owners both of the following: (i) that Members do not have to provide an email address to the Association, and (ii) a simple method for Members to inform the Association in writing if a Member wishes to change their preferred delivery method for receiving notices from the Association.

4.2.11. Review of Annual Financial Statements. To the extent required pursuant to *Civil Code* section 5305, for any Fiscal Year in which the gross income to the Association exceeds Seventy-five Thousand Dollars ($75,000), the Board shall obtain a review of the financial statements of the Association prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy and shall distribute it to all Members of the Association within one hundred twenty (120) days after the close of such Fiscal Year.

4.2.12. Monthly Review of Accounts. The Board shall review the Association's operating and reserve accounts at least monthly in accordance with the minimum requirements set forth in *Civil Code* section 5500.

4.2.13. Notice to Secretary of State. The Board shall file with the California Secretary of State the biennial (every two years) statement of information required pursuant to *Corporations Code* section 8210 and the statement required by *Civil Code* section 5405(a).

4.2.14. Reserve Study and Annual Review. In accordance with *Civil Code* section 5550, at least once every three (3) years, the Board shall cause a study of the reserve account requirements of the Association to be conducted, which study shall include the minimum requirements specified in *Civil Code* section 5550(b) or successor statute. The Board shall review the reserve study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

4.2.15. Management of Reserve Funds. The Board shall exercise prudent fiscal management of the Association's reserve account and, to the extent restricted by *Civil Code* section 5510(b), shall not expend funds designated as reserve funds for any purpose other than the maintenance, restoration, repair, or replacement of, or litigation involving the maintenance, restoration, repair, or replacement of, major components for which the Association is responsible and for which the reserve fund was established.

4.2.16. Fiduciary Duty. The Board of Directors, and each director, has a fiduciary duty to the Association and to the Members. This obligation can be described as a duty of loyalty and of care. The duty of loyalty requires that, when making decisions, directors place the interests of the Association and the Members above their individual interests. The Board acts on behalf of the entire Association, not as individuals or on behalf of specific segments of the Association. The duty of care requires that directors make inquiry and careful, informed and reasoned decisions on behalf of the Association and the Members.

4.3 **Specific Powers.** Without limiting the scope of the Board's general powers, the Board shall have the following specific powers:

4.3.1. **Contracts.** The Board shall have the power to authorize any officer or officers to enter into any contract in the name of, or on behalf of, the Association; provided, however, no contract with a third party to supply or furnish the Association with goods or services shall be for a term in excess of one (1) year or, notwithstanding the term, in which the amount to be paid to the vendor, including without limitation, amounts paid under contingent fee contracts, may reasonably be expected to exceed the sum of five percent (5%) of the budgeted gross expenses of the Association for the Fiscal Year in which the contract is signed, and the contract is other than maintenance, repair, replacement or reconstruction of one or more elements of the Common Area without the vote or written consent of Members representing at least a majority of the Association's Total Voting Power, except for the following:

(a) a contract with a public utility company for a term that does not exceed the shortest term for which the public utility company will contract at the regulated rate if the rates charged for the materials or services are regulated by the California Public Utilities Commission;

(b) prepaid casualty or liability insurance policies of not more than three (3) years duration, provided that the policies permit short-term cancellation by the Association;

(c) Lease agreements for laundry fixtures and equipment not to exceed five (5) years' duration;

(d) Agreements for cable television or satellite or similar service and equipment not to exceed five (5) years' duration;

(e) Agreements for burglar alarm and/or fire alarm service and equipment not to exceed five (5) years' duration; and

(f) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty, or other obligation upon ninety (90) days' written notice of termination to the other party.

4.3.2. **Engage Professional Advisors.** The Board shall have the power to consult with, seek the advice of, and reasonably rely on the advice of attorneys, accountants, and other professionals in carrying out the Board's authority and responsibility under the Governing Documents and the law, and to pay for such professional services.

4.3.3. **Principal Office, Place of Meetings.** The Board shall have the power, but not the duty, to locate the Association's principal office within the County, and to designate any place in the County for holding meetings of Members consistent with Section 2.9.

4.3.4. **Adopt and Enforce Rules.** Subject to the requirements of Applicable Law, the Board shall have the power to adopt, publish, amend, repeal, and enforce "operating rules" as defined in *Civil Code* section 4340.

4.3.5. **Assessments.** The Board shall have the power to fix, levy and collect assessments as addressed in the Declaration.

4.3.6. **Enforcement.** The Board shall have the power to enforce the Governing Documents and agreements entered into by the Association and to impose sanctions against Members for violating the Governing Documents.

4.3.7. **Appoint Committees.** The Board shall have the power, but not the duty, to delegate its powers to committees as allowed by Applicable Law. The Board shall have the power to appoint such committees as the Board desires for the purposes and with the powers as the Board deems appropriate. As provided in *Corporations Code* section 7212(b), an executive committee exercising the authority of the Board shall include only committee members who are directors. All committees and committee members shall serve at the pleasure of the Board. All committees granted decision-making power by the Board or the Governing Documents are required to keep minutes of their meetings.

4.3.8. **Open Bank Accounts.** The Board shall have the power to open bank accounts, deposit Association funds, and issue checks, drafts, or other orders for payment of money, or notes or other evidence of indebtedness in the name of the Association for operational and reserve expenditures and designate signatories for such bank accounts as required by Applicable Law. Any funds of the Association shall be deposited to the credit of the Association in such banks or other depositories as the Board of Directors shall from time to time determine. The manager of the Association, if any, shall manage the Association's funds in accordance with *Civil Code* section 5380.

4.3.9. Borrow Money. The Board shall have the power to borrow money on behalf of the Association, subject to any applicable provisions of the Governing Documents and Applicable Law, and to assign or pledge assessments of the Association as security for a loan, provided that such assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law to the extent required by *Civil Code* section 5735.

4.3.10. Association Property. The Board shall have the power to acquire, hold title to, and convey, with or without consideration, real and personal property and interests therein, including the power but not the duty to grant or quitclaim exclusive or nonexclusive easements, licenses or rights of way in, on, or over the Common Area subject to the limits in the Governing Documents and Applicable Law.

4.3.11. Professional Manager and Personnel. The Board shall have the power to engage the services of a manager or management company as either an employee or an independent contractor, and engage such other employees or independent contractors as the Board may deem necessary, and to prescribe their duties. Any management contract must provide that the agreement may be terminated by the Association with cause upon thirty (30) days written notice and without cause or payment of a termination fee upon not more than ninety (90) days written notice and a maximum contract term of one (1) year.

4.3.12. Right to Enter. The Board shall have the power to enter any Unit or Common Area for the purposes of performing the Association's maintenance, repair, and replacement obligations required by the Governing Documents.

4.3.13. Indemnify Agents. To the extent provided in *Corporations Code* section 7237, the Board on behalf of the Association shall have the power to and shall indemnify and hold harmless, to the maximum extent permitted by California law, each person who is or at any time was a director, officer, employee, or agent of the Association, or member of any committee appointed by the Board from and against any and all claims, liabilities, expenses, judgments, fines, settlements, and other amounts, as those terms are defined by Applicable Law, actually and reasonably incurred by any such person, and to which any such person shall become subject by reason of his or her being a director, officer, employee, or agent of the Association, or member of any committee appointed by the Board.

4.4 Limitation on Powers of the Board. Notwithstanding the powers of the Board as set forth in this Section, the Board shall not take any of the following actions for which the Governing Documents require the prior affirmative vote or written consent of the Association.

4.4.1. Capital Improvements. Incur aggregate expenditures for capital improvements to the Common Area in any Fiscal Year in excess of five thousand dollars ($5,000) without the prior affirmative vote or written consent of a majority of the Total Voting Power of the Association.

4.4.2. Sale of Association Property. Sell or transfer during any Fiscal Year Association property having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for that Fiscal Year without the prior affirmative vote or written consent of two-thirds (2/3) of the Total Voting Power of the Association.

4.4.3. Dedication of Common Area. Dedicate all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members without the prior affirmative vote or written consent of two-thirds (2/3) of the Total Voting Power of the Association.

4.4.4. Loans. Borrow money and mortgage, pledge, encumber, or hypothecate any or all Association real or personal property as security for money borrowed by the Association without the prior affirmative vote or written consent of two-thirds (2/3) of the Total Voting Power of the Association.

4.4.5. Compensation to Directors or Officers. Pay compensation to directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a director or an officer to be reimbursed for the actual reasonable expenses incurred in performing his or her duties as a director or officer without the prior affirmative vote or written consent of a majority of the Total Voting Power of the Association.

ARTICLE V - Board of Directors Meetings

5.1 Meetings Generally. As defined in *Civil Code* section 4090, a "meeting" of the Board shall mean either: (a) a congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the Board, to hear, discuss, or deliberate upon any item of business that is within the authority of the Board or (b) a teleconference, where a sufficient number of directors to establish a quorum of the Board, in different locations, are connected by electronic means, through audio or video or both. A teleconference meeting shall be conducted in a manner that protects the rights of Members of the Association and otherwise complies with the requirements of the Davis-Stirling Common Interest Development Act (*Civil Code* section 4000 and following). Participation by directors in a teleconference meeting constitutes presence at that meeting as long as all directors participating are able to hear one another, as well as Members of the Association speaking on matters before the Board.

5.2 Organizational Meeting. As soon as reasonably possible after each annual election of directors, the Board of Directors shall hold a meeting for the purpose of organization, appointment of officers, and transaction of other business, as appropriate.

5.3 Regular Meetings. Regular meetings shall be held quarterly at such time and place as is designated by the Board. Regular meetings of the Board may be held without notice to the Board if the time and place of such meetings are fixed by the Board. Otherwise, notice of regular meetings must be given in the manner required for special meetings of the Board by Section 5.4.

5.4 Special Meetings. Special meetings may be called by the President or by any two (2) directors upon four (4) days' notice to directors by first-class mail or forty-eight (48) hours' notice to directors delivered personally or by telephone, including a voice messaging system or by electronic transmission by the Association. The notice must state the time, place and purpose of the meeting.

5.5 Executive Sessions. The Board may convene in executive session to confer with legal counsel; to consider litigation; to consider matters relating to the formation of contracts with third parties; to consider personnel matters; to consider Member discipline or Member payment of assessments; or to consider any other matter allowed by law. The nature of any business discussed or voted on in executive session must be generally noted in the minutes of the next open meeting of the Board.

5.6 Emergency Meetings. As provided in *Civil Code* section 4923, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it not practical to provide notice to the Members, then an emergency meeting of the Board may be called by the President or any two (2) other members of the Board without providing notice to the Members.

5.7 Notice to Members. Except for bona fide emergency meetings (whether open meeting or executive session), prior written notice of the day, time, and place of each meeting of the Board of Directors, including an agenda, shall be given to all Members, as required by *Civil Code* section 4920. Notice of open Board meetings shall be given at least four (4) days before the meeting and notice of Board meetings held exclusively in executive session shall be given at least two (2) days before the meeting.

5.8 Open Meeting. To the extent required pursuant to *Civil Code* section 4925(a), regular and special meetings of the Board of Directors shall be open to all Members of the Association, except when the Board meets in executive session. Pursuant to *Civil Code* section 4925(b), a reasonable time limit for all Members to speak to the Board shall be established by the Board; however, the right to speak to the Board shall not entitle any Member to participate in the Board's deliberations on any matters unless requested to do so by the Board.

5.9 Action by Unanimous Written Consent. To the extent provided in *Civil Code* section 4910, the Board may not take action by unanimous written consent without a meeting except in case of emergency and then only by electronic transmission, including email as provided in *Civil Code* section 4910(b)(2). Any such written consents shall be filed with the minutes of the proceedings of the Board.

5.10 Quorum. Except as otherwise expressly provided in these Bylaws, at all meetings of the Board a majority of the directors then in office (but not less than two) constitutes a quorum for the transaction of business, and the acts of a majority of the directors present at a meeting at which a quorum is present are the acts of the Board. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of directors leaving a number fewer than that required for quorum, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

5.11 Voting by Directors. Pursuant to *Corporations Code* section 7211(c), each director shall be entitled to one (1) vote and a director may not vote by proxy or otherwise delegate his or her right to vote on any matter before the Board.

5.12 Minutes of Director Meetings. To the extent required by *Civil Code* section 4950(a), within thirty (30) days after the date of any meeting of the Board, the Board shall make available to the Members either (i) the minutes of that meeting as adopted by the Board, (ii) if the minutes have not yet been adopted by the Board, the minutes as proposed for adoption which shall be marked to indicate draft status, or (iii) a summary of the minutes. To the extent required by *Civil Code* section 4935(e), any matter discussed in an executive session shall be generally noted in the minutes of the Board and minutes of executive sessions shall not otherwise be required. Copies of the minutes, proposed minutes, or summary of minutes shall be provided to any Member of the Association upon request and upon reimbursement of the Association's costs in providing such copies.

ARTICLE VI – Officers

6.1 Designation. The Association's principal officers shall be a President, a Vice President, a Secretary, and a Treasurer, who shall be appointed by the Board and at all times be members of the Board. The Board may appoint such other officers as the Board determines to be necessary who need not be members of the Board. Any director may hold more than one office, except one person cannot be both the Secretary or Treasurer and the President at the same time.

6.2 Appointment of Officers. The Board shall appoint annually the Association's officers at the first meeting of the Board following each annual election of directors. Each officer shall hold such person's office at the pleasure of the Board, or until such person resigns or is removed or is otherwise disqualified to serve and a qualified successor is appointed to serve.

6.3 Removal and Resignation of Officers. Upon an affirmative vote of a majority of the entire Board, any officer may be removed, either with or without cause, and a successor may be appointed at any meeting of the Board. Any officer may resign at any time by giving written notice to the Board or to the President or the Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified therein. Unless specified in such notice, acceptance of the resignation by the Board is not necessary to make it effective.

6.4 Compensation. No officer may receive any compensation from the Association for services performed to the Association as an officer. However, nothing in these Bylaws precludes any officer from serving the Association in some other capacity and receiving compensation from the Association therefor, and any officer may be reimbursed for actual expenses incurred in the performance of Association duties. Appointment of any officer does not create contractual rights of compensation for services performed by such officer.

6.5 President. The President is responsible for matters directly related to the Board and is not the general manager or chief executive officer of the Association. The President is responsible for chairing the meetings of the Board of Directors and the Members; working with the manager to set the Board agenda; organizing and coordinating the Board's activities to ensure its fulfillment of governing duties as outlined in the Governing

Documents and Applicable Law; and performing other duties assigned to the President by the Board, including communicating with legal counsel as directed by the Board. The President shall keep the Board informed of the nature and substance of all communications with legal counsel. If the President is not available to perform the President's duties, the Board shall appoint another director to do so on an interim basis.

6.6 Vice President. The Vice President shall take the President's place and perform the President's duties whenever the President is absent or disabled or fails or refuses to act. If neither the President nor the Vice President is available to perform the President's duties, the Board shall appoint another director to do so on an interim basis. The Vice President has such other powers and duties as may be prescribed by the Board or these Bylaws.

6.7 Secretary. The Secretary is responsible for overseeing record-keeping for the Association including meeting minutes, the Membership register and other corporate records in accordance with Applicable Law; overseeing filings with the California Secretary of State and governmental agencies; overseeing preparation of and distribution of notices of Association meetings and receiving notices on behalf of the Association; certifying Association documents in accordance with the *Corporations Code*; and performing such other duties assigned to the Secretary by the Board.

6.8 Treasurer. The Treasurer is responsible for monitoring whether the manager's handling of Association funds is in accordance with fiscal standards set forth in Applicable Law. The Treasurer is responsible for overseeing compliance with federal and state tax requirements. The Treasurer will also oversee any fiscal audit or review of the Association's finances and advise the Board on matters of fiscal policy and performing such other duties assigned to the Treasurer by the Board.

ARTICLE VII - Information Distribution

7.1 Minutes of Meetings. To the extent required by *Corporations Code* section 8320(a)(2), the Association shall keep minutes of meetings and proceedings of the Members (including membership votes), meetings of the Board and committees of the Board, and meetings of any other committee appointed by the Board that has decision-making authority. As provided in Section 5.12, any matter discussed in executive session shall be generally noted in the minutes of the next following open meeting of the Board, and minutes of executive sessions shall not otherwise be required. Minutes shall set forth the time and place of holding of such meetings; whether regular or special, and if special, how authorized; what notice was given; the names of those present at meetings of the directors or of any executive committee of the Board or of any other committee appointed by the Board that has decision-making authority; the number of votes cast in any vote or election of the membership (or, if applicable, the number of memberships and votes present); and all the proceedings thereof.

7.2 Member Access to Association Records. To the extent required by *Civil Code* sections 5200, 5205, 5210, 5215, 5220, 5225, and 5230, and subject to a requesting Member's compliance with all applicable prerequisites and any applicable limitations (including but not limited to *Corporations Code* section 8332 concerning protection of constitutional rights of other Members, *Corporations Code* section 8338 concerning use of membership lists, and *Civil Code* section 5215 concerning withholding or redacting certain records), the Association shall make available for inspection and copying by any Member "Association records" (as defined in *Civil Code* section 5200) maintained by the Association. This provision does not require the Association to create or maintain any records not otherwise required by law to be maintained. The Board may adopt and publish reasonable Rules establishing procedures relating to a Member's inspection and obtaining copies of Association records.

7.3 Director Inspection Rights. As provided in *Corporations Code* section 8334, and subject to any limitations established by Applicable Law, every director shall have the right at any reasonable time to inspect and copy all books, records, and documents and to inspect the physical properties of the Association.

ARTICLE VIII – Amendments

8.1 By the Members. These Bylaws may be amended by the affirmative vote of Members representing at least a majority of a quorum of the Association; provided, however, that the specified percentage of approval necessary to amend a specific provision of these Bylaws may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision.

8.2 By the Board. These Bylaws may be amended by the Board without the approval of the Members or First Mortgagees if the amendment is: (a) authorized by Applicable Law to be amended by the Board, (b) to conform the Bylaws to Applicable Law, or (c) to correct typographical errors.

8.3 Record of Amendments. After a Bylaws amendment is adopted, it shall be placed in the appropriate place in the minute book of the Association together with a certificate signed by the Secretary stating the date on which it was approved by the Board, or the date on which it was approved by the Members, as applicable.

ARTICLE IX - Miscellaneous

9.1 Conflicts. If any provision of these Bylaws conflicts with Applicable Law, then such conflicting provision shall be void upon final court determination to such effect, but all other provisions shall remain in full force. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

9.2 Reference to Statutes; Time for Performance. References in the Bylaws to particular statutes, including sections of the *Civil Code* or the *Corporations Code*, shall be deemed to include any successor statute and any amendments to existing or successor statutes. Whenever these Bylaws state a time for the performance of any act by the Association which by law (as it may exist from time to time) must be performed at or within a specified time, the time for the performance of such act shall be deemed to be the widest timeframe permitted under then Applicable Law.

CERTIFICATE OF SECRETARY

I, the undersigned, hereby certify that:

1. I am the Secretary of Vieux Carre Homeowners Association, a California nonprofit mutual benefit corporation; and

2. The foregoing Second Amended and Restated Bylaws of Vieux Carre Homeowners Association were duly approved by the requisite vote of Members of the Association on ________________________, 20___.

Date: _________________   ___________________________
____
Secretary

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

VIEUX CARRE
HOMEOWNERS ASSOCIATION
c/o

(Space Above for Recorder's Use)

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VIEUX CARRE

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VIEUX CARRE

THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VIEUX CARRE is made by Vieux Carre Homeowners Association, a California nonprofit mutual benefit corporation (the "Association"). The capitalized terms used in this Declaration are defined in Article I.

RECITALS

A. The Association is a homeowners association formed to manage a common interest development known as "Vieux Carre" located on the real property in the City of Long Beach, County of Los Angeles, State of California, and more particularly described as follows:

> Lot 1 of Tract No. 30978 as per Map recorded in Book 836, Pages 85 through 90 of Miscellaneous Maps, in the Official Records of Los Angeles County, California.

B. This Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vieux Carre is made with reference to that certain "First Completely Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vieux Carre" recorded on December 18, 2002, as Document No. 02-3112881 in the Official Records of Los Angeles County, California ("2002 Declaration").

C. The Members, by a majority vote of the Total Voting Power of the Association, desire to amend, modify, and otherwise restate the 2002 Declaration pursuant to Article IX, Section 9.4, thereof, and do hereby declare that the 2002 Declaration is AMENDED AND RESTATED IN ITS ENTIRETY as set forth in this Declaration.

D. It is hereby declared that all of the real property described in Recital A constitutes a condominium project within the meaning of Section 4125 of the California Civil Code.

E. It is further hereby declared that all of the real property described in Recital A is and shall be held, owned, operated, managed, conveyed, hypothecated, encumbered, leased, used, occupied, and improved subject to the covenants, conditions, and restrictions set forth herein, which shall constitute enforceable equitable servitudes as provided in Section 5975 of the California Civil Code that will run with the said real property, all of which are in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the said real property and every part thereof.

ARTICLE I - DEFINITIONS

1.1. **Definitions.**

Unless otherwise expressly provided, the following words and phrases when used in this Declaration shall have the following meanings:

1.1.1. **Annual Assessment.**

"Annual Assessment" means the amount levied against the Owners and their Condominiums representing their share of Common Expenses.

1.1.2. **Applicable Law.**

"Applicable Law" means the statutes, laws, ordinances, and municipal codes in effect at the time a provision of the Governing Documents is applied and pertaining to the subject matter of the Governing Documents provision, including without limitation, the Davis-Stirling Common Interest Development Act (California *Civil Code* section 4000 *et seq*.). Statutes, laws, ordinances, and municipal codes specifically referenced in the Governing Documents are not intended to apply to the Project if they cease to be applicable by operation of law or if they are replaced or superseded by one or more other statutes or ordinances.

1.1.3. **Architectural Control Committee or ACC.**

"Architectural Control Committee" or "ACC" means the committee, if any, created pursuant to Article VII.

1.1.4. **Articles.**

"Articles" means the Articles of Incorporation of the Association filed with the California Secretary of State and any amendments thereto from time to time.

1.1.5. **Assessments.**

"Assessments" means any or all of the following: Annual Assessment, Special Assessment, Reimbursement Assessment, and Enforcement Assessment.

1.1.6. **Association.**

"Association" means Vieux Carre Homeowners Association, a California nonprofit mutual benefit corporation, and its successors in interest. The Association is an "association" as defined in Section 4080 of the *Civil Code*.

1.1.7. **Association Maintenance Funds.**

"Association Maintenance Funds" means the accounts created for Association receipts and disbursements pursuant to Section 4.2.

1.1.8. **Board or Board of Directors.**

"Board" or "Board of Directors" means the Association's Board of Directors.

1.1.9. **Bylaws.**

"Bylaws" means the Bylaws of the Association as currently in effect and any amendments thereto.

1.1.10. **City.**

"City" means the City of Long Beach and its various departments, divisions, employees, and representatives.

1.1.11. **Civil Code.**

"Civil Code" means the California Civil Code as amended from time to time.

1.1.12. **Common Area.**

"Common Area" means all of the property comprising the Project and the Improvements thereon except for the Units. The Common Area includes, without limitation, the land, building, swimming pool, laundry room, recreation room, parking area, driveways, sidewalks, landscaping, exterior lighting, mailboxes, fences, gates, elevators, stairways, balconies, windows and frames, doors and frames, bearing walls, columns, floors, roofs, foundation slabs, exterior wall surfaces, central services, pipes, ducts, chutes, conduits, wires and other utility installations wherever located (except for the outlets thereof within the Units). An undivided interest in the Common Area is owned by Owners of Condominiums as shown in **Exhibit A**. Some portions of the Common Area are "Exclusive Use Common Area" as defined below. Reference to the Common Area in this Declaration shall mean each portion of the Common Area as well as the entire Common Area as a whole.

1.1.13. **Common Expenses.**

"Common Expenses" means those expenses for which the Association is responsible under this Declaration and includes the actual and estimated costs of and reserves for (a) maintaining, managing, and operating the Common Area; (b) covering unpaid Assessments; (c) performing all other obligations that this Declaration requires the Association to perform; and (d) all other expenses incurred by the Association for the common benefit of the Owners in the Project.

1.1.14. **Condominium.**

"Condominium" means an estate in real property as defined in Section 4125(b) of the *Civil Code*. A Condominium consists of an undivided fee simple ownership interest in the Common Area together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto.

1.1.15. **Condominium Plan.**

"Condominium Plan" means the plan recorded pursuant to *Civil Code* sections 4285, 4290, and 4295 with respect to the Project and any amendments thereto which identifies the Common Area and each separate interest in the Project, a copy of which was recorded on December 4, 1973, in Book 836, Pages 85-90, of Maps, in the Office of the Recorder of Los Angeles County, California.

1.1.16. **County.**

"County" means Los Angeles County, California, and its various departments, divisions, employees and representatives.

1.1.17. **Declaration.**

"Declaration" means this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vieux Carre recorded in the Office of the Recorder of Los Angeles County, California, and as amended from time to time.

1.1.18. **Enforcement Assessment.**

"Enforcement Assessment" means a charge against an Owner and such Owner's Condominium representing a reasonable fine or penalty, including reimbursement of costs, as provided for in this Declaration.

1.1.19. **Exclusive Use Common Area.**

"Exclusive Use Common Area" means that portion of the Common Area in, under, over, and/or through which an individual Owner is granted an easement for exclusive use and enjoyment appurtenant to his or her Unit. The Exclusive Use Common Area includes the "Balconies" as defined in the Condominium Plan as well as those items defined as Exclusive Use Common Area under Section 4145 of the *Civil Code*.

1.1.20. **Family.**

"Family" means natural individuals, related or not, who live as a single household in a Residential Unit.

1.1.21. **First Mortgagee.**

"First Mortgagee" means the beneficiary or holder of a deed of trust of a Mortgage with first priority over all other Mortgages.

1.1.22. **Fiscal Year.**

"Fiscal Year" means the fiscal accounting and reporting period of the Association selected by the Board.

1.1.23. **Governing Documents.**

"Governing Documents" means this Declaration, the Articles, the Bylaws, and the Rules and Regulations, and any other rules, guidelines, or policies adopted by the Board.

1.1.24. **Guest.**

"Guest" means a Person entering the Project, with the express or implied permission of a Resident, for social purposes or to provide a service to the Resident's Unit.

1.1.25. **Improvement.**

"Improvement" means any structure and any appurtenance thereto, including a building, walkway, irrigation system, garage, street, sidewalk, driveway, fence, any type of wall, awning, porch, patio, stairs, any type of landscaping and planting, antenna, windbreak, the exterior surface of any visible structure and the paint on such surface, pole, sign, exterior air conditioning and water softener fixture or equipment. The Board may identify additional items that are Improvements.

1.1.26. **Include; Including.**

Whether capitalized or not, “include” means include without limitation, and “including” means including without limitation.

1.1.27. **Maintain; Maintenance.**

Whether capitalized or not, “maintain” means maintain, repair, replace, and restore and “maintenance” means maintenance, repair, replacement, and restoration.

1.1.28. **Manager.**

“Manager” means the Person retained by the Association to perform management functions of the Association as limited by the Governing Documents and the terms of the agreement between the Association and such Person.

1.1.29. **Member.**

“Member” means every Person entitled to Membership in the Association as provided in this Declaration. All Owners are Members.

1.1.30. **Membership.**

“Membership” means the voting and other rights, privileges, and duties established in the Governing Documents for Members of the Association.

1.1.31. **Mortgage.**

“Mortgage” means any document of Record, including a deed of trust, by which a Condominium or other portion of the Project is hypothecated to secure the performance of an obligation.

1.1.32. **Mortgagee.**

“Mortgagee” means a Person to whom a Mortgage is made or the assignee of the Mortgagee’s rights under the Mortgage by a Recorded instrument and includes a beneficiary under a deed of trust. Mortgagee also includes an insurer or government agency or government sponsored entity that is a guarantor or purchaser of a Mortgage.

1.1.33. **Mortgagor.**

“Mortgagor” means a Person who Mortgages such Person’s property to a Mortgagee. Mortgagor includes a trustor under a deed of trust.

1.1.34. **Notice and Hearing.**

“Notice and Hearing” means written notice and a hearing before the Board, as provided in Section 5855 of the *Civil Code*.

1.1.35. **Official Records.**

“Official Records” means the Official Records of the County.

1.1.36. **Owner.**

"Owner" means the Person or Persons holding fee simple interest to a Condominium. Each Owner has a Membership in the Association but excluding those Persons having an interest merely as security for the performance of an obligation. Owner includes sellers under executory contracts of sale but excludes Mortgagees.

1.1.37. **Person.**

"Person" means a natural individual or any legal entity recognized under California law. When the word "person" is not capitalized, the word refers only to natural persons.

1.1.38. **Project.**

"Project" means all of the real property described in Recital A and the Improvements thereon. The Project is a "common interest development" as defined in Section 4100 of the *Civil Code* and a "condominium project" as defined in Section 4125 of the *Civil Code*. All references in this Declaration to the Project are references to the Project as a whole and to any portions thereof.

1.1.39. **Reimbursement Assessment.**

"Reimbursement Assessment" means a charge levied against the Owners and their Condominiums to reimburse the Association for the costs incurred to (a) maintain, repair or replace property (including property within a Unit) when such damage is due to the act or negligence of such Owner, or member of his or her household, pet, Tenant, or Guest or as otherwise provided in the Governing Documents; (b) any expenditure of funds by the Association to remedy a lack of compliance with any provision of the Governing Documents by an Owner or his or her Condominium, or member of his or her household, pet, Tenant, or Guest; or (c) any expenditure of funds for collecting from an Owner any amount owed to the Association.

1.1.40. **Record.**

"Record" means, with respect to any document, the entry of such document in the Official Records of the County.

1.1.41. **Resident.**

"Resident" means any Person or Persons who occupy a Unit in the Project.

1.1.42. **Rules and Regulations or Rules.**

"Rules and Regulations" or "Rules" means the current rules and regulations and policies and procedures for the Project as adopted or amended by the Board from time to time. The Rules include operating rules as defined in Section 4340(a) of the *Civil Code*.

1.1.43. **Subdivision Map.**

"Subdivision Map" means that certain map for Tract No. 30978 recorded on December 4, 1973, in Book 836, Pages 85-90, of Maps, in the Office of the Recorder of Los Angeles County, California.

1.1.44. **Tenant.**

"Tenant" means a Person who occupies and has the right to full possession and control of a Condominium pursuant to and during the term of a rental or lease agreement.

1.1.45. **Total Voting Power.**

"Total Voting Power" means the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one (1) vote for each Condominium.

1.1.46. **Unit.**

"Unit" means a separate interest in space as defined in Section 4125(b) of the *Civil Code* and consists of a "Residential Unit" and a "Parking Space Unit." Each Unit is a separate freehold estate, as separately shown, numbered, and designated on the Condominium Plan. There is a total of 45 Units in the Project, consisting of twenty-one (21) Residential Units, and twenty-four (24) Parking Space Units.

Each Residential Unit consists of the living space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, and doors as shown on the Condominium Plan. All Residential Units exclude therefrom bearing walls, columns, floors, roofs, foundation slabs, exterior wall surfaces, central services, pipes, ducts, chutes, conduits, wires and other utility installations except for the outlets thereof within the Residential Units.

Each Parking Space Unit consists of the garage space bounded by and contained within the finished surface of the floor, walls (if any), and ceiling, and vertical planes perpendicular to the floor at the lateral boundaries of such space as shown on the Condominium Plan. Twenty-one (21) of the twenty-four (24) Parking Space Units are deeded to Residential Unit Owners as shown in **Exhibit A**.

In interpreting deeds, declarations, and plans, the existing physical boundaries of the Units as constructed or reconstructed in substantial accordance with the Condominium Plan and the original plans thereof, if such plans are available, shall be conclusively presumed to be the boundaries of the Unit, rather than the description expressed in the deed, this Declaration, or the Condominium Plan, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries as shown on the Condominium Plan or defined in the deed and this Declaration and the boundaries of the building housing the Units as constructed or reconstructed. The elements and dimensions and boundaries of each Unit are as described in the Condominium Plan.

1.2. **Interpretation.**

1.2.1. **Relation to Original Declaration.**

Upon Recordation of this Declaration, the 2002 Declaration will no longer be in effect and the Project shall be subject only to this Declaration. Uses that comply with the 2002 Declaration shall be allowed to continue; provided that, upon transfer of a Condominium to a new Owner, the new Owner shall be obligated to comply with this Declaration. If there is a disagreement regarding whether a use was or was not in compliance with the 2002 Declaration, the Board shall evaluate the issue. The Board's conclusion shall be the final decision on the matter.

1.2.2. **Priorities and Inconsistencies.**

If there are any conflicts or inconsistencies between any of the Governing Documents, then the conflict or inconsistency shall be resolved as provided in *Civil Code* section 4205.

1.2.3. **Statutory References.**

All references made to statutes are to those statutes as currently in effect or to subsequently enacted successor statutes.

ARTICLE II– EASEMENTS, PROPERTY RIGHTS, AND DAMAGE

2.1. **Equitable Servitudes.**

The covenants and restrictions set forth in this Declaration shall be enforceable equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes may be enforced by any Owner or by the Association or by both.

2.2. **Prohibition Against Partition.**

Except in the case of substantial damage to or destruction or obsolescence of the Project as provided in *Civil Code* section 4610, there shall be no judicial partition of the Project or any part thereof, nor shall any Owner seek any judicial partition thereof; provided, however, that if a Condominium is owned by two or more Owners as tenants in common or as joint tenants, nothing in this Declaration shall be deemed to prevent a judicial partition by sale as between such co-Owners.

2.3. **Prohibition Against Severance of Elements.**

Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Condominium shall include all interests and appurtenances as shown in the original deed of conveyance. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's Membership interest in the Association. Any transfer that attempts to sever those component interests shall be void.

2.4. **Personal Security.**

Nothing in this Article or elsewhere in the Governing Documents shall be Interpreted as requiring the Association to provide for the personal security of any Resident or his or her Guest or for the real or personal property of any of these Persons.

2.5. **Damage Liability.**

Each Owner shall be liable to the Association for any damage to the Common Area, if the damage is sustained due to the act or negligence of the Owner or his or her Tenants, Guests, or other invitees. The Association may (a) determine whether any claim shall be made on the Association's insurance and (b) levy a Reimbursement

Assessment equal to the cost of repairing the damage and/or any deductible paid and the increase, if any, in insurance premiums directly attributable to the damage caused by or attributable to such Owner.

2.6. **Easements.**

2.6.1. **Easements Generally.**

In addition to all easements reserved and granted on the Subdivision Map or the Condominium Plan, easements set forth in this Declaration shall be appurtenant to, and shall pass with the title to, each Condominium and shall be subordinate to any exclusive easements granted elsewhere in this Declaration, to the right of the Association to perform its obligations under this Declaration, or to otherwise regulate the Common Area as provided in the Governing Documents. Each of the easements reserved or granted herein shall be covenants running with the land for the use and benefit of the Owners and their Condominiums 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.

2.6.2. **Association Easements Over the Project.**

The Association shall have a nonexclusive easement over the Project as necessary to perform such duties and exercise such powers of the Association as may be set forth by the Governing Documents. Easements over and under the Project or any portion thereof for the installation, repair, maintenance, and replacement of electric, telephone, water, gas, and sanitary sewer lines and facilities, cable or master television lines, drainage facilities, walkways, and landscaped areas as shown on the Subdivision Map or Condominium Plan, and as may be hereafter required or needed to service the Project, are reserved by and shall exist in favor of the Association, together with the right to grant and transfer the same.

2.6.3. **Owners' Easements Over Common Area.**

Each Owner shall have a nonexclusive easement for use and enjoyment of the Common Area as well as a nonexclusive easement for vehicular and pedestrian use and access over the driveways and walkways in other Common Area throughout the Project; provided, however, such nonexclusive easements shall be subordinate to, and shall not interfere with, the exclusive easements, if any, appurtenant to Units over Exclusive Use Common Area.

2.6.4. **Encroachment Easements.**

None of the rights and obligations of the Owners created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments over the Common Area or Condominiums upon which the encroachment exists so long as the encroachments shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner. In the event a Condominium is partially or totally destroyed and then rebuilt or repaired, the Owners of any adjoining Condominiums agree that any minor encroachments over the adjoining Condominiums, which are similar to any encroachments that existed prior to the partial or total destruction shall be permitted and there shall be easements for maintenance of such encroachment so long as they shall exist.

2.6.5. **Owners' Shared Utility Easements.**

Wherever sanitary sewer house connections and/or water house connections or electricity, cable TV, gas, or telephone lines are installed within the Project, which connections serve more than one Condominium, the Owner of each Condominium served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as servicing his or her Condominium and the Owner of any Unit served by such connections shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon a Condominium or Common Area or to have the utility companies enter upon a Condominium or Common Area in or upon which said connections, or any portion thereof, lies, to repair, replace and generally maintain said connections as and when necessary.

2.7. **Association Right of Entry.**

The Association has the right to enter any Unit, Common Area, and/or Exclusive Use Common Area to inspect the Project, confirm compliance with the Association's Governing Documents, perform maintenance, or take any corrective action the Association determines to be necessary or proper. Entry into a Unit and/or Exclusive Use Common Area under this Section may be made after at least twenty-four (24) hours prior written notice to the Owner, except for emergency situations, which shall require no prior notice. Any damage caused by entry under this Section shall be repaired by the Association; however, any damage caused by the Association's entry in an emergency or because an Owner did not give the Association access must be repaired by such Owner.

ARTICLE III – THE ASSOCIATION

3.1. **Organization of the Association.**

The Association is incorporated as a nonprofit mutual benefit corporation under the California Nonprofit Mutual Benefit Corporation Law. The Association has the powers and duties listed in the Governing Documents and also has the general and implied powers of a nonprofit mutual benefit corporation generally to do all things that a corporation organized under the laws of the State of California may lawfully do that are necessary or proper for the obligations and duties imposed upon it, subject only to the limits on the exercise of such powers as set forth in Applicable Law and the Governing Documents.

3.2. **Board of Directors.**

The affairs of the Association shall be managed, and its duties and obligations performed by, the Board of Directors unless otherwise indicated in the Governing Documents or Applicable Law.

3.3. **Legal Standing to Resolve Disputes.**

To the fullest extent permitted by law, including *Civil Code* section 5980, the Association shall have standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as a real party in interest, and without joining with it the Owners, in matters pertaining to the following: (a) enforcement of the Governing Documents; damage to the Common Area; damage to the separate interests that the Association is obligated to maintain, repair, or replace; damage to a separate interest that arises out of, or is integrally related to, damage to the Common Area or separate interests that the Association is obligated to maintain, repair, or replace.

3.4. **Membership.**

3.4.1. **Generally.**

Every Owner of a Condominium shall automatically acquire a Membership in the Association and retain such Membership until such time Owner's Condominium ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Condominium is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Condominium is transferred, and every Membership is appurtenant to, and may not be separated from, the fee ownership of such Condominium. The rights, duties, privileges, and obligations of all Owners are as provided in the Governing Documents.

3.4.2. **Transfer.**

The Membership of any Owner may not be transferred, pledged, or alienated in any way, except upon the transfer of ownership to the Owner's Condominium and then only to the transferee of such Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold a Condominium to a contract purchaser under an agreement to purchase may delegate such Owner's Membership rights to such contract purchaser. Such delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all charges and Assessments attributable to such contract seller's Condominium that accrue before title to the Condominium is transferred. If an Owner fails or refuses to transfer such Owner's Membership to the purchaser of such Owner's Condominium upon transfer of title thereto, then the Association may record the transfer in the Association's records. Until satisfactory evidence of such transfer is presented to the Association, the purchaser will not be entitled to vote on Association matters. The Association may levy a reasonable transfer fee against a new Owner and such new Owner's Condominium (which fee shall be paid through escrow or added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to such new Owner on the Association's records. Such fee may not exceed the Association's reasonable cost involved in changing its records.

3.4.3. **Classes of Membership.**

The Association has one class of Membership. Members are entitled to one (1) vote for each Condominium owned. The vote for each Condominium shall be exercised in accordance with the Governing Documents, but no more than one (1) vote may be cast for any Condominium.

ARTICLE IV– ASSESSMENTS AND ASSOCIATION MAINTENANCE FUNDS

4.1. **Personal Obligation to Pay Assessments.**

Each Owner covenants to pay to the Association Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the estimated amount necessary for the purpose for which it is levied. Each Assessment, together with late payment penalties, interest, costs, and reasonable attorneys' fees for the collection thereof, is a charge and a continuing lien on the Condominium against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs, and reasonable attorneys' fees, is also the personal obligation of the Owner of the Condominium at the time the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any new Owner (the **"Purchaser"**) unless expressly assumed by the Purchaser.

4.2. **Association Maintenance Funds.**

The Association shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all money paid to the Association and from which disbursements shall be made, as provided in this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include an operating fund for current Common Expenses (the **"Operating Fund"**) and a reserve fund (the **"Reserve Fund"**) for the portion of Common Expenses allocated to reserves for the future repair and replacement of Improvements that the Board does not expect to perform on an annual or more frequent basis.

4.3. **Purposes of Assessments and Association Maintenance Funds.**

The Assessments shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Residents; to operate, improve, and maintain the Common Area; and discharge all other Association obligations under this Declaration. All amounts deposited into the Association Maintenance Funds must be used solely for the common benefit of all Owners for purposes authorized by this Declaration.

Disbursements from the Reserve Fund shall be made by the Association only for the purposes specified in Section 5510(b) of the *Civil Code*; provided, however, that the Board may authorize the temporary transfer of moneys from the Reserve Fund to the Operating Fund to meet short-term cash flow requirements or other expenses pursuant to Section 5515 of the *Civil Code*.

4.4. **Waiver of Use.**

No Owner is exempt from personal liability for Assessments duly levied by the Association nor may any Owner release his or her Condominium from the liens and charges thereof by waiving use and enjoyment of the Common Area or by abandoning his or her Condominium.

4.5. **Annual Assessments.**

The estimated funds needed to meet the annual Common Expenses of the Association shall be assessed to each Condominium as an Annual Assessment. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days prior to the beginning of each Fiscal Year. Written notice of any increase in the amount of an Annual Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days before the increased Annual Assessment becomes due. Each Owner is obligated to pay Annual Assessments to the Association in monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.

Each Owner shall pay Annual Assessments in installments at such frequency and in such amounts and by such methods as are established by the Board. If the Association incurs additional expenses because of a payment method selected by an Owner, then the Association may charge such additional expenses to such Owner. The Association does not have to apportion such additional expenses among all Owners as a part of Annual Assessments.

4.5.1. **Maximum Authorized Annual Assessment.**

The Board may levy Annual Assessments that exceed the Annual Assessments for the immediately-preceding Fiscal Year only as follows: (a) if the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately-preceding Fiscal Year, then the Board must either (i) have complied with applicable provisions of subdivision (b) of Section 5300 of the *Civil Code* for the fiscal year or (ii) obtain the approval of Owners casting a majority of votes in an election of the Association in which more than fifty percent (50%) of the Condominiums are represented (**"Increase Election"**), and (b) if the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately-preceding Fiscal Year, then the Board must obtain the approval of Owners casting a majority of votes in an Increase Election. This Section does not limit Annual Assessment increases necessary for addressing an Emergency Situation (as defined in Section 4.5.3 below).

4.5.2. **Revised Annual Assessments.**

Subject to the limitations stated in Section 4.5.1 above or as otherwise permitted by law, if the Board determines that the amount to be collected from Annual Assessments will be inadequate to defray the Common Expenses for the year due to the cost of any construction or unexpected maintenance of components in Common Area or any other reason, the Association may revise the Annual Assessment for the remainder of the Fiscal Year to cover the expense.

4.5.3. **Emergency Situations.**

An **"Emergency Situation"** is any one of the following: (a) an extraordinary expense required by a court order; (b) an extraordinary expense necessary to maintain a portion of the Project for which the Association is responsible where a threat to personal safety is discovered; and (c) an extraordinary expense necessary to maintain the portion of the Project for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the annual budget. Before imposing or collecting an Assessment pursuant to this subparagraph, the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense involved and why such expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Owners with the notice of the Assessment.

4.5.4. **Allocation of Annual Assessments.**

Annual Assessments shall be assessed and allocated against the Owners and their Condominiums in proportion to the percentage interests in the Common Area allocated to each Unit as set forth in **Exhibit A**.

4.6. **Special Assessments.**

The Board may levy, in any Fiscal Year, a Special Assessment applicable to such Fiscal Year only to defray, in whole or in part, the cost of any construction, repair, or replacement of Improvements or other such addition to the Common Area or as otherwise determined necessary by the Board. No Special Assessment in any Fiscal Year, if added to the Special Assessments already levied during such Fiscal Year, may exceed five percent (5%) of the Association's budgeted gross expenses for such Fiscal Year without the vote or written consent of Owners casting a majority of votes at an Increase Election. The Board may levy, in any Fiscal Year, a Special Assessment applicable to such Fiscal Year that exceeds five percent (5%) of the Association's budgeted gross expenses for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 4.5.3. Special Assessments shall be levied and collected in the same manner as Regular Assessments.

4.7. **Reimbursement Assessments.**

The Board, after Notice and Hearing, may levy a Reimbursement Assessment against an Owner and his or her Condominium to reimburse the Association for the costs incurred by the Association to: (a) maintain, repair or replace property (including property within a Unit) when such damage is due to the act or negligence of such Owner, or member of his or her household, pet, Tenant, invitee, or Guest or as otherwise provided in the Governing Documents; (b) remedy a lack of compliance with any provision of the Governing Documents by an Owner or his or her Condominium, or his or her Family, pet, Tenant, invitee, or Guest; or (c) collect from an Owner any amount owed to the Association.

4.8. **Enforcement Assessments.**

The Board, after Notice and Hearing, may levy an Enforcement Assessment against an Owner (and any fine or monetary penalty imposed by the Board in accordance with the Governing Documents shall be deemed to be an Enforcement Assessment), for violation of any of the provisions of the Governing Documents. Duly-levied Enforcement Assessments shall be subject to the provisions in the Governing Documents regarding costs, late charges, and interest for delinquent payment, and may become a lien on the Condominium collectible by the Association only through judicial foreclosure.

4.9. **No Offsets.**

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

4.10. **Enforcement of Assessments and Late Charges.**

The Board, on behalf of the Association, may enforce the payment of any delinquent Assessment plus related late charges, reasonable costs of collection (including attorneys' fees), and interest by bringing an action at law against an Owner personally obligated to pay, or by foreclosing a lien against the Owner’s Condominium by judicial or non-judicial foreclosure to the fullest extent permitted by law. A delinquent Assessment, and any related late charges, reasonable costs of collection (including attorneys' fees), and interest assessed in accordance with Section 12.2 of this Declaration and Applicable Law, shall become a lien upon the Condominium when a Notice of Delinquent Assessment is duly Recorded as provided in Applicable Law. Unless otherwise provided by statute, the Notice of Delinquent Assessment shall describe the amount of the delinquent Assessment or installment, the related charges authorized by this Declaration, the legal description of the Condominium, the name of the purported Owner, and, if the lien Is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment may be signed by any officer or director of the Association, or any employee or agent of the Association authorized to do so by the Board. The Notice of Delinquent Assessment shall be mailed by certified mail or overnight delivery with proof of same to every Person whose name is shown as an Owner of the Condominium in the Association's records, and the Notice of Delinquent Assessment shall be sent no later than ten (10) calendar days after recordation.

Unless otherwise allowed by Applicable Law, the Notice of Delinquent Assessment may not be recorded until after the Association has sent the written demand for payment to the delinquent Owner by certified mail or overnight delivery with proof of same. The written demand shall comply with the requirements of Applicable Law.

If not paid in full within thirty (30) days after recordation of the Notice of Delinquent Assessment, any lien described herein may be enforced in any manner permitted by Applicable Law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the Notice of Delinquent Assessment or by a trustee substituted pursuant to Applicable Law.

4.11. **Subordination to First Mortgage Lien.**

The lien securing any of the Assessments provided for in this Declaration shall be prior to all encumbrances made by an Owner or imposed by legal process upon any Condominium except taxes, bonds, assessments and other levies, which, by law, are prior thereto, whether the notice of assessment is recorded prior or subsequent to any such encumbrances, and except that the lien of the Assessments shall be subordinate to the lien of any First Mortgage, provided such First Mortgage is made in good faith and for value and recorded in the Official Records of the County prior to the recordation of a claim of lien for said Assessments. Sale or transfer of any Condominium shall not defeat or affect the Assessment lien. However, the sale or transfer of any Condominium which is subject to any First Mortgage, pursuant to a foreclosure under such First Mortgage shall extinguish the lien of such Assessment as to payments thereof which became due prior to such sale or transfer, except for the amount of unpaid Assessments specified in a claim of lien recorded prior to the recordation of such First Mortgage. No such sale or transfer shall relieve such Condominium or the purchaser thereof from liability for any Assessments thereafter becoming due or from the lien thereof.

4.12. **Assignment of Rents.**

As security for the payment of all liens provided for under this Declaration, each Owner grants to the Association a present security interest in existing and future leases, rents, issues, or profits of the Owner's Condominium. This Section shall be enforceable to the fullest extent permitted by law. Upon default of an Owner in payment of amounts owed to the Association, the Association shall be entitled to enforce the assignment in accordance with this Section. On and after the date the Association takes one or more of the enforcement steps described in this Section, the Association shall be entitled to collect and receive all rents, issues, and profits that have accrued but remain unpaid and uncollected by the delinquent Owner on that date, and all rents, issues, and profits that accrue on or after the date. The assignment may be enforced by one or more of the following: (1) the appointment of a receiver; (2) obtaining possession of the rents, issues, or profits; and/or (3) delivery to any one or more of the Owner's Tenant(s) of a written demand for turnover of rents, issues, and profits. The assignment of rents and powers described in this Section shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first Mortgage on any Condominium, or any part thereof, to do the same or similar acts.

ARTICLE V – USE RESTRICTIONS

The use and occupancy of the Project and each Condominium therein shall be subject to the following covenants and restrictions.

5.1. **Use of Common Area.**

The Common Area shall be kept free of rubbish, debris, and other unsightly or unsanitary materials. There shall be no obstruction of any part of the Common Area, nor shall anything impair access to the Common Area. Each Owner shall avoid causing any damage to the Common Area. Except as may be authorized by the Board, no Person other than the Association or its duly authorized agents shall (i) construct, remove, alter or damage in any way any Improvement on the Common Area, (ii) make any excavation or add fill to the Common Area, (iii) change or alter the natural or existing drainage of the Common Area, or (iv) alter, remove, or destroy any plant, grass, tree, shrub, or other landscaping upon the Common Area other than as permitted upon or within Exclusive Use Common Area.

5.2. **No Smoking in Common Area.**

For the safety of the property and for the health, safety, and security of all Residents of the Project, no smoking of cigarettes, pipes, cigars, electronic cigarettes, personal vapor devices, or any other tobacco product, marijuana, legal or illegal substance shall be permitted anywhere in the Common Area, whether indoors or outdoors including Exclusive Use Common Area. “Smoking” shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, pipe, cigar, electronic cigarette, personal vapor device or other smoke inhalation device of any kind, or other tobacco product, marijuana, legal or illegal substance, and shall include smoke or vapor from any such activity drifting from the interior of a Unit to the Common Area or to Exclusive Use Common Area.

5.3. **Residential Use.**

Except to the extent permitted in Section 5.4 below, each Condominium may be occupied and used for residential purposes only.

5.4. **Business or Commercial Activity.**

Except as authorized in this Section, no Condominium nor any other part of the Project may 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 consideration, regardless of whether the activity is engaged in full-time or part-time, generates or does not generate a profit, or requires or does not require a license. However, this restriction shall not prohibit any Resident from (a) keeping a home office; (b) keeping personal business records or accounts; (c) conducting a “virtual office” or “telecommuting;” (d) handling personal or professional telephone calls or correspondence, or (e) certain care facilities that by law cannot be prohibited by the Declaration. Any such activity must be properly and fully-licensed by all applicable governmental entities, where required, including any attempted use as a group care facility. Such uses are expressly declared to be customarily incidental to the principal residential use and not in violation of any provisions of this Section. Any use of a Condominium that interferes with the quiet enjoyment or rights of others in the Project is prohibited, including, but not limited to, the existence or operation of activities that (a) include patrons or clientele visiting the Unit, overburdening the streets or parking areas in the Project; (b) produce sounds, odors, materials, or other intangibles outside the boundaries of the Unit that are excessive or inappropriate for a residential neighborhood; (c) increase any of the Association's insurance obligations or premiums; and (d) are inconsistent with the character of the Project or fail to otherwise conform to this Declaration.

5.5. **Number of Residents.**

No Condominium shall be permanently occupied by a number of Residents that is more than two times the number of bedrooms, plus one; for example, three Residents in a one-bedroom Unit or five Residents in a two-bedroom Unit, based on the number of bedrooms in the Unit as originally constructed. In no event shall any Unit be occupied by more persons than permitted by applicable zoning laws or other governmental regulations.

5.6. **Rental or Leasing of Condominiums.**

Nothing in this Declaration shall be deemed to prevent or prohibit an Owner from renting or leasing his or her Condominium. However, each Owner renting or leasing his or her Condominium must comply with the following provisions.

5.6.1. **Rental or Lease Requirements.**

Each Owner renting or leasing his or her Condominium must ensure that the rental or lease agreement is (a) in writing; (b) has a minimum initial term of at least six (6) months; (c) states that it is subject to the Governing Documents; (d) includes a written receipt by the Tenant(s), acknowledging receipt of and the need for compliance with the Governing Documents; and (e) contains an express acknowledgment that each Tenant and his or her Family members, Guests, and other invitees, are bound by the Governing Documents when present in the Project, including, but not limited to, occupancy of the Condominium, and any violation of the Governing Documents by any Tenant or his or her Family members, Guests, or other invitees constitutes a default under the lease, entitling the Owner to all enforcement remedies under the lease, including termination. Each rental or lease agreement must be for the entire Condominium and not separate parts thereof unless the Owner is renting a portion of the Condominium while remaining in occupancy.

5.6.2. **Restriction on Number of Residential Units Rented.**

Except for grandfathered Residential Units or hardship waivers, the maximum number of Residential Units that may be rented within the Project shall not exceed six (6) Residential Units which is twenty-five percent (25%) of the total number of Residential Units. For purposes of this Section, "rented" shall mean leased or rented to or occupied, with or without compensation, by anyone other than an Owner and his or her Family or temporary guests.

Pursuant to *Civil Code* section 4740, the restriction on the number of permitted rentals set forth above shall not apply to Residential Units currently owned by Owners as of the date this Declaration is first recorded and such Owners shall be automatically grandfathered and entitled to rent their Residential Units notwithstanding the limit set forth above; provided, however, such limit shall apply to any Residential Unit as to which legal title is sold or transferred subsequent to the date this Declaration is first recorded. If the number of Residential Units being rented at the time of such sale or transfer is more than the number permitted as set forth above, the Residential Unit shall be sold or transferred for Owner-occupancy only and not for rental. For purposes of this Section, a conveyance shall not be deemed a "sale or transfer" if it meets at least one (1) of the following conditions: (a) pursuant to Section 62 or Section 480.3 of the California *Revenue and Taxation Code,* the transfer is exempt for purposes of reassessment by the county tax assessor; (b) pursuant to subdivision (b) of Section 1102.2 of the *Civil Code* solely with respect to probate transfers, or pursuant to subdivision (e), (f), or (g) of Section 1102.2 of the *Civil Code*, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement as set forth in Section 1102.6 of the *Civil Code*.

For Residential Units that are not grandfathered as provided above, the Board shall have the right but shall not be obligated to waive the limitation on the number of permitted rentals or the order of priority of requests to rent in cases of deserving and unusual hardship; provided such waiver shall be for a limited term, not to exceed one (1) year, the Owner requesting the waiver shall deliver to the Board a signed statement representing that he or she will retake possession and occupancy of the Unit as a resident thereof upon the expiration of the specified limited term, and the waiver shall be subject to such other conditions as the Board may determine, which conditions may include but shall not be limited to Board review and approval of the lease for such limited term.

The Board shall establish and maintain a list of all Owners currently leasing or renting a Residential Unit, including grandfathered Residential Units. The list of rented Residential Units shall include: the Owner's name, the address of the rented Unit, the Owner's record date of ownership, and the term of the lease. The list of rented Residential Units shall be made available to any Owner. Payment of a reasonable administrative charge to be set by the Board may be required.

Any Owner desiring to rent his or her Residential Unit that is not grandfathered shall submit to the Board a written request to rent his or her Residential Unit which shall state the following: the Owner's name and mailing address, the Unit address, the Owner's record date of ownership, the proposed lease term and the number of tenants; and such other information as the Board may reasonably require from time to time. Within thirty (30) days after receipt of the request, the Board shall review and shall approve or deny an Owner's request to rent. Written notice of the Board's decision shall be transmitted to the requesting Owner and if the request is denied, the notice shall specify the reason(s) for denial. The Board shall approve the application unless doing so will increase the number of Residential Units leased or rented within the Project (including the number of all grandfathered Units being rented) to more than the number permitted as set forth above or will otherwise result in the violation of any provision of this Section. When the number of Residential Units leased or rented in the Project is less than the number permitted under this Section, the Board shall authorize the Owner who submitted the earliest received application to lease or rent his or her Residential Unit. When the number of Residential Units leased or rented in the Project equals or exceeds the number permitted as set forth above, Owner requests to rent shall be added to a waiting list maintained by the Board. The decision of the Board in approving or denying a request to rent, made in accordance with the procedures set forth in this Section, shall be final and conclusive.

5.6.3. **Rental and Tenant Information to the Association.**

Prior to any Tenant's occupancy of a Condominium, each Owner renting or leasing his or her Condominium shall provide the Association with a copy of the rental or lease agreement; the name(s) and contact information of the Tenant(s) or the Tenant(s)' authorized representative, and the Owner's current mailing address.

5.6.4. **Assignment of Rents.**

Pursuant to the Assignment of Rents provision of this Declaration at Section 4.12, upon written request from the Association, an Owner's Tenant(s) must pay to the Association that portion of the rent necessary to satisfy any obligation of the Owner to the Association for payment of delinquent assessments. All payments thus made will reduce the Tenant(s)' obligation to the Owner by like amount.

5.6.5. **Short-Term Rentals Prohibited.**

No Owner may rent or lease his or her Condominium for transient purposes (i.e., less than thirty days), hotel purposes, or for any purposes inconsistent with the Declaration. Any agreement that is either for a period of thirty (30) days or less or pursuant to which the Owner or another Person provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes. No Owner may advertise his or her Condominium for rent or lease through posting services, websites, real estate listings, or any other reference or guide, which would solicit or lead prospective Tenants to believe that such short-term, transient, or hotel rental is available or permissible in the Project.

5.6.6. **Governing Documents to Tenants.**

Prior to any Tenant's occupancy of a Condominium, each Owner renting or leasing his or her Condominium must (a) provide the Tenant(s) with copies of the Governing Documents or make them available for review and (b) must obtain a written receipt from the Tenant(s) confirming receipt or review of the Governing Documents and acknowledgement of requirement for compliance with the Governing Documents.

5.6.7. **Owner Liability for Tenants.**

Each Owner shall be responsible for the conduct of their Residents, Tenants, and Guests, including, but not limited to, their compliance with and violations of the Governing Documents, including the rental and leasing provisions in this Section. Thus, each Owner shall be held responsible for any damage to the Common Area caused by their Tenant(s) or the Tenant(s)' Family members, Guests, or other invitees. An Owner shall be assessed a Reimbursement Assessment for the Association's cost to repair any damage caused by their Tenant(s) or their Tenant(s)' Family members, Guests, or other invitees.

5.6.8. **Renter's Insurance.**

Each Owner who rents or leases his or her Condominium shall require the Tenant(s) to obtain and maintain in force during their tenancy a renter's insurance policy, a copy of which shall be provided to the Association prior to any Tenant's occupancy of a Condominium and annually thereafter upon request from the Association.

5.7. **Balconies.**

Furniture, barbecues, and other personal property may be kept in each Owner's Exclusive Use Common Area Balcony so long as they are kept in good condition and no item constitutes or creates a nuisance. All plants kept outside of any Unit shall be kept neat and trimmed in pots or planters that do not allow water to drain outside of such pots or planters, and no vegetation shall be permitted to extend beyond the railings, walls, or any other boundary of any Balcony, except as approved in writing by the Board. No open fires are permitted in Balconies, except in barbecue grills, and other receptacles designed and used in such a manner so as not to create a fire hazard. No clothing, fabrics, or unsightly articles may be hung, dried, or aired in the Balconies if visible from the Common Area or the ground floor of other Units. Each Owner shall keep his or her Balcony in a neat, clean and sanitary condition.

5.8. **Sports Apparatus.**

No sports apparatus may be placed upon or attached to the exterior surface of any portion of the Common Area.

5.9. **Storage of Personal Property.**

No personal property, substance, item, or container of any kind shall be allowed outside of a Unit or in any exposed part of a Unit, including but not limited to the Balconies, without the written permission of the Board.

5.10. **Hazardous Materials.**

No flammable or combustible substance, fluid, material, or other hazardous item shall be placed or disposed of anywhere in the Project, except into approved disposal containers and immediately removed from the Project at Owner's expense.

5.11. **Outbuildings.**

No tent, shack, trailer, parking space, outbuilding, or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

5.12. **Signs.**

A **"Sign"** is any banner, flag, poster, and sign or as otherwise defined as a **"Sign"** in the Rules.

5.12.1. **Authorized Signs.**

An **"Authorized Sign"** includes any (a) Sign authorized by Applicable Law to be displayed; (b) name and address identification Sign for a Unit; (c) Sign advising of the existence of security services protecting a Unit; (d) a single Sign advertising a Unit "For Sale" or "For Rent", (e) a noncommercial sign or poster no larger than nine (9) square feet in size or a noncommercial flag or banner no larger than fifteen (15) square feet in size, displayed upon a Unit, and (f) any Sign defined as an Authorized Sign by the Board or Architectural Control Committee.

5.12.2. **Sign Restrictions.**

Unauthorized Signs shall not be displayed anywhere in the Project. Authorized Signs may be installed and maintained in a Unit by the Resident so long as they (a) comply with Applicable Law and the Rules, and (b) do not pose a threat to public health or safety.

5.12.3. **Sign Exemptions.**

Signs that are (a) entry monuments, Project identification Signs, notices required by law to be posted or traffic or parking control Signs and/or (b) installed or maintained by the Association are exempt from the restrictions in this Section 5.12.

5.12.4. **Architectural Guidelines.**

In the architectural Rules, the Board or Architectural Control Committee may interpret or clarify any portion of Section 5.12 and provide examples of Signs that are Authorized Signs and prohibited.

5.13. **Vehicle Restrictions.**

All vehicles kept or operated within the Project are subject to this Declaration, Applicable Law, and any Rules governing vehicle restrictions adopted by the Board.

5.13.1. **Permitted Vehicles.**

“Permitted Vehicles” are defined as the following: (a) standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten (10) or fewer people; (b) motorcycles; (c) pickup trucks having a manufacturer’s rating or payload capacity of three-quarter (3/4) ton or less or as the Board otherwise designates in the Rules, and (d) any other vehicle that can be parked entirely in a Parking Space Unit. The Association may identify additional vehicles as Permitted Vehicles in the Rules.

5.13.2. **Prohibited Vehicles.**

“Prohibited Vehicles” are defined as the following: (a) Recreational Vehicles (defined in Section 5.13.3 below), although Recreational Vehicles are temporarily allowed within the Project for purposes of loading and unloading provided they can be parked entirely in a Parking Space Unit; (b) Commercial Vehicles (defined in Section 5.13.4 below), although Commercial Vehicles are allowed within the Project briefly for delivery and pickup purposes; (c) buses or vans designed to accommodate more than ten (10) passengers; (d) vehicles having more than two (2) axels; (e) inoperable vehicles or parts of vehicles; (f) any noisy or smoky vehicle or vehicular equipment or otherwise deemed a nuisance by the Board; and (g) any other vehicle not classified as a Permitted Vehicle. Prohibited Vehicles may not be parked, stored, or kept within the Project, including any street or driveway, except for brief periods for loading, unloading, making deliveries, or emergency repairs. If a vehicle qualifies as both a Permitted Vehicle and a Prohibited Vehicle, the vehicle is presumed to be a Prohibited Vehicle unless the vehicle is expressly classified as a Permitted Vehicle in writing by the Association.

5.13.3. **Recreational Vehicles Defined.**

As used in this Declaration, “Recreational Vehicles” mean and include, without limitation, trailers, boats, aircraft, campers, coaches, camp cars, camper vans, mobile homes, motor homes, or any other similar type of equipment or vehicle. The Board has the authority to determine, in its sole reasonable discretion, and/or identify within the Rules whether any additional vehicle is a “Recreational Vehicle.

5.13.4. **Commercial Vehicles Defined.**

As used in this Declaration, “Commercial Vehicles” mean and include, without limitation, any vehicle with a width in excess of eighty-four (84) inches or wheel base length of greater than one hundred twenty-four (124) inches; a truck of greater than three-quarter (3/4) ton capacity; a limousine; any vehicle that depicts the name, logo, telephone number, physical or mailing address, web site address, and/or description or other markings of any business or commercial entity or group; any vehicle altered for use in commercial purposes (e.g., installation of one or more racks to the vehicle, such as pipes, glass, and/or tool racks or addition of doors, drawers, and bins used for storage of parts and tools; mounting of tools and/or equipment either permanently or temporarily, such as air compressor, welding equipment, generator, etc.; installation of hydraulic lifts, gates, cranes, hoists, etc.; addition of fences, bordered beds, side stakes, etc., to store supplies, machinery, tools, etc., installation of vacuums, motorized brushes, or other special-purpose equipment; and any additional vehicle, which the Board in its sole reasonable discretion determines and/or identifies in the Rules is a “Commercial Vehicle.”

5.13.5. **Additional Restrictions on All Vehicles.**

The primary parking space for all vehicles of Residents is the Parking Space Unit appurtenant to the Resident’s Residential Unit. Parking or stopping in fire lanes is prohibited. No vehicle may be parked in a manner that restricts the passage of pedestrians or vehicles over driveways, streets, or sidewalks, or extends beyond the limits of the Parking Space Unit in which the vehicle is parked. No maintenance or restoration of any vehicle may be conducted in the Project other than emergency repairs to the extent necessary to move the vehicle to a repair facility. Washing of vehicles of any kind shall not be permitted anywhere within the Project.

5.13.6. **Parking Enforcement.**

The Association is responsible for overseeing the parking restrictions in the Project and regulating use of all parking areas in the Project. The Board, on behalf of the Association, is authorized to take any steps it deems necessary to enforce the parking restrictions, including, but not limited to, adopting Rules and removing violating vehicles from the Project pursuant to Section 22658 of the California Vehicle Code or other Applicable Law. All increased Association costs resulting from implementation of any of the programs or enforcement actions described above shall be included in Common Expenses and may result in an increase in Annual Assessments.

5.13.7. **Towing.**

Pursuant to California *Vehicle Code* Section 22658 or subsequent statute, the Association may cause the removal, at the vehicle owner's sole expense, of any vehicle wrongfully parked in the Project in violation of the Governing Documents, including, but not limited to an Owner's vehicle. In addition, the Association may cause the immediate removal of any vehicle: (i) parked in a marked fire lane; (ii) within fifteen (15) feet of a fire hydrant; (iii) in a parking space designated for handicapped without proper authority; or (iv) in a manner that interferes with any entrance to, or exit from, the Project or any driveway within the Project.

5.13.8. **Storage in Parking Space Units.**

No personal property may be stored in the Parking Space Units except inside the built-in storage cabinet or other containers in the Parking Space Unit as approved by the Board. The Parking Space Unit must remain available for parking the number of vehicles for which it was constructed.

5.14. **Animals.**

5.14.1. **No Animals for Commercial Purposes.**

No animals may be kept, bred, or maintained in the Project for any commercial purposes.

5.14.2. **Domestic Animals.**

Only domestic animals that are kept as household pets are permitted in the Project. Residents may keep up to two (2) domestic pets in any Unit (i.e., any combination of cats and dogs that add up to two (2) animals). Domestic reptiles, birds, rodents, and fish shall be permitted so long as such animals are kept within the residential element of the Unit in a cage, aquarium, tank, or other such enclosure as appropriate. All cats must be kept inside a Residential Unit.

5.14.3. **Nuisance Animals.**

Animals shall not be allowed to create or become a nuisance or danger to any person or property in the Project. Animals shall not cause an unreasonable disturbance or excessive noise, including, but not limited to continuous barking, in the Project. Such activity constitutes a nuisance. The Board shall have the power to prohibit the keeping of any animal in the Project, which, in the sole and absolute judgment of the Board, after Notice and Hearing, is deemed by the Board to constitute a nuisance or threat to the safety of another person or property.

5.14.4. **Waste Removal.**

Each person keeping or bringing an animal to the Project shall immediately clean up and properly dispose of any waste, excrement, or other unclean or unsanitary condition caused by his or her animal.

5.14.5. **Leash Requirement.**

All dogs must be kept on a leash held by a person capable of controlling the animal when outside the Residential Unit.

5.14.6. **Pet Owner Liability.**

Each person keeping or bringing an animal to the Project shall be absolutely liable for injury to person or damage to property caused by their animal.

5.14.7. **Owner Liability.**

Each Owner shall be responsible for the conduct of animals belonging to their Residents, Tenants, Guests, or other invitees, including, but not limited to, their compliance with the provisions in this Section 5.14.

5.15. **Antennae.**

5.15.1. **"Authorized Antenna" Defined.**

"Authorized Antenna" means (a) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one (1) 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 (1) 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.

5.15.2. **Authorized Antenna Requirements.**

Installation of antenna on the exterior of the Common Area building, including Exclusive Use Common Area, is prohibited except for an Authorized Antenna. Each Residential Unit may install a total of one (1) Authorized Antenna with the prior written approval of the Board or the Architectural Control Committee, if the proposed location is minimally conspicuous when viewed from other Residential Units or the Common Area.

5.15.3. **Additional Restrictions.**

The Association may require that an Authorized Antenna be moved and may adopt in the Association's Rules additional restrictions on installation or use of Authorized Antennae so long as moving or further restrictions on the Authorized Antenna do not (a) unreasonably delay or prevent installation, maintenance, or use of the Authorized Antenna; (b) unreasonably increase the cost of installation, maintenance, or use of the 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 agents or employees of the Association or other Residents or for any other safety-related reason established by the Association.

5.15.4. **Restatement of Legal Authority.**

This Section 5.15 is intended to be a restatement of the authority granted to the Association under Applicable Law. The Board is authorized to adopt Rules that modify this Section 5.15 to comply with amendments, modifications, restatements, and interpretations of Applicable Law regarding installation, use, or maintenance of antennae.

5.16. **Trash.**

All trash, rubbish, garbage, and other waste shall be removed from and shall not be allowed to accumulate in the Units but shall be disposed of in the dumpster located in the Common Area. No toxic or hazardous waste shall be disposed of in the Association dumpster. Furniture, appliances, water heaters, construction or remodeling debris, and other bulky items must be properly disposed of off-site by the Owner or Resident at his or her sole expense and shall not be placed in or discarded in the Association dumpster area.

5.17. **Alterations and Improvements.**

5.17.1. **Generally.**

No construction, installation, modification, or structural alteration of the building, structures, landscaping, and exterior lighting or any other exterior Improvement shall be made without prior approval by the Board or Architectural Control 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 such Owner from the Board. If any Owner fails to remove such mechanic's lien, then the Board may discharge such mechanic's lien and charge such Owner for the cost of discharge as a Reimbursement Assessment.

5.17.2. **Outside Installations.**

The following outside installations are prohibited unless they are installed by the Association or the original developer of the Project or unless they are authorized by the Board in writing: Balcony covers, shades, or fencing; wiring; air conditioning equipment; hot tubs, water softeners and other machines and similar Improvements; alterations to Balcony railings, walls, or other structural elements; Improvements protruding through the exterior walls or roofs of buildings; and all other additions or alterations outside of any Unit or on Exclusive Use Common Area. As set forth in more detail in Article VII, no Owner may change or alter the surface of the floor, walls, or ceiling of any Balcony (including installing any decorative finish or other surface material) without the prior written consent of the Board or Architectural Control Committee. Outdoor patio or lounge furniture, plants, barbecues, and other personal property may be kept outside of the Units only if authorized by this Declaration or in the Rules.

5.17.3. **Inside Installations.**

Nothing may be done in any Condominium or in, on, or to Exclusive Use Common Area that may impair or alter the structural integrity of the building in the Project without the prior approval of the Board or Architectural Control Committee.

5.17.4. **Window Coverings.**

Windows may not be covered with foil, paper, bedding sheets, or any such inappropriate material. Windows may be covered with drapes, shutters, curtains, shades, blinds, or other coverings as may be approved by the Board in writing or included in the Rules.

5.18. **Clotheslines.**

No outside clothesline or other outside clothes washing, drying, or airing facilities shall be maintained in the Project. No items shall be draped over the Balcony railings.

5.19. **Water Beds.**

No water beds are permitted in the Project.

5.20. **Conditions Affecting Insurance.**

No Owner may permit or cause anything to be done or kept in the Project that may (a) increase the rate of insurance for the Association in the Project; or (b) result in the cancellation of such insurance. Any Owner violating this Section shall be liable to the Association for any resulting increase in insurance premiums and any other damages, which may be assessed against the responsible Owner as a Reimbursement Assessment.

5.21. **Nuisance.**

Noxious and offensive activities, illegal activities, and activities that interfere with the quiet enjoyment of each Owner of their respective Units are prohibited in the Project. Examples of prohibited nuisance activities include, but are not limited to, (a) horns, whistles, bells, or other sound devices, except security devices used exclusively to protect the security of a Unit or vehicle and its contents; (b) Improvements (such as spa/hot tub motors or air conditioners) that the Board determines generate an unreasonable amount of noise; (c) noisy, unsightly, unusually painted, smoky, or foul-smelling vehicles; (d) loud power equipment and tools (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance); (e) items that unreasonably interfere with television or radio reception to any Unit; and (f) any objects that create or emit loud noises or noxious odors. Air conditioners, heating, cooling, ventilating equipment, and all other mechanical, lighting, or electrical devices shall be so operated and located so that they do not disturb the peace, quiet enjoyment, and comfort of others and shall be screened, shielded and/or sound buffered from adjacent Units and other portions of the Common Area. All such equipment must be installed and operated in accordance with the manufacturer's recommendations and Applicable Law. The examples of nuisance activity in this Section are not exhaustive and the Board may determine, in its sole reasonable discretion, if any action, odor, noise, or other conduct constitutes a nuisance and to appropriately address the violation.

5.22. **Compliance with Laws.**

Each Owner and Resident shall comply with all federal, state, and local laws, ordinances, rules and regulations applicable to the Project.

5.23. **Floor Coverings.**

The floor covering materials installed in the Residential Units shall not be changed except with the prior written consent of the Board or Architectural Control Committee. To minimize sound transmission, any replacement floor covering materials must have equal or better sound transmission characteristics than existing flooring materials. Residential Units that are above other Residential Units shall have a good grade of wall-to-wall carpet and padding or other material that provides a high level of insulation against sound transmission to the Unit below in all floor areas except for kitchens and bathrooms.

In the event of a dispute over sound transmission, the Owner who is complaining regarding noise must attempt to resolve the issue with the Owner alleged to be causing the noise, and the complaining Owner, at his/her expense, must provide to the Board the report of a qualified sound engineer showing the sound levels exceed the applicable sound requirements, before the Association will become involved in any sound/noise dispute.

5.24. **Barbecues; Open Fires.**

Pursuant to California *Fire Code* section 308.1.4, and any relevant successor *Code* and section thereof, charcoal, wood-burning or other open flame devices shall not be operated on combustible Balconies or within ten feet (10') of combustible construction. Electric grills or small cooking devices using a liquid propane (LP) gas cylinder not to exceed nominal “one pound” (16.4 oz) may be used within ten feet (10') of combustible construction or upon combustible Balconies. No other open flame devices of any kind are permitted to be used anywhere within the Project.

ARTICLE VI – MAINTENANCE OBLIGATIONS

6.1. **General Standards of Maintenance.**

The Association and Owners shall maintain everything that they are respectively obligated to maintain in a clean, sanitary, and attractive condition. The Board shall determine, in its sole discretion, the level and frequency of maintenance of Common Area and Improvements thereon.

6.2. **Association Responsibility.**

The Association shall maintain, repair, and replace the Common Area (including Exclusive Use Common Area) and all Improvements thereon, including but not limited to the roofs, gutters and downspouts, walkways, driveways, fences, walls, utilities, exterior glass window surface, exterior doors, and the building in good condition and repair; provided, however, that the Owners shall be responsible for maintenance, repair, and replacement of those portions of the Exclusive Use Common Area as set forth in Section 6.3.1 below.

6.2.1. **Owner-Installed Improvements.**

Unless other arrangements are approved in writing by the Board, each Owner must maintain, repair, and replace all Owner-installed Improvements (including those installed by a previous Owner) in good condition and repair.

6.2.2. **Owner's Failure to Maintain.**

In the event that any Owner permits any Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or not to be so maintained, so as to create a dangerous, obstructed, unsafe, unsightly, or unattractive condition or otherwise to violate this Declaration, the Board shall have the right to seek any remedy that it may have, including performing the required maintenance and charging the cost of the maintenance work to the Owner. After Notice and Hearing, the Board may levy a Reimbursement Assessment against such Owner to ensure payment for same. The Board has the power, but not the duty, to have the Association contract to fulfill any maintenance obligation of an Owner or multiple Owners and then charge such Owners for such expense. After Notice and Hearing, the Board may levy a Reimbursement Assessment against such Owner to ensure payment for same.

6.2.3. **Owner Improvement Causing Damage.**

If any Improvement that an Owner is obligated to maintain causes damage to any other Owner's Unit or Common Area, then the responsible Owner shall pay for the cost of repairs; however, neither the Association nor any Owner is responsible for paying for any damage beyond the cost of repairs.

6.2.4. **Damage to Common Area by Owner.**

Each Owner is liable to the Association for any damage to the Common Area if such damage is sustained due to the act of the Owner or his or her Family, Tenants, Guests, or other invitee or any other Person deriving the right to use Common Area from that Owner or his or her Family or Tenants. The Association may determine whether any claim shall be made on the Association's insurance policy and levy a Reimbursement 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 or attributable to such Owner. If a Condominium is jointly owned, then 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 Board may levy a Reimbursement Assessment against such Owner to ensure payment for the cost of correcting the damage.

6.2.5. **Limitation of Association Liability for Damage.**

If any portion of a Unit or Exclusive Use Common Area or Improvement therein is allegedly damaged as a result of the Association's performance of its maintenance, repair, or replacement responsibilities, the Association shall only be responsible to repair the damage to the extent arising from the gross negligence or willful misconduct of the Association, or its employees, contractors, or agents.

6.3. **Owner's Responsibility.**

Each Owner shall maintain, repair, and replace such Owner's Unit and any portion thereof and Improvements therein in good condition and repair, including but not limited to, storage cabinets, interior walls, windows, doors, ceilings, floors, fixtures and appliances, water heater, HVAC equipment exclusively serving the Unit (even if located partially outside the Unit), and all utility outlets therein as well as those portions of

Exclusive Use Common Area as discussed below. Without limiting the generality of the foregoing:

6.3.1. **Exclusive Use Common Area.**
Each Owner shall be responsible for maintenance of the interior space and repair and replacement of the floor surface of the Balcony appurtenant to such Owner’s Residential Unit, and maintenance, repair, and replacement of the window systems (including frame, sash, glass, and screens) of the Owner’s Residential Unit.

6.3.2. **Water Damage and Mold.**
Each Owner is responsible for water and mold damage to such Owner’s Unit and the Common Area (including Exclusive Use Common Area) caused by (a) occupants of such Owner’s Unit or (b) plumbing and plumbing-related fixtures that such Owner is responsible for maintaining. Each Owner shall regularly inspect such Owner’s Unit for plumbing leaks, improper water accumulation, water intrusion through windows, doors and roofs and signs of mold. Each Owner must periodically replace hoses serving the dishwasher and water heater in such Owner’s Unit.

6.3.3. **Interior Decoration.**
Each Owner shall be responsible for the maintenance, repair, and replacement of all decorations and other Improvements to the interior of his or her Unit.

6.4. **Moving Fee.**
The Association may charge a reasonable fee, including a damage deposit, to an Owner to cover costs of administering the moving in or moving out of a Residential Unit, or the moving of furniture, equipment, or other large objects into or out of a Residential Unit that requires use of the elevators. Before elevators are used for moving furniture, equipment, or other large objects, the Owner shall notify the Association and shall comply with all applicable Rules.

6.5. **Eradication of Wood-Destroying Pests and Organisms.**
The Association shall be responsible for the mitigation and eradication of infestation by wood-destroying pests and organisms (“Pest Eradication”) in the Project, including within the Common Area and the Units. The Association shall be responsible for an inspection and preventive program for Pest Eradication. The Association, on not less than fifteen (15) nor more than thirty (30) days’ notice, may require each Resident to vacate his or her Unit to accommodate Association efforts to eradicate such infestation. Such 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 Residents will be responsible for their own accommodations during the temporary relocation. Any damage caused to a 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 on Common Area as well as repairing and replacing Common Area 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. The

Association is not responsible for paying for any Pest Eradication effort that must be performed in connection with the transfer of any Condominium in the Project or that is ordered by any individual Owner. Those costs are the Owner's responsibility even if those costs involve repairs to Common Area that are not otherwise the responsibility of such Owner.

6.6. Ambiguities in Assignment of Maintenance Obligations.

If there are differing opinions regarding responsibility for a particular item (i.e., between two or more Owners or between the Association and one or more Owners), the responsibility for its maintenance, repair, and replacement shall be as determined by the Board, in its sole and absolute discretion, unless otherwise addressed by Applicable Law. Any resolution of an ambiguity pursuant to this Section shall be binding on the Association and all Owners.

ARTICLE VII – ARCHITECTURAL CONTROL

7.1. General.

Each Owner must comply with the provisions of this Article regarding architectural control established by this Declaration. Accordingly, any construction, installation, change, modification, revision, addition, or Improvement (collectively **"Alteration"**) to the exterior of a Unit or Exclusive Use Common Area, including landscaping, or structural alterations to a Unit or Exclusive Use Common Area, shall be governed by this Article. Alterations to Common Area by the Association need not comply with the requirements of this Article. The powers and duties set forth in this Article shall be vested in, and exercised by, the Board. The Board has the power, but not the duty, to establish an Architectural Control Committee ("ACC") as provided herein to assist the Board in reviewing architectural submittals, and to provide recommendations to the Board with regard to approval or denial of any submittal. In the absence of an ACC, the Board shall perform the functions of the ACC.

7.2. Standard of Review.

In engaging its architectural control responsibilities under this Article, the Board or ACC shall act in good faith, in accordance with Applicable Law, and not arbitrarily or capriciously. The Board or ACC shall approve plans and specifications submitted for its review only if it determines that the proposed Alteration will not be detrimental to the appearance of the surrounding area of the Project as a whole and the appearance will be in harmony with the surrounding structures; the safety of any structure affected by the proposed Alteration will not be comprised; the proposed Alteration will not detract from the beauty, wholesomeness, and attractiveness of the Project or the enjoyment thereof by the Owners; maintenance of the proposed Alteration will not become a burden on the Association; and the proposed Alteration is consistent with this Declaration.

A decision by the Board or ACC on a proposed Alteration may not violate any Applicable Law. Except as limited by the preceding sentence, the Board or ACC's approval or denial shall be based solely on the considerations listed in this Article. The

Board or ACC are not responsible for reviewing, nor may their approval of any plan or design be deemed the Board or ACC's approval of, any plan or design from the standpoint of engineering design, structural safety, conformance with building or other codes, compliance with the requirements of any utility company, compliance with any Recorded restriction or property right, or compliance with the Governing Documents.

7.3. Architectural Control Committee.

If appointed by the Board, the ACC shall be composed of three (3) members, all appointed and removed by the Board. ACC members must be Members and directors may serve as ACC members. The term of each ACC member shall be a period of one (1) year or until the appointment of his or her successor. Any new ACC member appointed to replace a member who has died, resigned, or been removed shall serve for such member's unexpired term.

7.3.1. Appointment, Removal, and Resignation of the ACC.

The right to appoint and remove ACC members is vested solely in the Board. Any ACC member may resign from the ACC at any time by giving written notice to the Board. The Board may appoint a successor. Vacancies on the ACC, however caused, shall be filled by vote of a majority of the Board members. Failure of the Board to fill any vacancy in the ACC shall not prevent any action by the ACC on any matter to the extent that a majority of the ACC joins in and consents to that action.

7.3.2. Duties.

The ACC shall consider and act upon all proposals and plans submitted to it, including inspection of work in progress. The ACC shall also make all reasonable efforts to ensure that Alterations to Units or Exclusive Use Common Area made by Owners conform to plans approved by the Board. The ACC shall consult with the Board, as needed, to ensure that its architectural control of the Project is consistent with the overall development and aesthetics of the Association. The Board shall exercise all available legal and equitable remedies to prevent or remove any unauthorized and unapproved Alterations or Improvements on the Project or any portion thereof.

7.3.3. Meetings and Compensation.

The ACC shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of ACC members constitutes an act of the ACC under this Article. All approvals issued by the ACC must be in writing. Verbal approvals issued by the ACC or any individual committee member or any other representative of the Association are not valid, are not binding on the Association, and may not be relied on by any Person. The ACC shall keep and maintain a written record of all actions taken by it at such meetings. ACC members shall not receive any compensation for services rendered in serving on the ACC.

7.4. General Modifications Requiring Approval.

No Alterations may be made by any Owner without the prior written approval of the Board. Owners shall submit plans and specifications showing the nature, kind, shape, height, width, color, materials, and location of any proposed Alteration. Without limiting the generality of the foregoing, the provisions of this Article also apply to the construction, installation, and alteration of electric vehicle charging stations and solar energy systems, as defined in Section 801.5 of the *Civil Code*, and subject to the provisions of Section 714 and Sections 4745, 4745.1, and 4746 of the *Civil Code*, the City building code, and any other Applicable Laws.

7.5. **Variances.**

The Board, but not the ACC, may, but is not required to, grant variances of adjustments, in its discretion if necessary to overcome practical difficulties due to topography or other conditions unique to a particular Unit, avoid unnecessary expense, or prevent unnecessary hardship in the application of the provisions of this Declaration; provided, however, that such variance or adjustment does not violate the purpose or purposes intended to be served by the standard or criteria being waived in such instance and is in conformity with the intent and purposes of this Declaration; and provided further, that no such variance shall constitute a waiver of such provision with respect to any future application whether for the same Unit or any other Unit. Any variance granted by the Board shall be noted in the written approval of the proposed work and may be required by the Board to be Recorded in the Official Records.

7.6. **Architectural Changes Not Requiring Prior Approval.**

Nothing contained in this Article shall be construed to limit the right of an Owner to improve or alter the interior of his or her Unit; provided such interior Alteration does not impair or alter Common Area, any utilities, another Unit, or other structures and systems servicing Common Area or other Units in which case such interior Alterations will require ACC prior written approval.

7.7. **Procedure for Obtaining Approval of Architectural Changes.**

In addition to the provisions set forth in this Section below, the procedure for obtaining the Board's or ACC's prior written approval for any Alteration shall also be as described in the Rules adopted by the Board regarding architectural approval.

Unless changed by the Board or ACC, the address for the submission of plans and specifications is the Association's management office. The architectural application form may include spaces allowing adjacent Owners to sign or initial the application confirming that they have been notified of the application. Applications are complete and may be approved or disapproved by the ACC even if all of the adjacent Owners do not sign or initial the application so long as the Owner submitting the plans and specifications certifies that he or she has asked the adjacent Owners to sign the application. If the ACC receives an application that the ACC determines is incomplete, then the ACC may reject the application for approval.

The ACC shall transmit its recommendation and the reasons therefor to the submitting Owner at the address listed in the application for approval within thirty (30) days after the ACC receives a complete application and all required materials. If the ACC fails to transmit written approval, disapproval or a request for additional information or materials to the submitting Owner within thirty (30) days after the ACC receives a complete application and all required materials, then the submitting Owner may request a hearing before the Board.

If within ninety (90) days of the issuance of Board approval, an Owner does not either commence work pursuant to approved plans or obtain an extension of time to complete work, then such Board approval is automatically revoked, and the Owner must obtain a new Board approval before work can be commenced.

7.8. **No Waiver of Future Approvals or Denials.**

The Board's approval of proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring approval by the Board or ACC does not waive any right to withhold approval of or deny similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval to the Board or ACC.

7.9. **Architectural Rules.**

The Board may, in its sole discretion, adopt, amend, and repeal, as it deems necessary Rules that shall interpret and implement the provisions of this Article. The Board may also delegate this task to the ACC. The architectural Rules shall set forth the standards for review by the Board or ACC and guidelines for architectural design and the information that an Owner must present in connection with an architectural submittal. Unless an Owner complies with the architectural Rules, that Owner's plans and specifications shall be deemed incomplete and not submitted.

7.10. **Standard of Architectural Review.**

The Board or ACC shall review an architectural submittal made by an Owner for conformity with the architectural Rules. The Board or ACC shall also consider additional factors including, but not limited to, the quality of proposed workmanship, the design and harmony of the Alteration with existing structures and aesthetic of the Project, the location of the proposed Alteration in relation to surrounding structures, topography, and finish grade elevation, Owner and contractor insurance coverage, compliance with governmental permit requirements, and contractor license status.

7.11. **Application Fee and Security Deposit.**

The Board may establish a fee for the review and approval of plans and specifications that must be submitted pursuant to the provisions of this Article. Any such requirement and the amount of a fee shall be described in the architectural Rules. The Board may also require a security deposit to cover any potential damage to the Common Area that may result from the proposed work; however, an Owner's liability for damage to the Common Area is not limited to any security deposit that may be required.

7.12. **Compensation.**

Although Board and ACC members may not receive compensation for services rendered, other than reimbursement by the Association for expenses incurred by them in the performance of their duties under this Article, the Board and ACC have the right, but not the duty, to hire an architect or other professional to consult with the Board or

ACC. The Association may compensate the architect or other professional for consultation services rendered to the Board or ACC and charge the cost thereof to the submitting Owner.

7.13. **Liability.**

Neither the Board, the ACC, nor any member thereof, who has acted in good faith on the basis of such information as may be possessed by him or her, shall be liable to the Association or to any Owner, Resident, or Tenant for any damage, loss, or prejudice suffered or claimed on account of the approval or disapproval of any plans, drawings, or specifications, whether or not defective; the construction of any Alteration or performance of any work, whether or not pursuant to approved plans, drawings, or specifications; or the development of any property within the neighborhood.

7.14. **Owner-Installed Improvements.**

7.14.1. **Effect of Owner-Installed Improvements.**

This Article applies to all Alterations installed on any Unit or Exclusive Use Common Area or elsewhere in the Project, either by a current or former Owner or by that Owner's Residents, Tenants, or anyone exercising the Owner's powers, and without regard to whether the Owner first complied with the requirements of this Article, including without limitation, the requirement for seeking and obtaining prior written approval before installing any such Improvements.

7.14.2. **Owner Bears Costs.**

Each Owner shall pay all costs and expenses incurred in the construction and installation of any Alterations on his or her Unit or Exclusive Use Common Area and shall be fully responsible for their maintenance, repair, and replacement. Each Owner shall be responsible for any damages to persons, property, or otherwise that result from the construction, maintenance, use, or continued existence of such Alterations and shall hold Association free and harmless from any and all costs and expenses attributable to the construction, maintenance, use, or continued existence of such Alterations or to their continued existence or use. The Association shall have no responsibility either for securing or maintaining insurance for any such Alterations.

7.14.3. **Owner Responsibility for Compliance.**

Each Owner covenants and agrees that he or she will obtain prior written approval of the Board or ACC for any Alteration. Each Owner further covenants and agrees that any Alteration shall be constructed in strict compliance with the plans and specifications and in the exact location approved by the Board or ACC; shall be maintained in good condition and repair in accordance with generally accepted construction and maintenance practices; and shall comply with Applicable Law. Owners shall be obligated to obtain any necessary building permits and inspections and to verify compliance with all requirements imposed by Applicable Law. Association's approval of any such Alterations, if given, is limited to an approval based solely on the criteria contained in the Governing Documents and does not include a review for compliance with Applicable Laws.

7.14.4. **Alterations Subject to Association Jurisdiction.**

All Alterations shall be subject to the jurisdiction of the Association, acting through the Board or ACC, and to the Governing Documents; and shall be subject to an easement in favor of the Association to perform Its duties under the Governing Documents. As such, each Owner shall pay all costs and expenses incurred in removing and replacing the Alteration, if such removal is required by the Association, in its sole discretion, to perform its maintenance responsibilities under the Governing Documents. The Association shall exercise such discretion reasonably and not arbitrarily.

7.14.5. **Alterations for Disabilities.**

With the prior written approval of the Board or ACC, an Owner may modify the Owner's Unit and the route over the Common Area leading to the front door of such Owner's Unit, at such Owner's sole expense, to facilitate access to the Owner's Unit by persons who are blind, visually impaired, deaf, or physically disabled, or to alter conditions that could be hazardous to such persons in accordance with Section 4760(a)(2) of the *Civil Code* or any other Applicable Law.

7.15. **Indemnification.**

Each Owner shall defend, indemnify, and hold harmless the Association, its Members, Board members, ACC or other committee members, officers, agents, and employees from and against any and all injuries, damages, causes of action, or claims that may exist or be instituted against any or all of said parties because of, or in any manner arising from or connected with, the granting of written confirmation of approval for any Alteration, the power to grant and confirm such approval in writing, or the construction, maintenance, use, or continued existence of such Alterations. Each Owner releases the Association, its Members, Board members, ACC or other committee members, officers, agents, and employees from any duty or obligation to pay, or otherwise be responsible, for the cost of construction, maintenance, use, or continued existence of any such Alterations, and releases said parties from any and all claims, injuries, damages, and causes of action that may arise as a result of the construction, maintenance, use, or continued existence of the Alterations.

7.16. **No Waiver of Future Approvals.**

The Board's or ACC's approval of proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the ACC's approval does not waive any right to withhold approval of similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

7.17. **Inspection of Work.**

The Board or ACC or its duly authorized representative may inspect any Alterations for which approval of plans is required under this Article. 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 Board- or ACC-approved plans for the Alteration or with the requirements of this Declaration.

7.17.1. **Time Limit.**

The Board or ACC's right to inspect the Alteration and notify the responsible Owner of any noncompliance shall terminate sixty (60) days after the Board or ACC receives from such Owner written notice on a form provided by the Board or ACC that the work for the Alteration is completed. If the Board or ACC fails to send a notice of noncompliance to an Owner before this time limit expires, then the Alteration shall be deemed to comply with the approved plans.

7.17.2. **Remedy.**

If an Owner fails to remedy any noncompliance within sixty (60) days after the date of notice of noncompliance from the ACC, then the ACC shall notify the Board in writing of such failure unless no ACC exists in which case notice to the Board shall be deemed complete upon the expiration of the date the Board sent the Owner a notice of noncompliance.

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 noncompliance. If a noncompliance exists, then the Owner shall remedy or remove the noncompliance 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 of time, then the Association may correct the noncompliance and charge such Owner for the Association's costs, levy a Reimbursement Assessment, and/or commence an action for damages or injunctive relief, as appropriate, to remedy the noncompliance.

7.17.3. **Remedy for Failure to Complete Work.**

If an Owner fails to complete work pursuant to the approved plans within one (1) year from the date the approval for the Alteration is issued, then a noncompliance is deemed to exist, and the Association can pursue the remedies listed in Section 7.17.2.

7.18. **Certificate of Completion.**

Upon the request of an Owner, or pursuant to procedures established in the architectural Rules, after the Board or ACC determines that the Alteration has been completed in accordance with Board- or ACC-approved plans, the Board or ACC shall execute and deliver to such Owner a certificate confirming that the work for the Alteration was completed in accordance with approved plans.

7.19. **Pre-Approvals.**

The Board or ACC may, but need not necessarily, authorize pre-approval of certain specified types of construction activities if, in the exercise of the Board's or ACC's judgment, pre-approval of such types of Alterations is appropriate in carrying out the purposes of the Governing Documents.

7.20. **Appeals.**

If the ACC disapproves a complete architectural application, the submitting Owner may appeal such decision to the Board within thirty (30) days of disapproval by the ACC. If the ACC approves a complete architectural application but a neighboring Owner objects, the objecting Owner may appeal such decision to the Board within thirty (30) days of approval by the ACC. The Board shall review the application and either approve or disapprove the application by a majority vote of the Board. The decision of the Board in its sole and absolute discretion shall be final.

ARTICLE VIII – INSURANCE

8.1. **Association Duty to Obtain Insurance; Types.**
The Association shall obtain, and keep in effect at all times, the following insurance coverage except to the extent that such coverage is not reasonably available or is available but at a cost that the Board in its sole discretion determines is unreasonable under the circumstances:

8.1.1. **Fire and Casualty Insurance.**
An all-risk blanket policy or policies of casualty and fire insurance, with an extended coverage endorsement in an amount equal to as near as possible one hundred percent (100%) of the full insurable replacement cost without deduction for depreciation of the Common Area together with all Improvements located therein and personal property owned by the Association or all Owners in common, and all Improvements in the Units as originally constructed by the developer but excluding any personal property located within a Unit.

8.1.2. **General Liability Insurance.**
Adequate commercial general liability insurance, with limits approved by the Board but in no event less than Two Million Dollars ($2,000,000) or any other applicable limit as set forth in *Civil Code* section 5805, insuring against liability for bodily injury, death, and property damage arising from the activities of the Association and the Residents with respect to the Common Area.

8.1.3. **Earthquake Insurance.**
The Association may carry earthquake insurance with such coverage and deductibles as the Board may from time to time determine.

8.1.4. **Directors and Officers Insurance.**
Directors and officers liability insurance with limits to be set by the Board but in no event less than Five Hundred Thousand Dollars ($500,000) or any higher applicable limit set forth in *Civil Code* section 5800, and containing a cross-liability endorsement and waiver of subrogation as to the Association, its, directors and officers, and its agents and employees, including coverage for prior acts to the extent obtainable.

8.1.5. **Fidelity Insurance.**
In accordance with section 5806 of the *Civil Code*, unless the Governing Documents require greater coverage amounts, the Association shall maintain crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, for its directors, officers, and employees (if any) in an amount that is equal to or more than the

combined amount of the Association's reserves and total Assessments for three months. The coverage maintained by the Association shall also include protection in an equal amount against computer fraud and funds transferred fraud. If the Association uses a managing agent or management company, the Association's crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, shall additionally include coverage for, or otherwise be endorsed to provide coverage for, dishonest acts by that person or entity and its employees. Self-insurance does not meet the requirements of this Section.

8.1.6. **Insurance Required by Mortgagees.**
The Association's insurance coverage shall meet the applicable insurance requirements for condominium projects established by Mortgagees, except to the extent that such coverage is not reasonably available or is available but at a cost that the Board in its sole discretion determines is unreasonable under the circumstances.

8.1.7. **Other Insurance.**
Such other insurance as the Board may from time to time deem necessary or desirable insuring for risks customarily insured by associations managing condominium projects similar to the Project in construction, location, and use, including without limitation workers compensation insurance.

8.1.8. **Beneficiaries.**
The Association's insurance shall be kept for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear, as named insureds, subject, however, to loss payment requirements established in this Declaration.

8.2. **Waiver of Claim Against Association.**
As to all policies of insurance kept by or for the benefit of the Association and the Owners, the Association and the Owners waive and release all claims against one another and the Board, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of such Persons.

8.3. **Right and Duty of Owners to Insure.**
Each Owner is responsible, at his or her sole expense, to maintain an "HO6 Condominium Owner's Policy" or equivalent insuring such Owner's individual liability for damage to property or injury to person occurring within an Owner's Unit, insuring property damage to contents and personal property within an Owner's Unit, and insuring all other property and improvements in such Owner's Unit (including Owner-installed upgrades and betterments) in an amount sufficient to restore the improvements in the Unit to a condition at least equivalent to the standard as existed prior to any casualty. Nothing in this Declaration precludes any Owner from carrying any other insurance as such Owner considers desirable; however, Owners' insurance policies may not adversely affect or diminish any coverage under any of the Association's insurance policies. Duplicate copies of Owners' insurance policies shall be deposited with the Association upon request. If any loss intended to be covered by the Association's

insurance occurs and the proceeds payable are reduced due to insurance carried by any Owner, then such Owner shall assign the proceeds of such Owner's insurance to the Association, to the extent of such reduction, for application to the same purposes as the reduced proceeds are to be applied. Any Owner insurance policy shall contain a waiver of subrogation as to any claims against the Association, its directors, officers, managers, and Owners and a waiver of all defenses based on acts of the insureds or the existence of coinsurance.

8.4. **Notice of Expiration Requirements.**

If available, each of the Association's insurance policies must contain a provision that the policy may not be canceled, terminated, materially modified, or allowed to expire by its terms, without at least ten (10) days' prior written notice to the Board and to each Owner and Mortgagee, insurer, and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity insurance shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to any insurance trustee named pursuant to Section 8.6 and to each Mortgage servicer who has filed a written request with the carrier for such notice.

8.5. **Insurance Premiums.**

Premiums for insurance policies obtained by the Association are Common Expenses.

8.6. **Trustee for Policies.**

The Association is trustee of the interests of all named insureds under the Association's insurance policies. Unless an insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent by certified mail or overnight delivery with proof of same and be clearly identified as a claim. The Association shall keep a record of all claims made. All insurance proceeds under any of such insurance policies provided for in Section 8.1 must be paid to the Board as trustees. The Board has the authority to negotiate loss settlements with insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 8.4. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures are binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement and any successor to such trustee, who shall have exclusive authority to negotiate losses under any insurance policy and to perform such other functions necessary to accomplish this purpose.

8.7. **Actions as Trustee.**

Except as otherwise specifically provided in this Declaration, the Board has the exclusive right to bind the Association and the Owners with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of fire and casualty insurance kept by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who requested them in writing.

8.8. **Annual Insurance Review.**

The Board shall review the Association's insurance policies at least annually to determine the amount of the casualty and fire insurance coverage referred to in Section 8.1. Before each such annual review, if economically feasible, the Board shall obtain from a qualified independent insurance appraiser a current appraisal of the full replacement value of the Improvements in the Project, without deduction for depreciation. In the Board's discretion, such insurance may exclude coverage for footings and foundations.

8.9. **Required Waiver.**

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

(a) Subrogation of claims against the Owners and their Family members and Tenants;

(b) Any defense based on coinsurance;

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

(d) Any invalidity, other adverse effect, or defense due to any breach of warranty or condition caused by the Association, any Owner or his or her Family member or Tenant, or arising from any act or omission of any named insured or the respective agents, contractors, and employees of any insured;

(e) 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;

(f) Notice of the assignment of any Owner of such Owner's interest in the insurance by virtue of a conveyance of any Condominium;

(g) Any right to require any assignment of any Mortgage to the insurer;

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

(i) Prejudice of the insurance by acts or omissions of Owners that are not under the Association's control.

8.10. **Responsibility for Payment of Deductible.**

In the event of damage to the Common Area (including Exclusive Use Common Area) that is covered by the Association's fire and casualty insurance policy pursuant to Section 8.1.1, the deductible shall be paid by the Association. In the event of damage to a Unit that is covered by the Association's fire and casualty insurance policy pursuant to Section 8.1.1, the deductible shall be paid by the Owner of the damaged Unit. Nothing in this Section shall prevent any Person from recovering the amount of any deductible paid by such Person for any other Person responsible for the loss under tort or other theories of liability.

ARTICLE IX – DAMAGE OR DESTRUCTION.

9.1. **Restoration of the Project.**

Except as otherwise authorized by the Owners, if any portion of the Project that the Association is responsible for maintaining is destroyed, then the Association shall restore such destroyed portion of the Project to its former condition as promptly as practical. The Association shall use the proceeds of its insurance for reconstruction or repair of the Project unless otherwise authorized in this Declaration. The Board shall prepare or obtain the documents necessary for commencing such reconstruction as promptly as practical. The Project shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Architectural Control Committee have been approved by at least sixty-seven percent (67%) of the Owners. If the insurance proceeds amount to at least eighty-five percent (85%) of the estimated cost of restoration and repair, then the Board shall levy a Special Assessment to provide the additional funds necessary for such reconstruction as provided in Section 4.6. If the insurance proceeds amount to less than eighty-five percent (85%) of the estimated cost of restoration and repair, then the Board may levy a Special Assessment and proceed with the restoration and repair only if both of the following conditions have been satisfied: (a) the levy of a Special Assessment to pay the costs of restoration and repair of the Project is approved by the requisite vote of the Owners; and (b) within one (1) year after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair. If either of the preceding conditions to reconstruction do not occur following a destruction for which insurance proceeds available for restoration and repair are less than eighty -five percent (85%) of the estimated cost of restoration and repair, then the Board shall proceed as provided in Section 9.2.

9.2. **Sale of Project and Right to Partition.**

No Owner shall have the right to partition such Owner's interest in the Condominium, and there shall be no judicial partition of the Project, or any part thereof, except as provided in Section 4610 of the *Civil Code*. For purposes of Subsection 4 of Section 4610, partition may occur only if all of the following conditions are satisfied: (a) either or both of the conditions to reconstruction described in Section 9.1 have failed to occur; (b) within six (6) months after the date on which destruction occurred, restoration or repair has not actually commenced; and (c) the Owners and First Mortgagees of at least seventy-five percent (75%) of the Condominiums in the Project approve the partition. In such event, the Association shall prepare, execute and Record, as promptly as practical, the certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Project for the benefit of the Owners and execute such other documents and instruments as may be necessary for the Association to consummate the sale of the Project at the highest and best price obtainable, either in its damaged condition or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith.

The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately before such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Project. The Board is authorized to hire one (1) or more appraisers for such a purpose, and the cost of such appraisals shall be a Common Expense. However, the balance then due on any valid Mortgage shall be paid first in order of priority before the distribution of proceeds to an Owner whose Condominium is so encumbered. Nothing in this Declaration prevents the partition of a co-tenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise or operation of law, for their own benefit and for the Condominiums and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Project and covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

9.3. **Interior Damage.**

With the exception of any casualty or damage covered by insurance maintained by the Association as provided in Section 8.1, restoration and repair of any damage to the interior of any individual Unit, including all fixtures, cabinets and Improvements therein, together with the 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 Unit so damaged. If a determination to rebuild the Project after partial or total destruction is made, as provided in this Article, then 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 Architectural Control Committee as provided in this Declaration.

9.4. **Notice to Owners and Listed Mortgagees.**

The Board, immediately upon having knowledge of any damage or destruction affecting a Unit or a material portion of the Common Area, shall promptly notify all Owners and Mortgagees, including insurers and guarantors, of first Mortgages on Condominiums in the Project who have filed a written request for such notice with the Board.

ARTICLE X – EMINENT DOMAIN

10.1. **Taking Defined.**

The term **"taking"** as used in this Article means condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent domain by a governmental or quasi-governmental entity. The Board shall represent the Owners in all proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Owners and their Mortgagees and shall be distributed to such Owners and Mortgagees as provided in this Article.

10.2. **Property Condemnation.**

If there is a taking of an interest in all or part of the Project such that the ownership, operation, and use of the Project in accordance with this Declaration is substantially and adversely affected, and within one hundred twenty (120) days after the effective date of such taking the Owners of Units not taken or only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and substantially to their condition before such taking (collectively, the **"Remaining Units"**) do not by affirmative vote of at least a majority of their voting power approve the continuation of the Project and the repair, restoration and replacement to the extent feasible of the Common Area and the Remaining Units, then the Board shall proceed with the sale of that portion of the Project that was not taken and distribute the net proceeds of such sale after deducting all incidental fees and expenses, in the same proportion and manner as provided in Section 9.2.

10.3. **Condemnation of Common Area.**

If there is a taking of a portion of the Common Area or any interest therein (other than the taking of an undivided interest therein taken as a result of the taking of a Condominium), then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

10.4. **Condemnation of Condominiums.**

If there is a taking of a Condominium, then the award in condemnation shall be paid to the Owner of such Condominium; however, such award shall be applied first to the balance then due on Mortgages encumbering such Owner's Condominium, in order of priority.

10.5. **Condemnation of Portions of Units.**

10.5.1. **Minor Takings Within Limits.**

If (a) there is a taking of a portion of one (1) or more Units that does not substantially and adversely affect the Units' ability to serve as residences, and (b) restoration of such Units can be accomplished at a cost less than or equal to the sum of (i) the amount of the condemnation award for such takings plus (ii) all amounts that the Owners of the taken Units desire to contribute to restoration plus (iii) an amount less than or equal to five percent (5%) of the budgeted gross expenses of the Association for such Fiscal

Year (collectively, the **"Allowable Cost"**), then the Board shall contract for such restoration and levy a Special Assessment in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners' contributions, and the condemnation awards, Owners' contributions and Special Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards that exceeds the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decrease in the fair market value of their Condominiums; however, such awards shall be applied first to the balance then due on Mortgages encumbering such Owners' Condominiums, in order of priority.

10.5.2. **Minor Takings Exceeding Limits.**

If (a) there is a taking of a portion of one (1) or more Units that does not substantially and adversely affect the Units' ability to serve as residences, and (b) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall hold a special election of the Owners. If a majority of the Total Voting Power of the Association casts a valid ballot, and a majority of the votes cast in such special election are in favor of levying a Special Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units desire to contribute to such restoration, then the Board shall contract for such restoration and levy a Special Assessment, and the condemnation awards, Owners' contributions and Special Assessment shall be applied to such restoration.

10.5.3. **Major Takings.**

If neither Section 10.5.1 nor 10.5.2 applies to a taking of a Unit or Units, then the award in condemnation shall be paid to the Owners of the taken Units; however, such award shall be applied first to the balance then due on Mortgages encumbering such Owners' Condominiums, in order of priority. The Board shall have the remaining portions of the taken Units razed and it shall become part of the Common Area, and the Owners of such taken Units, by acceptance of the award allotted to them in the taking proceedings, relinquish (a) to the other Owners, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area, and (b) to the Association, the remaining portions of the Units. Each Owner relinquishing such Owner's interest in the Common Area pursuant to this Section shall, at the Board's request and at the Association's expense, execute and acknowledge such deeds and other instruments that the Board considers necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit is not liable for Assessments under this Declaration that accrue on or after the date on which such Owner accepts such Owner's condemnation award.

10.6. **Portions of Awards in Condemnation not Compensatory for Value of Real Property.**

Those portions of awards in condemnation that do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken or whose relocation is intended to be facilitated.

10.7. Notice to Owners and Mortgagees.

The Board, upon learning of any condemnation proceeding affecting a Unit or a material portion of the Project, or any threat thereof, shall promptly notify all Owners and those Mortgagees, insurers and guarantors of Mortgages on Condominiums in the Project who have filed a written request for such notice with the Association.

ARTICLE XI – RIGHTS OF MORTGAGEES

11.1. Mortgages Permitted.

Any Owner may encumber his or her Condominium with a Mortgage. Upon request of the Board, any Owner who has a Mortgage on his or her Condominium shall provide the Association with the name and address of his or her Mortgagee.

11.2. Reserve Fund.

The Association shall maintain funds in a reserve account sufficient to pay for maintenance, repair, and replacement of the Common Area Improvements which reserve account shall be substantially funded by regular payments of Annual Assessments.

11.3. Right of First Refusal.

The Governing Documents do not contain any provisions creating a “right of first refusal,” and any First Mortgagee who comes into possession of a Condominium pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal."

11.4. Notices to Eligible Mortgage Holders.

The Association shall provide timely written notice to any First Mortgagee which has provided a written notice to the Association that contains its name and address, and the address of the Condominium encumbered by the First Mortgage, and requests that the Association provide notice of any of the following events (**“Eligible Holder”**):

(a) Any condemnation loss or casualty loss that affects either a material portion of the Project or of the Condominium on which the First Mortgagee holds a Mortgage.

(b) Any default by an Owner on which the First Mortgagee holds a Mortgage in the performance of such Owner’s obligations under the Governing Documents which is not cured within sixty (60) days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action that would require the consent of First Mortgages specified in this Article XII.

11.5. **Disclosures by Mortgagees.**

Mortgagees are authorized to furnish information to the Board concerning the status of any Mortgage.

11.6. **First Mortgagees Right to Attend Meetings**

Because of its financial interest in the Project, First Mortgagees may appear (but may not vote) at meetings of the Members and the Board to draw attention to violations of this Declaration which have not been corrected or made the subject of remedial proceedings or Assessments.

11.7. **Inspection of Books and Records.**

Upon request, First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

11.8. **Unpaid Assessments.**

Any First Mortgagee who comes into possession of a Condominium pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage shall take title to such Condominium free of any claim for unpaid Assessments or charges against such Condominium that accrued prior to the time at which such Mortgagee acquires title to such Condominium.

11.9. **Priority of Liens.**

Assessment liens shall be subordinate to a First Mortgage as provided in Section 4.11.

11.10. **Audited Financial Statements.**

The Association shall prepare an audited financial statement upon written request from a First Mortgagee for the immediately preceding Fiscal Year at the expense of the requesting First Mortgagee.

11.11. **Right to Insurance Proceeds or Condemnation Awards.**

No Owner or other party shall have priority over any right of First Mortgagees in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of a Unit or the Common Area.

11.12. **Consent for Termination of the Project from Destruction or Condemnation.**

The approval of sixty-seven percent (67%) of the Total Voting Power of the Association and fifty-one percent (51%) of the Eligible Holders, based on one (1) vote for each First Mortgage held, shall be required if the decision to terminate the legal status is a result of substantial destruction or a substantial taking in condemnation of the property.

11.13. **Certain Amendments Requiring Eligible Holder's Consent.**

The approval of sixty-seven percent (67%) of the Total Voting Power of the Association and fifty-one percent (51%) of the Eligible Holders, based on one (1) vote for each First Mortgage held, shall be required to add or amend any material provision of this

Declaration which establishes, provides for, governs or regulates any of the following subjects:

(a) reserves for maintenance, repair, and replacement of Common Area;

(b) responsibilities for maintenance and repair of any portion of the Project;

(c) interests of an Owner in Common Area or Exclusive Use Common Area;

(d) convertibility of Units into Common Area or of Common Area into Units;

(e) expansion or contraction of the Project or the addition, annexation, or withdrawal of real property to or from the Project;

(f) insurance requirements;

(g) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Condominium; or

(h) any provision that expressly benefits Mortgage holders, insurers, or guarantors.

11.14. **Other Actions Requiring Mortgagees' Consent.**
Except as provided by statute in the case of condemnation or substantial loss to the Units and/or Common Area, unless at least sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage owned) or at least sixty-seven percent (67%) of the Total Voting Power of the Association have given their prior written approval, the Association may not:

(a) by act or omission seek to abandon or terminate the Project;

(b) change the pro rata interest or obligations of any Condominium (i) to levy Assessments or charges, or allocate distributions of hazard insurance proceeds or condemnation awards, or (ii) for determining the pro rata share of ownership of each Condominium in the Common Area;

(c) partition or subdivide any Condominium; and

(d) use hazard insurance proceeds for losses to any portion of the Project (whether to the Units or the Common Area) for other than the repair, replacement, or reconstruction of the Project, except as provided by statute in case of substantial loss to the Units and/or Common Area of the Project.

11.15. **Notice to Mortgagees.**

Any First Mortgagee or Eligible Holder who receives a written request to approve an action or amendment under this Article and who does not deliver a response within thirty (30) days after the date of the written request shall be deemed to approve the action or amendment. All notices or other communications made pursuant hereto shall be in writing and shall be either personally delivered or mailed by certified or registered mail, postage prepaid, to the parties last known address.

11.16. **Mortgage Protection.**

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

ARTICLE XII– ENFORCEMENT

12.1. **Enforcement of the Governing Documents.**

All disputes arising under the Governing Documents and alleged violations of the Governing Documents shall be resolved in accordance with the procedures established in this Declaration, any Rules adopted by the Board, and Applicable Law.

12.1.1. **Owner's Responsibility for Conduct and Damages.**

Each Owner shall be fully responsible for informing members of his or her household, Tenants, invitees, and Guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, and any Governing Document violations by any of them, and for any damage to the Project or the Association resulting from the negligent or intentional conduct of any of them or the conduct of any pet belonging to any of them. If a Condominium is owned jointly by two (2) or more Persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall be joint and several; that is, each co-Owner individually shall be fully liable and responsible and all co-Owners collectively shall be fully liable and responsible.

12.1.2. **Violations as Nuisance.**

Every act or omission constituting or resulting in a violation of any of the provisions of the Governing Documents shall be deemed to constitute a nuisance and, in addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association or its officers or Board of Directors or by any Owner; *provided, however*, that the Board shall not be obligated to take action to abate or enjoin a particular violation if, in the exercise of its discretion, the Board determines that acting to abate or enjoin such violation is not likely to foster or protect the interests of the Association and its Members as a whole. Notwithstanding the preceding sentence and without limiting the generality of the conditions therein, nothing in the Governing Documents shall be deemed to impose upon the Association, the Board, or the officers, employees, or agents of the Association a duty to intervene in any physical dispute or altercation or any criminal or alleged criminal activity other than to notify law enforcement officials.

12.1.3. **Violations of Law.**
Any violation of a state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupancy, or use of any property within the Project is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.

12.1.4. **Violations Identified by the Association.**
If the violation involves nonpayment of any Assessment, then the Board may collect the delinquent Assessment pursuant to the procedures established in Section 12.2 and Section 12.3. For all other alleged violations brought to the attention of the Board, the Board shall follow the violation investigation and correction procedure established in this Article as well as any Rules adopted by the Board including Notice and Hearing, internal dispute resolution as described in *Civil Code* section 5915, and alternative dispute resolution as described in *Civil Code* section 5925, and, if the violation is not resolved, then proceed as described in Section 12.1.5.

12.1.5. **Legal Proceedings.**
Failure to comply with any of the terms of the Governing Documents by any Owner or his or her Family members, Tenants, or Guests may result in legal action against the Owner for monetary damages, injunctive relief, foreclosure of any lien, or any combination thereof.

12.1.6. **No Waiver.**
Failure to enforce any provision of this Declaration does not waive the right to enforce such provision or any other provision of this Declaration.

12.1.7. **Right to Enforce.**
The Board and any Owner may enforce the Governing Documents as described in this Article, subject to Applicable Law. Each Owner has a right of action against the Association for the Association's failure to comply with the Governing Documents. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

12.2. **Nonpayment of Assessments.**

12.2.1. **Delinquency.**
Assessments are delinquent if not paid within fifteen (15) days after the due date established by the Association. The Association may require the delinquent Owner to pay a late charge in accordance with Section 5650(b)(2) of the *Civil Code*. Assessments not paid within thirty (30) days after the due date, plus all reasonable fees and costs of collection (including reasonable attorneys' fees) and late charges, bear interest at the maximum rate permitted by law commencing thirty (30) days after the due date until paid. All Assessments, late charges, reasonable fees and costs of collection, reasonable attorneys' fees, and interest shall be a debt of the Owner at the time the

Assessments or other sums are levied. Payments made by an Owner shall be applied first to the Assessments owed and, only after the Assessments owed are paid in full, shall be applied to accumulated fees and costs of collection, attorneys' fees, late charges, or interest. The Association shall provide a mailing address for overnight payment of Assessments.

12.2.2. **Creation and Release of Lien.**

(a) **__Priority of Lien__**. All liens levied in accordance with this Declaration shall be prior and superior to (i) any declaration of homestead Recorded after the recordation of this Declaration and (ii) all other liens, except (A) all taxes, bonds, assessments and other levies that, by law, would be superior thereto and (B) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority or seniority over other Mortgages) made in good faith and for value and Recorded before the date on which the Notice of Delinquent Assessment (as defined in this Section) against the assessed Condominium was Recorded.

(b) **__Prerequisites to Creating Lien__**. Before the Association may place a lien on an Owner's Condominium to collect a past due Assessment or other debt that is past due, the Association shall do all of the following:

(i) At least thirty (30) days before Recording a lien for delinquent Assessments, the Association shall send by certified mail to the delinquent Owner a written notice (**"Notice of Intent to Lien"**) that contains all of the information required by *Civil Code* Section 5660.

(ii) The Association shall offer such Owner and, if so requested by such Owner, shall participate in internal dispute resolution to the extent required pursuant to *Civil Code* section 5673.

(c) **__Owner's Right to Request Meeting; Payment Plans__**. An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt set forth in the Notice of Intent to Lien and the Association shall provide the requesting Owner with any standards for payment plans. The Board shall meet with such Owner in executive session within forty-five (45) days of the postmark of such Owner's written request if such request is mailed within fifteen (15) days of the date of the postmark of the Notice of Intent to Lien, unless there is no regularly-scheduled Board meeting within such period, in which case the Board may designate a committee of one (1) or more members to meet with such Owner. A payment plan may incorporate any and all Assessments that accrue during the payment plan period. A payment plan shall not impede the Association's ability to Record a lien on an Owner's Condominium to secure payment of delinquent Assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent Assessments from the time before entering into the payment plan.

(d) **<u>Notice of Delinquent Assessment</u>**. The lien becomes effective upon recordation of a Notice of Delinquent Assessment (**"Notice of Delinquent Assessment"**) securing the payment of any Assessment or installment thereof levied by the Association against any Owner, as provided in *Civil Code* section 5675. An itemized statement shall be Recorded together with the Notice of Delinquent Assessment. The Notice of Delinquent Assessment must identify (i) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and Recording the Notice of Delinquent Assessment, (ii) the amount of collection costs incurred, including reasonable attorneys' fees, (iii) a sufficient description of the Condominium that has been assessed, (iv) the Association's name and address, (v) the name of the Owner of the Condominium that has been assessed and (vi) if the lien is to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent. A copy of the Recorded Notice of Delinquent Assessment shall be mailed by certified mail to every Person whose name is shown as an Owner of the Condominium in the Association's records no later than ten (10) calendar days after Recordation. The lien relates only to the individual Condominium against which the Assessment was levied and not to the Project as a whole.

(e) **<u>Decision to Record Lien</u>**. The decision to Record a lien for delinquent Assessments shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Directors in an open meeting of the Board. The Board shall record the vote in the minutes of that meeting.

(f) **<u>Exceptions</u>**. Pursuant to *Civil Code* Section 5725(b), Enforcement Assessments may not become a lien against an Owner's Condominium enforceable by trustee's sale of such Condominium under Sections 2924, 2924b and 2924c of the *Civil Code*.

(g) **<u>Release of Lien</u>**. Upon payment of the full amount claimed in the Notice of Delinquent Assessment or other satisfaction thereof, the Board shall cause to be Recorded a Notice of Satisfaction and Release of Lien (the **"Notice of Release"**) stating the satisfaction and release of the amount claimed. The Board may require the Owner to pay a reasonable charge for preparing and Recording the Notice of Release. Any purchaser or encumbrancer who has acted in good faith and extended value may rely on the Notice of Release as conclusive evidence of the full satisfaction of the sums identified as owed in the Notice of Delinquent Assessment.

12.2.3. **Enforcement of Liens.**

The Board shall enforce the collection of amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration. The lien on a Condominium may be enforced by foreclosure and sale of the Condominium after failure of the Owner to pay any Assessment, or installment thereof, as provided in this Declaration. The sale shall be conducted in accordance with the provisions of the *Civil Code* applicable to the exercise of powers of sale in Mortgages or in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment or sale by a trustee substituted pursuant to Section 2934a of the *Civil Code*. Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b and 2924c of the *Civil Code* applicable to the exercise of powers of sale in mortgages and deeds of trusts, and the fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d of the *Civil Code*. In addition to the requirements of Section 2924 of the *Civil Code*, the Association shall serve a Notice of Delinquent Assessment on the Owner's legal representative in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the California *Code of Civil Procedure*. The Owner's legal representative shall be the Person whose name is shown as the Owner of such Owner's Condominium in the Association's records, unless another Person has been previously designated by such Owner as such Owner's legal representative in writing and mailed to the Association in a manner that indicates that the Association has received it.

Subject to the provisions of Section 12.3, the Association may sue to foreclose the lien if (i) at least thirty (30) days have elapsed since the date on which the Notice of Delinquent Assessment was Recorded and (ii) at least ten (10) days have elapsed since a copy of the Notice of Delinquent Assessment was mailed by certified mail to every Person whose name is shown in the Association's records as an Owner of the Condominium affected thereby. The Association may bid on the Condominium at foreclosure sale and acquire and hold, lease, mortgage and convey the Condominium. Upon completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Condominium, and the defaulting Owner shall be required to pay the reasonable rental value for the Condominium during any period of continued occupancy by the defaulting Owner or any Person claiming under the defaulting Owner. A suit to recover a money judgment for unpaid Assessments may be brought without foreclosing or waiving any lien securing the obligation to pay such Assessments, but this provision or any suit to recover a money judgment does not affirm the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

12.2.4. **Priority of Assessment Lien.**

Mortgages Recorded before a Notice of Delinquent Assessment have lien priority over the Notice of Delinquent Assessment. The sale or transfer of any Condominium does not affect the Assessment lien, except that the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage extinguishes the lien of such Assessment as to payments that became due before such sale or transfer. No sale or transfer relieves such Condominium from liens for any Assessment thereafter becoming due. No Person who obtains title to a Condominium pursuant to a judicial or nonjudicial foreclosure of the first Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Condominium that became due before the acquisition of title to the Condominium by such Person. Such unpaid share of Common Expenses or Assessments is a Common Expense collectible from all Owners, including such Person. The Association may take such action as is necessary to make any Assessment lien subordinate to the interests of the Department of Veterans Affairs of the State of California under its Cal-Vet loan contracts as if the Cal-Vet loan contracts were first Mortgages of Record.

12.2.5. **Alternative Dispute Resolution.**

Before initiating a foreclosure for any delinquent Assessment, the Association shall offer the Owner and, if so requested by the Owner, shall participate in internal dispute resolution or alternative dispute resolution with a neutral third party pursuant to Section 5660 of the *Civil Code*. The decision to pursue dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

12.2.6. **Secondary Addresses of Owners.**

Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any and all notices required by this Section 12.2 to the secondary address provided. The Association shall notify Owners of their right to submit secondary addresses to the Association, at the time the Association issues the annual budget. Each Owner's request shall be in writing and shall be mailed to the Association in a manner that shall indicate the Association has received it. Any Owner may identify or change a secondary address at any time; provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request.

12.2.7. **Receivers.**

In addition to the foreclosure and other remedies granted to the Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Condominium, conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Condominium, subject to the right of the Association to collect and apply such rents, issues and profits to delinquent Assessments owed by such Owner, reserving to such Owner the right, before any default by such Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. Upon any such default, the Association may, upon the expiration of thirty (30) days following delivery to the Owner of the Notice of Delinquent Assessment described in this Declaration, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described in this Declaration, (a) enter in or on and take possession of the Condominium or any part thereof, (b) in the Association's name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses of operation, to any delinquency of such Owner and in such order as the Association may determine. The entering upon and taking possession of the Condominium, the collection of rents, issues and profits and the application thereof shall not cure or waive any default or notice of default under this Declaration or invalidate any act done pursuant to such notice.

12.3. **Collection of Delinquent Assessments Through Foreclosure.**
The Association is authorized to collect delinquent Assessments through an action at law or by judicial or nonjudicial foreclosure or by any other means authorized by Applicable Law.

ARTICLE XIII – DURATION AND AMENDMENT

13.1. **Term and Termination.**
This Declaration shall continue in full force and effect for a term of fifty (50) years from the date of Recording. Thereafter, the term shall automatically extend for successive periods of ten (10) years unless within the six (6) months prior to the initial fifty (50) year term or within six (6) months prior to the expiration of any ten-year extension period a written declaration of termination approved by a majority of the Total Voting Power of the Association is Recorded.

13.2. **Amendment.**

13.2.1. **Board Approved Amendments.**
This Declaration may be amended by the Board without the approval of the Members or Mortgagees if the amendment is (a) authorized by Applicable Law, (b) required to conform this Declaration to Applicable Law, (c) to correct typographical errors, or (d) to change any exhibit to reflect as-built conditions of the Project.

13.2.2. **Owner Approved Amendments.** Subject to the applicable requirements of Section 11.13, this Declaration may be amended by the affirmative vote of Members representing at least a majority of the Total Voting Power of the Association; and further provided that the specified percentage of approval necessary to amend a specific provision of this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision.

13.3. **Amendment Must Be Recorded.**
Any amendment of the Declaration must be signed and acknowledged by the duly-authorized officer(s) of the Association and Recorded in the Official Records of the County to be valid.

ARTICLE XIV – GENERAL PROVISIONS

14.1. **Headings.**
The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning, scope, or intent of any of the provisions of this Declaration.

14.2. **Severability.**
The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision hereof shall not invalidate any other provisions hereof.

14.3. **Liberal Construction.**

The provisions of this Declaration shall be liberally construed to effectuate its purpose of fostering a plan of community ownership and occupancy and of management of the Project for the benefit of the community.

14.4. **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.

14.5. **Exhibits.**

All exhibits attached to this Declaration are incorporated by this reference as though fully set forth herein.

14.6. **Notices.**

14.6.1. **Delivery of Notice.**

Notice to be given to an Owner must be in writing. Delivery of notice to at least one (1) co-Owner of a Condominium constitutes delivery to all Owners of such Condominium. Delivery of notice to any officer or agent for the service of process of a corporation or limited liability company constitutes delivery to the entity. Unless a provision of this Declaration or Applicable Law establishes the method for delivery of notice, notice may be delivered by one of the following methods and is complete as follows: (a) personal delivery (complete upon delivery), (b) first-class mail, postage prepaid, addressed to the most recent address on the Association's books (delivery is complete upon deposit in the United States mail), (c) email, facsimile, or other electronic means (delivery is complete at the time of transmission). Any notice to be given to the Association may be delivered personally to any member of the Board or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed and circulated to all Owners.

14.6.2. **Owner's Address for Notice.**

It shall be each Owner's responsibility to notify the Association in writing of any change in the Owner's address for the purpose of receiving notices from the Association. The fact that a different address appears on correspondence to the Association from an Owner shall not constitute such written notice, unless it is expressly stated that such address is a change of address for the purpose of receiving notice from the Association. Upon transfer of title to a Condominium, the transferee shall be responsible for notifying the Association of such transfer. The notification shall set forth the address of the Condominium, the names of the transferee and the transferor, and the date of sale or other transfer. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association or the Board to the Owner of the Condominium shall be deemed to be duly made and given to the transferee if duly and timely made and given to the person shown as the Owner of the Condominium and at the address in the Association's records.

14.7. **Constructive Notice and Acceptance.**

Every Person who owns, occupies, or acquires any right, title, estate, or interest in or to any Condominium or other portion of the Project hereby consents and agrees, and shall be conclusively deemed to have consented and agreed, to every limit, restriction, easement, reservation, condition, and covenant contained in this Declaration, whether or not any reference to these restrictions is in the instrument by which such Person acquired an interest in the Project.

IN WITNESS WHEREOF, we, the Members of Vieux Carre Homeowners Association, pursuant to the requisite approval, and by means of the signatures of the President and the Secretary, do hereby affirm, approve, and adopt the foregoing Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vieux Carre, which Declaration shall be Recorded in the Official Records of Los Angeles County, State of California.

Dated: ________________

Vieux Carre Homeowners Association,
a California nonprofit mutual benefit
corporation

By:___________________________________
Name:_________________________________
Title: President

By:___________________________________
Name:_________________________________
Title: Secretary

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

STATE OF CALIFORNIA

COUNTY OF _______________ } ss:

On ______________________, before me, _______________, a notary public for the State of California, personally appeared

____

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 on 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

EXHIBIT A

Individual Unit Interests in Common Area

Residential Unit Address	Legal Unit Number	Unit Type*	Undivided Common Area Interest
101	31	R	4.49%
102	30	R	3.69%
103	29	R	3.69%
104	26	R	4.49%
105	27	R	3.22%
106	28	R	4.82%
107	32	R	4.98%
201	38	R	4.65%
202	37	R	3.85%
203	36	R	3.85%
204	33	R	4.65%
205	34	R	3.37%
206	35	R	4.98%
207	39	R	5.14%
301	45	R	4.82%
302	44	R	4.02%
303	43	R	4.02%
304	40	R	4.82%
305	41	R	4.33%
306	42	R	5.14%
307	46	R	5.30%

205	2	PS	0.32%
306	3	PS	0.32%
204	4	PS	0.32%
106	5	PS	0.32%
202	6	PS	0.32%
103	7	PS	0.32%
104	8	PS	0.32%
207	9	PS	0.32%
206	10	PS	0.32%
301	11	PS	0.32%
102	12	PS	0.32%
307	13	PS	0.32%
203	14	PS	0.32%
101	15	PS	0.32%
105	16	PS	0.32%
302	17	PS	0.32%
107	18	PS	0.32%
303	19	PS	0.32%
304	20	PS	0.32%
201	21	PS	0.32%
305	22	PS	0.32%
207	23	PS	0.32%
	24	PS	0.32%
	25	PS	0.32%

*R = Residential / PS = Parking Space