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AND
WHEN RECORDED MAIL TO:**

THE ELMWOOD MANOR
HOMEOWNERS ASSOCIATION
c/o O'Toole Rogers, LLP
3650 Mt. Diablo Blvd., Ste. 180
Lafayette, CA 94549

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**FIRST AMENDMENT TO RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF THE ELMWOOD MANOR
HOMEOWNERS ASSOCIATION**

NOTICE

If this document contains any restriction based on 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 California *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.

FIRST AMENDMENT TO RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE ELMWOOD MANOR HOMEOWNERS ASSOCIATION

This First Amendment to the Restated Declaration of Covenants, Conditions and Restrictions of The Elmwood Manor Homeowners Association ("First Amendment") is made on the date set forth at the end of this document by The Elmwood Manor Homeowners Association, a California nonprofit mutual benefit corporation (referred to in this document as the "Association").

- A. WHEREAS, this First Amendment is made with respect to that certain RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE ELMWOOD MANOR HOMEOWNERS ASSOCIATION, recorded on November 29, 2004, as Document No. 2004-233284, in the Official Records of the County of San Mateo, State of California (the "Restated Declaration").
- B. WHEREAS, the Restated Declaration establishes certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with, and are binding upon all parties having or acquiring any right, title, or interest in, that certain real property located in the County of San Mateo, State of California, and more particularly described in the Declaration.
- C. WHEREAS, all of the covenants, conditions, and restrictions set forth herein shall constitute enforceable equitable servitudes as provided in California *Civil Code* section 5975, shall constitute covenants that shall run with the said real property, and shall be binding upon and inure to the benefit of each Owner of any portion of the said real property or the owner or holder of any interest or estate therein and their heirs, successors, and assigns.
- D. WHEREAS, recent statutory changes have resulted in a lack of conformity between the applicable law and certain provisions of the Declaration, and the Members of the Association, constituting at least a majority of the voting power of the Members, desire to amend the Restated Declaration pursuant to Article XVI, Section 16.01 thereof.

NOW, THEREFORE, the Association hereby declares that notwithstanding anything to the contrary in the Declaration, the Declaration is hereby amended as follows (words with a ~~strike through~~ are deleted and in ***bold italics*** are added).

- 1. Article I, Section 1.29 ("Member"), is hereby amended to read as follows:

"Member" shall mean ***an Owner*** and ~~refer to every person or entity who holds a membership in the Association and whose rights as a Member are~~

~~not suspended pursuant to Article XV, Section 15.06 hereof.~~

2. Article I, Section 1.43 ("Voting Power"), is hereby amended to read as follows:

"Voting Power" shall mean 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 Unit** ~~membership of the Association, that is, all memberships, except those suspended for default in payment of assessments or otherwise.~~

3. Article IV, Section 4.01 ("Owners' Non-Exclusive Easements of Enjoyment"), subparagraph (a) is hereby amended to read as follows:

The right of the Association to suspend the ~~voting rights and~~ right to use of the Common Area by an Owner for any period during which any Regular, Special or Special Individual Assessment against the Owner, individually, remains unpaid.

4. Article IV, Section 4.01 ("Owners' Non-Exclusive Easements of Enjoyment"), subparagraph (b) is hereby amended to read as follows:

The right of the Association to adopt Association Rules as provided in Article V, Section 5.08 hereof, and, ~~after prior notice of at least fifteen (15) days, and a hearing before the Board, if requested by the Owner, to temporarily suspend the voting rights and right to use the Common Area and/or recreational facilities of any Owner, the Owner's Tenants and guests in accordance with Article XV, Section 15.06 for a breach of the Association Management Documents.~~

5. Article IV, Section 4.02 ("Delegation of Use/Rights and Obligations of Landlords and Tenants"), is hereby amended to read as follows:

(a) Leasing of Units. Any Owner who leases a Condominium must comply with each of the following restrictions, and each lease will be subject to these requests, whether they are expressly included within the lease or not.

(1) Each lease must be in writing.

(2) No lease shall be for a term of less than **thirty (30) days** ~~one hundred eight (180) days.~~

(3) Leases shall provide that Tenants are subject in all respects to provisions of this Declaration, the Bylaws, and Association Rules. The Board may adopt a lease addendum form which, if so adopted, shall be executed as a part of each lease or rental agreement. A copy of the lease addendum shall be provided to the Board within fourteen

(14) days of the time the Owner enters into the lease or rental agreement. Landlord shall provide Tenant with copies of this Declaration, the Bylaws and Association Rules.

(4) Owners shall notify the Secretary of the Association or the managing agent in writing, within fourteen (14) days of entering into a lease, of the names of all Tenants and members of Tenants' household occupying the Condominium, and a description of each vehicle to be parked on the Properties by residents of the Condominium additionally shall notify the Secretary of the Association of the address and telephone number where such Owner can be reached.

(5) Any failure of the Tenant to comply with this Declaration, or a Board approved summary of this Declaration, the Bylaws or Association Rules shall be a default under the lease, regardless of whether the lease so provides. The Owner shall at all times be responsible for compliance of Owner's Tenant with all of the provisions of this Declaration, the Bylaws and Articles and the Association Rules during the Tenant's occupancy and use of the Condominium.

(6) In the event that any Tenant fails to honor the provisions of this Declaration, the Bylaws or the Association Rules, the Owner immediately shall take all action to cure the default including, if necessary, eviction of the Tenant. The Association may maintain an eviction action against the Tenant in the event that the Owner was not taken action to prevent and/or correct the actions of the Owner's Tenant giving rise to the Common Area or Common Facility damage or nuisance after receiving written notice from the Association, or an authorized committee of the Board, detailing the nature of the violation

(7) ***No Owner shall be permitted to lease, rent, or otherwise operate his or her Unit for transient or hotel purposes, which shall include, but is not limited to, rental for any period of less than thirty (30) days or any rental (even if the term is longer than thirty days) where the Resident of a Unit is provided customary hotel services such as maid service, or the periodic furnishing of clean bed linen and towels.***

6. Article V, Section 5.03 ("Voting Rights of Memberships"), is hereby amended to read as follows:

Each Member of the Association shall be entitled to one vote for each Unit owned by said Member. When more than one person holds an interest in any Unit, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Unit. ~~Voting rights may be temporarily suspended under those circumstances described in Article XV,~~

~~Section 15.06 hereof.~~

7. Article V, Section 5.09 ("Breach of Rules or Restrictions"), is hereby stricken entirely and amended to read as follows:

Upon an explicit finding and for reasons specified by the Board following a hearing called by the Board and conducted in accordance with Article XV, Section 15.06 hereof, the Board shall have the power to impose sanctions on a Member who is in default in the payment of any Assessment levied by the Board or is found to be in violation of any provision of the Association Management Documents. Sanctions may include suspension of membership rights, including the right to use the Common Area and recreational facilities, and/or monetary penalties (fines) in accordance with the Association's adopted schedule of fines. The Association's authority to impose sanctions shall be subject to the restrictions set forth in Civil Code section 5850 and 5855.

8. Article X, Section 10.27 ("Floor Coverings"), is hereby amended to read as follows:

No alteration in the type of floor coverings of the Unit may be made which will result in an increase in sound transmission into any other Unit. Only soft-cover floors may be installed on floor levels located above and adjacent to any other Unit, except for replacement of any hard coverings in kitchen, bath or other areas where such hard coverings were originally installed. ***Notwithstanding the foregoing, hard-cover flooring may be installed in any Unit located at ground level. Further, any hard-cover flooring installed in a second story Unit prior to the recordation of this First Amendment (referred to herein as "Legacy Hard-Cover Flooring") shall not constitute a violation of this Section 10.27. Legacy Hard-Cover Flooring may be maintained in its existing location within a Unit and may be replaced with identical or substantially similar flooring material as approved in writing by the Association. Given the increased likelihood of sound transmission between Units due to alterations of floor coverings, prior architectural approval is required before any alteration of any flooring material in a Unit, in accordance with Article IX of this Declaration. The Board may adopt Rules, including Architectural Rules, concerning the installation, alteration, modification, and/or maintenance of Unit flooring.***

Owners agree to indemnify and hold the Association harmless from any and all liability arising out of any claim or damages relating to any person or property, including claims of nuisance or breach of the Association Management Documents, resulting from Owner's hard-cover flooring, including Owner's Legacy Hard-Cover Flooring.

In the event the Association receives a complaint regarding noise transmission from a Unit in which hard-cover flooring was installed (including any Legacy Hard-Cover Flooring), which the Association reasonably believes, after performing an investigation, conducting a hearing, and considering all available evidence from the Owner and the complaining resident(s), that such noise transmission is caused by said flooring, the Owner shall take reasonable steps as directed by the Association to minimize the sound transmission. If such steps do not adequately reduce the transmission as determined by the Association, the Board, after notice and a hearing pursuant to Section 15.06 of this Declaration, may require the Owner replace the flooring with soft-cover flooring which shall be at the Owner's expense.

9. Article XV, Section 15.06 ("Suspension, Fines and Enforcement"), is hereby stricken entirely and amended to read as follows:

(a) Limitation on Disciplinary Rights. To the extent provided in Civil Code section 4510, the Association shall not have the power and authority to cause a forfeiture or abridgment of an Owner's right to the full use and occupancy of his or her Unit as the result of the failure by such Owner, members of his or her household, contract purchaser, tenants, invitees, guests or pets to comply with any provision of the Association Management Documents, except where such forfeiture or abridgment is the result of the judgment of a court of competent jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or sale under private power of sale for failure of such Owner to pay Assessments levied by the Association pursuant to this Declaration. The provisions of this Section 15.06(a) shall not affect the Association's right to impose other sanctions including imposing Special Individual Assessments as provided in Section 6.04.

(b) Written Notice of Violation. If the Board determines, whether on its own initiative or pursuant to a written complaint, that a violation of the Association Management Documents exists or has occurred, it shall notify the responsible Owner(s) by written notice. Any notice given by the Association to a Member shall comply with Civil Code section 5855 and, at a minimum, set forth a brief description of the act or omission constituting the alleged violation of the Association Management Documents; a reference to the specific Association Management Document provision or provisions alleged to have been violated; if applicable, a statement that the Member may request a hearing by the Board; the date, time, and location of any hearing called by the Board; and any sanction, disciplinary action, or other enforcement action being contemplated by the Board. Notice shall be given by personal or Individual Delivery, pursuant to Civil Code

section 4040.

(c) Disciplinary Hearings. *To the extent required by Civil Code section 5855, whenever the Board determines to conduct a hearing, it shall notify the affected Owner(s) in writing by Individual Delivery, at least ten (10) days before the Board meeting at which the matter will be considered. If the matter concerns Member discipline or the imposition of sanctions, the Board shall meet in executive session if requested by the Member, unless (and then only to the extent) applicable law requires that certain actions by the Board be conducted at an open meeting of the Board. If the matter concerns compliance with architectural approval requirements, the hearing shall be conducted in open meeting pursuant to Civil Code section 4765. In the Board's discretion, other interested person(s) may attend a hearing and may present information relevant to the subject matter of the hearing. If a notified Owner fails to attend a noticed hearing, the Board may nevertheless conduct its deliberations and make a determination based on its own investigation and any other information supplied to it that the Board deems reasonably reliable.*

(d) Notice of Decision. *Within fourteen (14) days after a hearing is conducted, the Board shall notify the Owner in writing by Individual Delivery as to its decision. If the Board decides to impose sanctions, the notice shall describe the sanctions imposed and, if applicable, their effective dates.*

(e) Schedule of Monetary Penalties. *The Board may adopt a policy imposing monetary penalties or fines in accordance with a schedule of fines adopted by the Board pursuant to Civil Code 5850 and distributed to the Members in the annual policy statement pursuant to Civil Code section 5310.*

10. **Defined Terms.** Capitalized terms used in this First Amendment and not otherwise defined herein shall have the meanings given in the Restated Declaration.
11. All other provisions of the Restated Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, we, the Members of The Elmwood Manor Homeowners Association, constituting at least a majority of the voting power of the Members, hereby affirm, approve, and adopt this First Amendment in accordance with Article XVI, Section 16.01 of the Restated Declaration, by means of the signatures of the President and the Secretary of the Association, and which First Amendment shall be recorded with the Recorder of the County of San Mateo, State of California.

DATED: _____, 2025

THE ELMWOOD MANOR
HOMEOWNERS ASSOCIATION,
a California nonprofit mutual benefit corporation

, President

, Secretary

CERTIFICATE OF ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)