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AMENDED AND RESTATED DECLARATION OF RESTRICTIONS FOR RIVERSIDE SUN CITY HOMEOWNERS ASSOCIATION, A PLANNED DEVELOPMENT

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**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR RIVERSIDE SUN CITY  
HOMEOWNERS ASSOCIATION,  
A PLANNED DEVELOPMENT**

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, 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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**AMENDED AND RESTATED DECLARATION OF RESTRICTIONS FOR  
RIVERSIDE SUN CITY HOMEOWNERS ASSOCIATION,  
A PLANNED DEVELOPMENT**

Declarant, Riverside Sun City Homeowners Association, hereby makes and declares this Amended and Restated Declaration of Restrictions for Riverside Sun City Homeowners Association, a Planned Development, as follows:

**RECITALS**

- A. A Declaration of Restrictions was recorded on March 12, 1985, as Instrument No. 49673, in the Official Records of Riverside County, California ("Original Declaration").
- B. The Original Declaration was amended by amendments recorded April 22, 1985, as Instrument No. 83427; and February 2, 1988, as Instrument No. 28657, in the Official Records of Riverside County, California. Subsequent references herein to the Original Declaration include the amendments thereto unless the context indicates otherwise.
- C. The Original Declaration affects all of the property which is more particularly described as follows:

Tract No. 19457-1, as shown on a Map recorded in Book 146, pages 97 to 99, inclusive, of Maps;

Tract No. 19457-2, as shown on a Map recorded in Book 151, pages 13 to 15, inclusive, of Maps;

Tract No. 19457-3, as shown on a Map recorded in Book 152, pages 63 to 64, inclusive, of Maps; and

Tract No. 19457, as shown on a Map recorded in Book 152, pages 65 to 67, inclusive, of Maps, in the Office of the County Recorder of the County of Riverside ("Property").

- D. The Original Declaration made the Property subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declaration referred to above, all of which are for the purpose of enhancing and protecting the value,

desirability and attractiveness of the Property and enhancing the quality of life in the Property, all of which run with the Property and are binding on all parties having or acquiring any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and inure to the benefit of each Owner thereof.

- E. Protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes which were set forth in the Original Declaration were intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Property as a "planned development" as that term is now defined in Section 4175 of the California Civil Code and as a senior citizen housing development as described in Civil Code Section 51.11. Further, it was the intention of Original Declaration that the "Common Area" be owned and maintained by the Association but reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, all subject to the terms and conditions of the Governing Documents.
- F. Riverside Sun City Homeowners Association, pursuant to the authorizing vote of the Owners, replaces the Original Declaration with the recordation of this Declaration. As so amended and restated, the covenants, conditions, restrictions and easements set forth herein shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property, or any portion thereof, and shall inure to the benefit of each Owner thereof.
- G. Attached to the Original Declaration as Exhibit "A" were drawings depicting Side Yard Easements reserved on various lots within the Association for the benefit of the adjacent lot. Said side-yard easements are more particularly addressed herein in the Article of this Declaration entitled Side-Yard Easements. Similar side-yard easements were reserved in subsequent Declarations of Annexation for later phases as Exhibits "A" thereto. The side-yard easements depicted in the aforesaid Exhibits "A" are recognized and preserved by this Declaration although said exhibits not attached hereto. The instruments to which these Exhibits "A" are attached are as follows:

1. Phases I and II (Lots 1 through 56 and 76 of Tract 19457-1): Original Declaration recorded March 12, 1985, as Instrument No. 49673.
2. Phase III (Lots 29 through 64 of Tract 19457-2): Declaration of Annexation recorded September 17, 1985, as Instrument No. 208748.
3. Phase IV (Lots 1 through 28 of Tract 19457-2): Declaration of Annexation recorded April 3, 1986, as Instrument No. 76276.
4. Phase V (Lots 1 through 16 and 49 through 64 of Tract 19457-3): Declaration of Annexation recorded April 7, 1986, as Instrument No. 78842.
5. Phase VI (Lots 17 through 48 of Tract 19457-3): Declaration of Annexation recorded June 12, 1986, as Instrument No. 136280.
6. Phase VII (Lots 1 through 25 of Tract 19457): Declaration of Annexation recorded June 26, 1986, as Instrument No. 148216.
7. Phase VIII (Lots 26 through 47 of Tract 19457): Declaration of Annexation recorded June 27, 1986, as Instrument No. 149557.
8. Phase IX (Lots 57 through 75 of Tract 19457-1): Declaration of Annexation recorded June 27, 1986, as Instrument No. 149558.

## ARTICLE I

### DEFINITIONS

- 1.1 "Assessment" means any Regular, Special or Reimbursement Assessment made or assessed by the Association against an Owner and his or her Lot in accordance with the provisions of Article IV of this Declaration.
- 1.2 "Association" means Riverside Sun City Homeowners Association, an incorporated association under the laws of the State of California and an "association" as defined in California Civil Code Section 4080.
- 1.3 "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association pursuant to Section 3.7 of this Declaration, as the same may be in effect from time to time.

- 1.4 "Board of Directors" or "Board" means the Board of Directors of the Association.
- 1.5 "By-laws" means the By-laws of the Association as adopted and amended from time to time by the Association.
- 1.6 "Common Area" means all real property owned or controlled by the Association for the common use and enjoyment of the Owners. The Common Area consists of the following:

Lot 76 of Tract 19457-1 as shown on the Map of said Tract 19457-1 as recorded in Book 146, pages 97-99, inclusive, of Maps, in the Office of the Riverside County Recorder.

- 1.7 "Common Expense" means any use of common funds authorized by Article IV hereof and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors, (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Area that the Association is obligated to maintain or replace and for nonpayment of any Assessments, and (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.
- 1.8 "County" means the County of Riverside, State of California.
- 1.9 "Declaration" means this instrument, as it may be amended from time to time. The "Original Declaration" means and refers to the document referenced in the preamble to this Declaration, together with all amendments and annexations thereto adopted prior to adoption of this Declaration.
- 1.10 "Governing Documents" is a collective term that means and refers to this Declaration and to the Articles of Incorporation filed for the Association, the By-laws and the Association Rules.

- 1.11 "Improvement" includes, without limitation, the construction, installation, removal, alteration, or remodeling of any buildings, walls, decks, fences, patios, landscaping, landscape structures, skylights, solar-heating equipment, spas, antennas, utility lines, trees, lighting, or any structure of any kind. In no event shall the term "Improvement" be interpreted to include projects which are restricted to the interior of any Residence.
- 1.12 "Lot" means any parcel of real property designated by a number on the maps of the Property, excluding the Common Area. When appropriate within the context of this Declaration, the term "Lot" shall also include the Residence and other improvements constructed on a Lot.
- 1.13 "Maps" mean the Tract Maps referenced in Recital C of this Declaration.
- 1.14 "Member" means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Section 13.6 of this Declaration.
- 1.15 "Mortgage" means any security device encumbering all or any portion of the Property, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.
- 1.16 "Owner" means any person, firm, corporation or other entity which is the record owner of a fee simple interest in any Lot. The term "Owner" shall include, except where the context otherwise requires, the family, guests, tenants and invitees of an Owner.
- 1.17 "Property" means all parcels of real property (Common Area and Lots) described in Recital C hereof, together with all buildings, structures, utilities and other Improvements located thereon, and all appurtenances thereto.
- 1.18 "Regular Assessment" means an Assessment levied on an Owner and his or her Lot in accordance with Section 4.2 hereof.
- 1.19 "Residence" or "Residential Structure" means a private, single-family dwelling and the appurtenances thereto on a Lot.
- 1.20 "Residential Use" means occupation and use of a Residence for single-family residential dwelling purposes in conformity with this Declaration

and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy residential dwellings.

- 1.21 "Special Assessment" means an Assessment levied on an Owner and his or her Lot in accordance with Section 4.3 hereof.
- 1.22 "Reimbursement Assessment" means an Assessment made against an Owner and his or her Lot in accordance with Section 4.4 hereof.

## ARTICLE II

### PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

- 2.1 Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area within the Property which shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights and restrictions:
  - (a) The right of the Association to adopt and enforce Association Rules, as provided in Section 3.7 hereof, regulating the use and enjoyment of the Common Area for the benefit and well-being of the Owners in common and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to temporarily suspend the rights of any Owner, subject to compliance with the due process requirements of Section 13.6 of this Declaration;
  - (b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as the Association shall deem necessary.
- 2.2 Right of Entry. The Association shall have rights, but not the duty, of entry onto Lots as set forth in Section 3.6 of this Declaration and as follows:
  - a. When the Board determines such entry is reasonably necessary to enforce the Governing Documents or to protect the health, safety and welfare of residents of the Property. Said right of entry to be



exercised by the Association, its officers, agents, contractors and/or employees, only after written notice of and conduct of a hearing by the Board, except in the case of an emergency; in which case, the right of entry shall be immediate.

- b. The Association may exercise its right of entry for inspection purposes only. By entering a Lot and inspecting the same for compliance with the Governing Documents, the Association does not thereby obligate itself to perform any repair or otherwise take action to correct conditions on the Lot.

2.3 Persons Subject to Governing Documents. All present and future Owners, tenants and occupants of Lots within the Property shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot, the entering into a lease, sublease or contract of sale with respect to any Lot, or the occupancy of any Residence shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

2.4 Delegation of Use.

- a. *Delegation of Use and Leasing of Residences.* Any Owner may delegate the Owner's rights to use and enjoy the Common Area to members of the Owner's family or to the Owner's tenants, lessees or contract purchasers who reside in the Owner's Residence, provided that any rental or lease may only be for Residential Use and for a term not less than 30 consecutive days. Further subletting by an Owner's lessee shall be prohibited.
- b. Any rental or lease of a Residence shall be subject to the provisions of the Governing Documents, all of which shall be deemed incorporated by reference in the lease or rental agreement. Each Owner lessor shall provide any tenant or lessee with a current copy of all Governing Documents and shall be responsible for

compliance by the Owner's tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the Residence. Upon written request of the Association, an Owner shall provide the Association a copy of the lease or rental agreement within 10 business days for the Owner's Lot.

2.5 Obligations of Owners. Owners of Lots within the Property shall be subject to the following:

- a. *Contract Purchasers.* A contract seller of a Lot must delegate his or her voting rights as a Member of the Association and seller's right to use and enjoy the Common Area to any contract purchaser in possession of the property subject to the contract of sale. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.
- b. *Joint Ownership of Lots.* In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (b) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.
- c. *Prohibition on Avoidance of Obligations.* No Owner, by nonuse of the Common Area, abandonment of the Owner's Lot or otherwise, may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Lot pursuant to this Declaration.
- d. *Termination of Obligations.* Upon the conveyance, sale or other bona fide transfer of a Lot to a new Owner, the transferor Owner shall not be liable for any Assessments levied with respect to such Lot which become due after the date of recording of the deed evidencing said transfer, and upon such recording, all Association

membership rights possessed by the transferor by virtue of the ownership of said Lot shall cease.

### ARTICLE III

#### PROPERTY OWNERS ASSOCIATION

- 3.1 Association Membership. Every Owner of a Lot shall be a Member of the Association. Each Owner shall hold one membership in the Association for each Lot owned, and the membership shall be appurtenant to such Lot. Ownership of a Lot shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his or her ownership in all Lots in the Property ceases, at which time his or her membership in the Association shall automatically cease. Persons or entities who hold an interest in a Lot merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Lot through foreclosure or deed in lieu thereof.
- 3.2 One Class of Membership. The Association shall have one class of membership, and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents.
- 3.3 Voting Rights of Members. Each Member of the Association shall be entitled to one vote for each Lot owned by said Member. When more than one person holds an interest in any Lot, all such persons shall be Members, although, in no event, shall more than one vote be cast with respect to any Lot. If a co-owner casts a vote for a certain Lot, it shall be conclusively presumed that s/he was duly authorized to cast said vote. Fractional votes are not allowed. Voting rights may be temporarily suspended under those circumstances described in Section 13.6 hereof.
- 3.4 Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Lots within the Property and to enforce payment of such Assessments in accordance with Article IV of this Declaration. Any Assessments levied by the Association on its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.

3.5 Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale, transfer or encumbrance of the Lot to which it is appurtenant and then only to the purchaser. In the case of a sale or transfer, membership passes automatically to the purchaser or transferee upon recording of a deed evidencing transfer of title to the Lot. In the case of an encumbrance of such Lot, a Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Lot, the Association shall have the right to record the transfer upon its books, and thereupon, any other membership outstanding in the name of the seller shall be null and void.

3.6 Powers and Authority of the Association.

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

- b. *Association's Limited Right of Entry.* The Association and/or its agents shall have the right, but not the duty, when appropriate, to enter any Lot to perform the Association's obligations under this Declaration, including (i) obligations to enforce the architectural and land use restrictions contained in this Declaration; (ii) any obligations with respect to construction, maintenance and repair of adjacent Common Area; or (iii) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, the Common Area or the Owners in common.

The Association's rights of entry under this subparagraph (b) shall be immediate in case of an emergency originating in or threatening the Lot where entry is required, or any adjoining Lots or Common Area, and the Association's work may be performed under such circumstances whether or not the Owner or his or her lessee is present. In all nonemergency situations, the Association shall afford a noticed hearing to the Owner, and the Association or its agents shall furnish the Owner or his or her lessee with at least five business days' written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing within the Residence located on the Lot.

### 3.7 Association Rules.

- a. *Rule-Making Power.* The Board may, from time to time and subject to the provisions of this Declaration and in accordance with Civil Code Sections 4340 through 4365, propose, enact and amend rules and regulations of general application to the Owners of Lots within the Property. Such rules may concern, but need not be limited to (i) matters pertaining to the maintenance, repair, management and use of the Common Area by Owners, their tenants, guests and invitees or any other person(s) who have rights of use and enjoyment of such Common Area; (ii) architectural control and the rules of the Architectural Committee under Section 5.5 hereof; (iii) the conduct of disciplinary proceedings in accordance with Section 13.6 hereof; (iv) regulation of parking, pet ownership and

other matters subject to regulation and restriction under Article VII hereof; (v) collection and disposal of refuse; (vi) minimum standards for the maintenance of landscaping or other improvements on any Lot; and (vii) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

- b. Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Declaration or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between the Declaration and any provision of the other Governing Documents, the conflicting provisions contained in the Declaration shall be deemed to prevail.
- c. *Adoption and Distribution of Rules.* In adopting or amending Association Rules, the Board shall comply with the provisions of California Civil Code Sections 4340-4365 or any comparable, superseding statutes. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner.

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

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

- a. *Claims Regarding Breach of Duty.* No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Association's Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the By-laws, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Area and enforcement of the Governing Documents.

- b. *Other Claims Involving Tortious Acts and Property Damage.* No Released Party shall be responsible to any Owner or to any member of his or her family or any of his or her tenants, guests, servants, employees, licensees, invitees or any other person for any loss or damage suffered by reason of theft or otherwise of any article, vehicle or other item of personal property which may be stored by such Owner or other person on any Lot or within any Residence or for any injury to or death of any person or loss or damage to the property of any person caused by fire, explosion, the elements or any other Owner or person within the Property, or by any other cause, unless the same is attributable to the Released Party's own willful or wanton act or gross negligence. It is the intent of this subparagraph to provide volunteer directors and officers with protection from liability to the full extent permitted by California Civil Code Section 5800, or comparable superseding statute, and to the extent this provision is inconsistent with said section, the Civil Code shall prevail.

### 3.10 Association Governance.

- a. The Association shall be governed by a Board of Directors consisting of Association Members in good standing. "Good standing" shall mean that each such Member must be current in the payment of all Assessments to the Association and shall not have any unresolved violations of the Governing Documents as determined by the Board of Directors.
- b. The Board of Directors shall be elected by secret written ballot by the Association's Members in accordance with Civil Code Section 5100-5135 and election rules adopted pursuant thereto.
- c. The Board of Directors shall have the powers and authority customarily exercised by the Board of Directors of a California

homeowners' association which is a nonprofit corporation, as may be more specifically described in the By-laws.

## ARTICLE IV

### ASSESSMENTS

#### 4.1 Assessments Generally.

- a. *Covenant to Pay Assessments.* Each Owner of one or more Lots, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association (i) Regular Assessments, (ii) Special Assessments, and (iii) Reimbursement Assessments. Each such Assessment shall be established and collected as hereinafter provided.
- b. *Extent of Owner's Personal Obligation for Assessments.* All Assessments, together with late charges, interest and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the person who was the Owner of the Lot at the time the Assessment was levied. Each Owner who acquires title to a Lot (whether at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot so purchased which become due and payable after the date of such sale and shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. Any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner against whom assessed.
- c. *Creation of Assessment Lien.* All Assessments, together with late charges, interest and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such Assessment is made. Any lien for unpaid Assessments created pursuant to the provisions of this Article may be subject to foreclosure as provided in Section 4.8(b) hereof.



- d. *No Avoidance of Assessment Obligations.* No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Lot or other property owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or any facilities thereon or by abandonment or nonuse of his or her Lot or any other portion of the Property.

#### 4.2 Regular Assessments.

- a. *Preparation of Annual Budget: Establishment of Regular Assessments.* Not less than 30 nor more than 90 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Area) by preparing and distributing to all Association Members an annual budget satisfying the requirements of Civil Code Section 5300 or any successor statute.
- b. *Establishment of Regular Assessment by Board or Membership Approval Requirements.* The total annual expenses estimated in the Association's budget (less projected income from sources other than assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year, provided that, except as provided in subparagraph (c) below, in accordance with Civil Code Section 5605, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association.
- c. *Assessments to Address Emergency Situations.* The requirement of a membership vote to approve Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to assessment increases necessary to address emergency situations. An emergency situation is any of the following:

- (i) An extraordinary expense required by an order of a court.
  - (ii) An extraordinary expense necessary to repair or maintain the Common Area or any portion of the separate interests which the Association is obligated to maintain where a threat to personal safety is discovered.
  - (iii) An extraordinary expense necessary to repair or maintain the Common Area or any portion of the separate interests which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (a) above, provided that, prior to the imposition or collection of an assessment under this paragraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members, together with the notice of assessment.
- d. *Allocation of Regular Assessment.* The total estimated Common Expenses, determined in accordance with subparagraph (a) above, shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Lots within the Property owned by the assessed Owner to the total number of Lots subject to Assessments so that each Lot bears an equal share of the total Regular Assessment.
- e. *Failure to Make Estimate.* If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.3(a)(i) for that year, shall be assessed against each Owner and his or her Lot on account of the then current fiscal year, and payment (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment date(s) established by the Association.

- f. *Installment Payment of Assessments.* The Regular Assessment levied against each Owner and his or her Lot shall be due and payable in monthly installments. The monthly installments of Regular Assessments shall be due on the first day of the month and delinquent if not paid by the 15th.

#### 4.3 Special Assessments.

- a. *Purposes for Which Special Assessments May Be Levied.* Subject to the membership approval requirements set forth in subparagraph (b) below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Lots for the following purposes:
- i. *Regular Assessment Insufficient in Amount.* If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then the Board of Directors may levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder. In accordance with Civil Code Section 5605, the Board's assessment authority pursuant to this Section 4.3(a)(i) shall be limited to a maximum five percent of the budgeted gross expenses for the fiscal year, and any nonemergency special assessment above that level shall be subject to membership approval requirements described in Section 4.2(b).
- ii. *Capital Improvements.* The Board may also levy Special Assessments for additional capital improvements within the Common Area (i.e., improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Area). The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance and replacement repair of the Common Area through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate

insurance on the Common Area in accordance with Article X hereof.

- b. *Special Assessments Requiring Membership Approval.* No Special Assessments described in Section 4.3 hereof, which in the aggregate exceed five percent of the budgeted gross expenses of the Association for the fiscal year in which the Special Assessment(s) is levied, shall be made without the vote or written assent of Members, constituting a quorum, casting a majority of the votes at a meeting or election of the Association, provided that this membership approval requirement shall not apply to any Special Assessment levied to address "emergency situations" as defined in Section 4.2(c).
- c. *Allocation and Payment of Special Assessments.* When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.2(d) above. The Special Assessment so levied shall be recorded on the Association's Assessment roll, and notice thereof shall be mailed to each Owner.

#### 4.4 Reimbursement Assessments.

- a. *Circumstances Giving Rise to Reimbursement Assessments.* In addition to the Special Assessments levied against all Owners in accordance with Section 4.3 above, the Board of Directors may impose Reimbursement Assessments against an Owner in any of the circumstances described in subparagraphs i through iii below, provided that no Reimbursement Assessments may be imposed against an Owner pursuant to this Section 4.4 until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.6 hereof and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Reimbursement Assessments include the following:

- i. *Damage to Common Area.* In the event that any damage to, or destruction of, any portion of the Common Area is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Reimbursement Assessment.
- ii. *Expenses Incurred in Gaining Member Compliance.* In the event that the Association incurs any costs or expenses to accomplish (1) the collection of delinquent Assessments (beyond the costs and expenses recoverable pursuant to Section 4.8), (2) any repair, maintenance or replacement to any portion of the Property that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion, or (3) to otherwise bring the Owner and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including recording fees, title company fees, accounting fees, court costs and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as a Reimbursement Assessment.
- iii. *Required Maintenance on Lots.* As more particularly provided in Section 3.6(b) (and without limiting the generality of that subparagraph), if any Lot is maintained so as to become a nuisance, fire or safety hazard for any reason, including, without limitation, the accumulation of trash, junk automobiles, inoperable vehicles, or lack of weed or vegetation control, the Association shall have the right, but not the duty, to enter said Lot, correct the offensive or hazardous condition and recover the cost of such action through imposition of a Reimbursement Assessment against the offending Owner.

- b. *Levy of Reimbursement Assessment and Payment.* Once a Reimbursement Assessment has been levied against an Owner for any reason described and subject to the conditions imposed in Section 4.4(a), notice thereof shall be mailed to the affected Owner, and the Reimbursement Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within 30 days after the mailing of notice of the Assessment.
- 4.5 Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively (a) to promote the recreation, health, safety and welfare of individuals residing within the Property; (b) to promote the enjoyment and use of the Property by the Owners and their families, tenants, invitees, licensees, guests and employees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Area. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment and to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby) of the Owner of the Lot against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns, provided that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.
- 4.6 Exemption of Certain of the Property From Assessments. The following real property subject to this Declaration shall, unless devoted to use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:
- (a) Any portion of the Property dedicated and accepted by a local public authority;
  - (b) The Common Area; and
  - (c) Any Lot owned by the Association.
- 4.7 Maintenance of Assessment Funds.
- a. *Bank Accounts.* All sums received or collected by the Association from Assessments, together with any interest or late charges

thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors which has offices located within the State of California, County of Riverside. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, insured money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board, and such officers or agents of the Association as the Board shall designate, shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code Section 5510.

To avoid a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts in the Association's name and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. Any interest received on such deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b) below.

- b. *Separate Accounts: Commingling of Funds.* Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the amount required to accomplish the purpose for which such Assessment was levied, such surplus may, in the Board's discretion, be returned proportionately to the contributors thereof, reallocated among the Association's reserve accounts if any such account is, in the

Board's opinion, underfunded, or credited proportionately on account of the Owners' future Regular Assessment obligations.

4.8 Collection of Assessments; Enforcement of Liens.

- a. *Delinquent Assessments.* If any annual or installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment or Reimbursement Assessment assessed to any Owner is not paid within 15 days after the same becomes due, such payment shall be delinquent. In accordance with Civil Code Section 5650, if an Assessment is delinquent, the Association may recover all of the following: (i) reasonable costs incurred in collecting the delinquent Assessment, including reasonable attorneys' fees; (ii) a late charge in the sum of \$10.00 or 10 percent of the delinquent Assessment, whichever is more; (iii) interest on all sums imposed in accordance with this paragraph, including the delinquent Assessment, reasonable costs of collection and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the Assessment becomes due.
- b. *Effect of Nonpayment of Assessments.*
  - i. *Creation and Imposition of a Lien for Delinquent Assessments.* As more particularly provided in California Civil Code Section 5650 or comparable superseding statute, the amount of any delinquent Regular or Special or Reimbursement Assessment, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Lot of the Owner so assessed only when the Association causes to be recorded in the Office of the County Recorder of the County a Notice of Delinquent Assessment, executed by an authorized representative of the Association, setting forth (1) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this Article IV and California Civil Code Sections 5600-5615, (2) the legal description of the Owner's Lot against which the Assessments and other sums are levied, (3) the name of the Owner of record of such Lot, (4) the name and address of the Association, and (5) the name and address of the trustee, if



any, authorized by the Association to enforce the lien by sale. Upon payment in full of the sums specified in the Notice of Delinquent Assessment and thereafter accruing, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.

- ii. *Remedies Available to the Association to Collect Assessments.* The Association may initiate a legal action against the Owner personally obligated to pay the delinquent Assessment, foreclose its lien against the Owner's Lot or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be by judicial foreclosure or by nonjudicial foreclosure by the trustee designated in the Notice of Delinquent Assessment or by a trustee substituted pursuant to California Civil Code Section 2934a. Any sale of a Lot by a trustee acting pursuant to this Section 4.8 shall be conducted in accordance with California Civil Code Sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages or deeds of trust.
- iii. *Nonjudicial Foreclosure.* Nonjudicial foreclosure shall be commenced by the Association by recording in the Office of the County Recorder a Notice of Default, which notice shall state all amounts which have become delinquent with respect to the Owner's Lot and the costs (including attorneys' fees), late charges and interest that have accrued thereon, the amount of any Assessment which is due and payable although not delinquent, a legal description of the property with respect to which the delinquent Assessment is owed, and the name of the Owner of record or reputed Owner thereof. The Notice of Default shall state the election of the Association to sell the Lot or other property to which the amounts relate and shall otherwise conform with the requirements for a notice of default under California Civil Code Section 5710 and California law.

The Association shall have the rights conferred by California Civil Code Section 2934a to assign its rights and obligations as trustee in any nonjudicial foreclosure proceedings to the

same extent as a trustee designated under a deed of trust, and for purposes of said Section 2934a, the Association shall be deemed to be the sole beneficiary of the delinquent Assessment obligation. Furthermore, in lieu of an assignment of trusteeship, the Association shall be entitled to employ the services of a title insurance company or other responsible company authorized to serve as a trustee in nonjudicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any nonjudicial foreclosure hereunder.

- iv. *Actions for Money Judgment.* In the event of a default in payment of any Assessment, the Association may initiate legal action, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid Assessments, costs and attorneys' fees with or without seeking judicial foreclosure and without waiver of the lien securing same.

4.9 Transfer of Lot by Sale or Foreclosure. Except as otherwise provided herein, the sale or transfer of any Lot shall not affect any Assessment lien duly recorded with respect to such Lot prior to the sale or transfer. However, the sale or transfer of any Lot pursuant to the foreclosure of any first Mortgage or other mortgage or lien recorded prior to the Association's Assessment lien (collectively, "Prior Encumbrance") shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale or otherwise shall relieve the new Owner of such Lot, whether it be the former beneficiary of the first Mortgage or other Prior Encumbrance or a third party from liability for any Assessments thereafter becoming due or from the lien thereof.

Where the first Mortgagee or other purchaser of a Lot obtains title to the same as a result of foreclosure of any such first Mortgage or other Prior Encumbrance or exercise of a power of sale contained therein, the person acquiring title, his or her successors and assigns, shall not be solely liable for the Assessments chargeable to such Lot which became due prior to the acquisition of title. Instead, such unpaid Assessments shall be deemed to be Common Expenses collectible from the Owners of all of the

Lots, including such acquirer, his or her successors and assigns. Furthermore, foreclosure shall not affect the Association's right to maintain an action for the collection of delinquent Assessments against the foreclosed party personally.

- 4.10 Priorities. When a Notice of Delinquent Assessment has been recorded, such notice shall constitute a lien on the Lot prior and superior to all other liens or encumbrances recorded subsequent thereto, except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (b) the lien or charge of any prior recorded first Mortgage of record made in good faith and for value, provided that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or deed of trust or other prior encumbrance.
- 4.11 Unallocated Taxes. In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.2, and if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes.
- 4.12 Assignment of Rents. Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other moneys now due or hereafter to become due under any lease or agreement or otherwise for the use or occupation of any or all parts of any Lot owned by the Owner, now existing or hereafter made for the purpose of collecting all Assessments due the Association pursuant to this Declaration, which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other moneys derived from any such lease or agreement as they become due and payable, provided that the Association, at its sole discretion, may revoke such authority at any time upon written notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority, the Association may, pursuant to court order or by court-appointed receiver, collect and retain such moneys, whether past due and unpaid or current. The Association's rights under this Section shall be subordinate to the rights of any first Mortgagee.

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

## ARTICLE V

### ARCHITECTURAL CONTROL

The Lots are subject to architectural control by the Association as set forth herein. However, the Lots are also subject to controls established by law, e.g., the building code and zoning regulations.

#### 5.1 Architectural Committee Approval of Improvements.

- a. *Approval Generally.* Before commencing alteration, removal, construction or installation of any Improvement within the Property, the Owner planning such Improvement must submit to the Association's Architectural and Landscape Committee ("Architectural Committee") a written request for approval. The Owner's request shall include structural plans, specifications and plot plans satisfying the requirements of Section 5.5. Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Architectural Committee shall base its decision to approve, disapprove or conditionally approve the proposed Improvement on the criteria described in Section 5.6.
- b. *Modifications to Approved Plans Must Also be Approved.* Once a work of Improvement has been duly approved by the Architectural Committee, no modifications shall be made in the approved plans and specifications therefor, and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Architectural Committee. If the proposed modification will have, or is likely to have, a material effect on other aspects or components of the work, the Architectural Committee, in its sole discretion, may order the Owner, his or her contractors and agents, to cease working not only

on the modified component of the Improvement but also on any other affected component.

In the event that it comes to the knowledge and attention of the Association, its Architectural Committee, or the agents or employees of either, that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 5.13, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Architectural Committee review and approval is obtained.

- 5.2 Committee Membership. The Architectural Committee shall be composed of the Board of Directors, unless a separate Architectural Committee is appointed by the Board.
- 5.3 Duties of Committee. It shall be the duty of the Architectural Committee to consider and act upon the proposals and plans submitted to it pursuant to this Declaration, to exercise its discretion as to whether to adopt architectural rules pursuant to Section 5.5, to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by this Declaration. The Architectural Committee shall be entitled to consult with an architect or other design professional if so authorized by the Board, provided nothing herein obligates the Architectural Committee or Board to seek such advice.
- 5.4 Meetings. The Architectural Committee may meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee members shall constitute the action of the Committee and the Committee shall keep and maintain minutes of its decisions and/or meetings, reflecting actions taken on each matter submitted to it.
  - a. *Attendance at Meetings.* Upon request of the Owner applicant, the Owner applicant shall be entitled to appear at a meeting of the Architectural Committee at which the Owner's proposal is scheduled for review and consideration. Said Owner shall be entitled to be heard on the matter and may be accompanied by his

or her architect, engineer and/or contractor. Other Owners shall also be entitled to attend the meeting.

- b. *Notice of Meetings.* Reasonable notice of the time, place and proposed agenda for Architectural Committee meetings shall be communicated before the date of the meeting to the Owner applicant who has requested a meeting and, if so, shall be posted for the membership generally.

5.5 Architectural Rules. The Architectural Committee may, from time to time, adopt, amend and repeal rules and regulations to be known as "Architectural and Landscape Guidelines." Such Guidelines shall interpret and implement the provisions hereof by setting forth (a) the standards and procedures for Architectural Committee review; (b) guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended or required for use within the Property; and (c) procedures and required information and materials to be included with all plans and specifications. The Guidelines may provide for the payment of a fee, payable to the Association, to accompany each application for approval, and the Architectural Committee may determine the amount of such fee in its discretion. The Guidelines may also require a deposit for the Association's use in the event of any damage to the Common Area that is caused by the applicant/Owner's construction activities. Notwithstanding the foregoing, no Architectural and Landscape Guideline shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural and Landscape Guidelines and this Declaration, the provisions of the Declaration shall prevail. If Guidelines are adopted by a separate Architectural Committee, those Guidelines shall also require approval by the Board. Proposed Guidelines and any changes or additions thereto shall be submitted for prior Membership review and comment per Civil Code Section 4360. Guidelines adopted, changed or added by the Board are subject to reversal by Member vote pursuant to Civil Code Section 4365.

5.6 Basis for Approval of Improvements. When a proposed work of Improvement is submitted to the Architectural Committee for review, the Committee shall grant the requested approval only if the Committee, in

its sole discretion, finds that all of the following provisions have been satisfied:

- (a) The Owner's plans and specifications (i) conform to this Declaration and to the Architectural and Landscape Guidelines in effect at the time those plans are submitted to the Committee; (ii) will result in the construction of an Improvement that is in harmony with the external design of other structures and/or landscaping within the Property; and (iii) will not interfere with the reasonable enjoyment of any other Owner of his or her Lot.
- (b) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standard prevailing within the Property and with the overall plan and scheme of development of the Property and the purpose of this Declaration.
- (c) Though it is recognized that the Committee's determination to approve or disapprove an Improvement will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith. Factors commonly considered by the Committee in reviewing proposed Improvements include the quality of workmanship and materials proposed for the Improvement project; the harmony of the proposed Improvement's exterior design, finish materials and color with that of the existing structures; and the proposed location of the Improvement in relation to existing topography, finished grade elevations, roads, Common Area and other structures.
- (d) The Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable in the context of a particular Lot, even if the same or a similar Improvement/component has previously been approved for use at another location or locations within the Property. Factors that may cause the Committee to reject a proposal that was previously approved at another site include poor drainage; unique topography; visibility from roads, Common Area or other Lots; proximity to other residences or Common Area; or prior adverse experience with the product or design of the proposed Improvement or any component thereof.

5.7 Procedures for Obtaining Architectural Committee Approval of Plans and Specifications.

- a. *Application for Approval.* All Owners who desire to undertake any work of Improvement must apply to the Architectural Committee and receive its prior approval. The application shall be in writing and shall contain all information that is necessary to reasonably evaluate the nature, design, location and extent of the proposed Improvement, including, at a minimum, three complete sets of plans and specifications for the Improvement project and such additional information as the Architectural Committee may reasonably request through the Architectural and Landscape Guidelines. If the contemplated Improvement project is of a nature that does not merit extensive plans and specifications, the Architectural Committee may (but shall not be obligated to) waive or modify any of the plan and specification requirements contained in the Architectural and Landscape Guidelines upon receipt of a written request from the applicant to do so.
- b. *Inspection Fee and Deposits; Owner Responsibility.* The Architectural and Landscape Guidelines may require that the submission of plans and specifications be accompanied by a reasonable fee to defray the costs of handling and reviewing the materials submitted, including the costs of engaging an architect to review plans and specifications. The Architectural and Landscape Guidelines may also provide for a cash deposit procedure to help ensure proper and timely completion of Improvement projects in accordance with approved plans and specifications and to reimburse the Association for damage to Common Area resulting from the Owner's construction project. The amount of the cash deposit shall be established by rule in the Architectural and Landscape Guidelines. The Board may, after notice and hearing, declare forfeit to the Association all or any part of a cash deposit where the Board finds that the Owner has failed to comply with the Governing Documents regulating construction or has damaged Common Area. The amount of cash deposit is not a cap on the Owner's liability, and the Board may impose fines or Reimbursement Assessments on an Owner in excess of the deposit. Owners are responsible for the conduct of their contractors,



engineers, agents, employees, etc., and for any damages or violations they may cause anywhere in the Property.

- c. *Delivery of Plans and Specifications.* Plans and specifications shall be submitted to the Architectural Committee by personal delivery, recognized overnight service, e.g., FedEx, or certified mail, return receipt requested, addressed to the Association at the Association's principal office.

5.8 Time Limits for Approval or Rejection. Within 45 days after submission of plans and specifications satisfying the requirements of Section 5.7 above, the Architectural Committee shall mark one set of such plans to be returned to the applicant, with written notice of approval, approval with conditions or disapproval. The Committee shall keep one set for its records.

- a. *Disapproval of Plans and Specifications.* If the Architectural Committee disapproves the Owner's plans and specifications, the Committee shall do so in a written decision that shall include an explanation of the reasons for the disapproval. If the Architectural Committee is separate from the Board, there shall be a right to appeal any disapproval to the Board pursuant to Civil Code Section 4765.
- b. *Modifications.* In approving a request for construction of an Improvement, the Architectural Committee may condition approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, noise abatement, color or materials modifications or similar mitigating conditions, and the Owner applicant may proceed with construction in strict compliance with the conditions of approval.
- c. *Deadline.* If no written notice of approval or disapproval is sent to the Owner applicant within 45 days after the Owner's complete plans and specifications (or revisions thereto) are submitted to the Architectural Committee, the plans shall be deemed to have been approved as submitted. An incomplete submission shall not commence the 45-day review period.

5.9 Proceeding With Work. Upon receipt of approval of an Improvement from the Architectural Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and excavation, if required, pursuant to said approval. In all cases, work on an Improvement project shall commence within 90 days from the date of such approval. If the Owner fails to comply with this paragraph, any approval given pursuant to this Article V shall be deemed revoked unless the Architectural Committee, upon written request of the Owner prior to the expiration of the initial 90-day period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Architectural Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the Improvement project within the time specified in the extension request.

5.10 Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the project by the Architectural Committee, construction, reconstruction, refinishing or alteration of any Improvement must be complete within 90 days after construction has commenced, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents.

If the Owner fails to comply with this Section 5.10, the Architectural Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Sections 5.13 and 14.2 below as though the failure to complete the Improvement was a noncompliance with approved plans.

5.11 Inspection of Work by Architectural Committee. Inspection of the work relating to any approved Improvement and correction of any nonconformance therein shall proceed as follows:

- (a) During the course of construction, representatives of the Architectural Committee shall have the right to inspect the jobsite to confirm that the Improvement project is proceeding in accordance with the approved plans and specifications.

- (b) Upon the completion of any work of Improvements for which Architectural Committee approval is required under this Article V, the Owner shall give the Architectural Committee a written notice of completion.
- (c) Within 30 days thereafter, the Architectural Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Architectural Committee finds that the Improvement was not erected, constructed, reconstructed or installed in substantial compliance with the Owner's approved plans, then within 30 days of the inspection, the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the Improvement project that must be modified, completed or corrected and providing a time frame for completion of the work. If the violation or nonconforming work is not corrected, the Association shall have the enforcement rights and remedies set forth in Section 5.13 below.
- (d) If, for any reason, the Architectural Committee fails to notify the Owner of any noncompliance within 60 days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless it can be demonstrated that the Owner knew of the noncompliance and intentionally misled the Committee with respect thereto.

5.12 Landscaping. As specified in Section 5.1, landscaping shall be deemed to be a work of Improvement requiring Architectural Committee approval hereunder. Landscaping shall include lawns, shrubs, trees, flowers and any landscape structures. All landscaping must be completed not later than 12 months after Architectural Committee approval. The Architectural Committee may, in its discretion, require an Owner applicant to give an additional cash deposit in an amount not to exceed the estimated cost of the landscaping work to ensure the applicant's timely completion of the landscaping work. Rather than requiring a separate landscaping deposit, the Committee may elect to rely on a single cash deposit covering all aspects of the project.

### 5.13 Enforcement.

- a. In addition to other enforcement remedies set forth in this Declaration, the Board of Directors shall have enforcement rights with respect to any matters required to be submitted to and approved by the Architectural Committee and may enforce such architectural control by any proceeding at law or in equity. The Architectural Committee shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Architectural Committee or if it does not conform to the plans and specifications submitted to the Architectural Committee. No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.
- b. In conjunction with, or as an alternative to, the legal enforcement described above, the Board, in its discretion, may set a hearing on the issue(s) of noncompliance. At the hearing, the Owner and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance is determined to exist, the Board shall require the Owner to remedy or remove the same within such period or within any extension of such period as the Board, at its discretion, may grant. If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board, at its option, may remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to the Association, the Board shall recover such expenses through the levy of a Reimbursement Assessment against such Owner.

- 5.14 Limitation on Liability. Neither the Association, its Architectural Committee, its Board nor any member thereof shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work of Improvement, whether or not pursuant to approved plans, drawings or specifications; or (c) the development of any Lot within the Property.
- 5.15 Compliance With Governmental Regulations. Review and approval by the Architectural Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install or modify the Improvement. The Association is not responsible for and does not review applications for or make any decision regarding the application's compliance with building codes or other laws. Architectural Committee approval does not relieve the owner of any duties to obtain County permit(s) nor does Committee approval reflect compliance with any other public agency requirements. If an applicant contends that any provision of law mandates or requires the installation of all or any part of any proposed Improvement, the applicant must specify, in writing, to the Architectural Committee what provision of law applies and what components of the proposed Improvement are required by law.

## ARTICLE VI

### SIDE-YARD EASEMENTS

Declarant reserved for itself, its successors and assigns, together with the right to grant and transfer the same, side-yard easements as described and depicted in the recorded instruments identified at paragraph G of the Recitals and incorporated herein by this reference. The Lot on which the three-foot or four-foot (depending upon phase) wide side-yard easement is located shall be referred to as the "Servient Tenement," and the adjacent Lot for the benefit of which such easement exists shall be referred to as the "Dominant Tenement." Said side-yard easements shall be appurtenant to the Dominant Tenement and

shall burden the Servient Tenements and generally be for the purposes of landscaping, drainage, the establishment of a general recreational or garden area, and purposes related thereto, subject to the following provisions:

- (1) The Owner of the Servient Tenement shall have the right at all reasonable times to enter upon the easement areas, including the right to cross over the Dominant Tenement for such entry, in order to perform work related to the use and maintenance of the Servient Tenement;
- (2) The Servient Tenement shall have the right of drainage over, across and upon the easement area for water draining from any dwelling or structure upon the Servient Tenement so long as such drainage does not interfere with the intended use of the easement area, the right to maintain eaves and appurtenances thereon and the portions of any Residential Structure upon the Servient Tenement as originally constructed or as constructed pursuant to the Article hereon entitled "Architectural Control-Approval";
- (3) The Owner of the Dominant Tenement shall not attach any nails, screws, bolts or other object to a wall or Residential Structure belonging to the Servient Tenement, disturb the grading of the easement area, erect or maintain any structure or object which may impede or interfere with any necessary maintenance, repairs or restoration of a wall or Residential Structure belonging to the Servient Tenement or otherwise act with respect to the easement area in any manner which would damage the Servient Tenement;
- (4) In exercising the right of entry upon the easement area as provided for above, the Owner of the Servient Tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area; provided, however, the Owner of the Servient Tenement shall not be responsible for damage to such landscaping or other items to the extent such damage cannot be reasonably avoided in connection with each entry upon the easement area for authorized purposes;
- (5) Except for roof drainage as hereinabove provided, the Owner of a Servient Tenement shall not have the right to concentrate drainage from the Servient Tenement in, under, through or across the easement area except through drainage devices installed by Declarant in the original construction of the Residential Structures or unless the prior written

approval of the Owner of the Dominant Tenement is obtained in a written instrument recorded in the Office of the County Recorder of the County; the Owner of the Servient Tenement shall have a right of entry upon the easement area for the installation (if applicable), maintenance and repair of the drainage systems permitted by the foregoing, providing that any damage caused thereby to the landscaping or other items existing in the easement area will be repaired at the sole expense of the Owner of the Servient Tenement as soon as reasonably possible following the completion of such installation, maintenance or repair;

- (6) The Owner of the Servient Tenement shall have the right, without the prior written approval of the Owner of the Dominant Tenement, to utilize the easement area for the installation, repair and maintenance of underground drainage and utility systems, provided that (a) such facilities and systems are limited to that which is necessary to service pools, spas, fountains or similar Improvements constructed on the Servient Tenement, (b) such facilities and systems do not unreasonably restrict the intended use and enjoyment of the easement area, and (c) any damage to landscaping or other items existing in the easement area caused thereby shall be repaired at the sole expense of the Owner of the Servient Tenement and shall be accomplished as soon as reasonably possible following the completion of any such installation, repair or maintenance;
- (7) In the event of any dispute arising concerning the rights and obligations created by this Article, the Owner of the Servient Tenement and the Owner of the Dominant Tenement shall each choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be binding upon such Owners; and
- (8) Some Servient Tenements contain Residential Structures that have a firebox which encroaches upon the three-foot or four-foot side-yard easement. In addition, all Servient Tenements contain Residential Structures which have overhanging eaves which encroach upon the side-yard easement. The Servient Tenement shall have the right of such encroachments, and the Owner of the Servient Tenement shall have the right at all reasonable times to enter upon the easement area in order to perform work related to the maintenance of either the encroaching

firebox or overhanging eave. The Owner of the Servient Tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area.

## ARTICLE VII

### USE OF PROPERTY AND RESTRICTIONS

#### 7.1 Use of Lots.

- a. Each Lot within the Property shall be used solely for a Residence, the occupancy and use of which shall be restricted to Residential Use as defined in Article I hereof. In no event shall a Residence be occupied by more individuals than permitted by applicable law, zoning or other local governmental regulation. Any lease or rental shall be for a minimum duration of 30 consecutive days and shall be a lease or rental of the entire Lot for single-family occupancy only.
- b. All Lots and the Residences and other Improvements erected or placed thereon (including, without limitation, landscaping) shall at all times be maintained in good condition and repair and in a manner that is neat, orderly and aesthetically pleasing. Trees, hedges, shrubs and other plant materials shall be regularly pruned and trimmed to a neat and attractive appearance. Fire safety regulations shall be adhered to by every Owner.
- c. No Improvement, including, without limitation, fences, dog runs, hedges, retaining walls, landscape or privacy structures, shall be constructed, erected or placed on any Lot without the prior approval of the Architectural Committee.
- d. No advertising signs shall be displayed on any Lot or posted within or upon any of the Property except that an Owner may post on his or her Lot a single "For Rent" or "For Sale" sign of reasonable dimensions and appearance as may be stated in the Association Rules. During the course of construction approved pursuant to Article V, an Owner may allow placement of one contractor's sign and one architect's sign only, not to exceed 4' x 4'



in size each, on the Lot. No Owner or resident shall place any sign or advertisement on Common Area.

- e. No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Lot. No swimming pools are permitted.

7.2 Common Area. Each Owner shall be liable to the remaining Owners for any damage to the Common Area that may be sustained by reason of the negligence of that Owner, that Owner's family members, contract purchasers, tenants, guests or invitees. No Owner may use Common Area as a staging, storage, or service area by contractors, service personnel, caterers, etc., unless expressly permitted in writing by the Board and then only for such periods and pursuant to such terms as the Board may impose.

7.3 Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Lot or Common Area nor shall anything be done within the Property which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including, but not limited to, barking dogs, the operation of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles or power tools, smoke or dust to emanate from an Owner's Lot or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the Common Area.

7.4 Temporary Structures. No structure of a temporary character, trailer, camper, tent, shack, garage or other outbuilding shall be used on any Lot at any time as a Residence, either temporarily or permanently.

7.5 Animals.

- a. No livestock, reptiles, insects, poultry or other animals of any kind shall be kept in any Residence except that a reasonable number of usual and ordinary pets may be maintained on a Lot, provided that they are not kept, bred or raised thereon for commercial purposes. Notwithstanding the foregoing or the below, the Board may prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance. The Board may limit, by

Association Rule, the number, species and breeds of pets permitted.

- b. Animals belonging to Owners, occupants, or their licensees, tenants or invitees within the Property must be either kept within an enclosure or on a leash being held by a person capable of controlling the animal. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Property by the Owner or the Owner's family members, tenants, invitees or guests. It shall be the absolute duty and responsibility of each such Owner to promptly clean up after his or her animals.
- c. The maintenance of any animals larger than a domestic dog shall not be permitted.

7.6 Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Residence or on any portion of any Lot, provided that the foregoing restriction shall not apply to the activities of the Association in the discharge of its responsibilities under the Governing Documents. Furthermore, no restrictions contained in this Section 7.6 shall be construed in such a manner so as to prohibit any Owner from (a) maintaining his or her personal library in his or her Residence, (b) keeping his or her personal or professional business records or accounts therein, (c) handling his or her personal or professional telephone calls or correspondence therefrom, and (d) leasing or renting his or her Residence in accordance with Sections 2.3 and 2.4. The uses described in (a) through (d) above are expressly declared to be customarily incidental to the principal residential use of the Lot and not in violation of this Section 7.6. The personal, professional or administrative functions permitted hereunder shall not cause any external manifestations, such as noise, traffic, parking or other observable evidence of any trade or business.

7.7 Garbage. No rubbish, trash or garbage shall be allowed to accumulate on any Lot. Any trash that is accumulated by an Owner outside the interior walls of a Residence shall be stored entirely within appropriate covered disposal containers and facilities which shall be located on the Owner's Lot, kept secure from animals, and screened from view from any street,

neighboring Lot or Common Area. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed from the Property daily to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in a manner inconsistent with this section.

- 7.8 Storage. Storage of personal property on any Lot shall be entirely within enclosed storage areas. Firewood must be carefully and neatly stacked and shall be stored under shelter or in such a manner that is not unsightly. Large, unorganized piles of firewood and unsightly plastic or tarp covers are prohibited. Except for a small quantity of firewood and barbeque fuel, no fuel or combustible material shall be stored or kept on any Lot.
- 7.9 Wells Prohibited. The drilling and/or operation of wells in the Property is prohibited.
- 7.10 Burning. There shall be no exterior fires whatsoever except barbecue fires located upon the Owner's Lot and contained within receptacles designed for such purposes. No Owner or resident shall permit any condition to exist on his or her Lot, including, without limitation, trash piles or weeds, which creates a fire hazard or is in violation of local fire regulations.
- 7.11 Diseases and Pests. No Owner shall permit any thing or condition to exist on his or her Lot which shall induce, breed or harbor infectious plant diseases, rodents or noxious insects.
- 7.12 Parking and Vehicle Restrictions. The following parking and vehicle restrictions shall apply within the Property:
- (a) No motor vehicle shall be constructed, reconstructed or repaired within the Property, and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored on the Property; provided, however that the provisions of this section shall not apply to emergency vehicle repairs. An emergency repair

is a repair that is completed within one day so that the vehicle can be moved off-site to a repair facility.

- (b) No buses or passenger trucks or vans with a capacity in excess of seven passengers or 3,500-pound load capacity (whichever is more restrictive) are permitted to park or to be operated in the Property.
- (c) Off-road vehicles may not be ridden or operated in the Property.
- (d) The Board shall have the authority to promulgate further reasonable rules regarding parking and use of vehicles within the Property as may be deemed prudent and appropriate.

7.13 Compliance With Laws. All Lots and Improvements thereon shall be used and maintained in compliance with all applicable local, state and federal laws and ordinances. In the event of any inconsistent standard established by law or by the Association's Governing Documents, the more stringent standard shall apply.

7.14 No Actions that Interfere With Insurability. No Owner shall cause or permit any action, omission or condition that interferes with the Association's or any other Owner's ability to insure its/his/her property. Any Owner whose actions, omissions or conditions cause any increase in the Association's or any other Owner's insurance premiums shall be liable therefor.

7.15 Senior Citizen Age Restrictions. The Property is a senior citizen housing development as authorized by California Civil Code Section 51.11 and as set forth herein. Any person who is not qualified to reside in the Property pursuant to Civil Code Section 51.11 shall be prohibited from residing therein.

- a. For the purposes of this section, the following definitions apply:
  - (i) "Qualifying Resident" or "Senior Citizen" means a person 55 years of age or older residing in the development.
  - (ii) "Qualified Permanent Resident" means a person who meets both of the following requirements:

- (1) Was residing with the Qualifying Resident or Senior Citizen prior to the death, hospitalization or other prolonged absence of or the dissolution of marriage with the Qualifying Resident or Senior Citizen; and
  - (2) Was 45 years of age or older or was a spouse, cohabitant or person providing primary physical or economic support to the Qualifying Resident or Senior Citizen.
- (iii) "Qualified Permanent Resident" also means a disabled person or person with a disabling illness or injury who is a child or grandchild of the Senior Citizen or a Qualified Permanent Resident as defined in paragraph (ii) who needs to live with the Senior Citizen or Qualified Permanent Resident because of the disabling condition, illness or injury. For purposes of this section, "disabled" means a person who has a disability as defined in subdivision (b) of Section 54 of the California Civil Code. A "disabling injury or illness" means an illness or injury which results in a condition meeting the definition of disability set forth in subdivision (b) of Civil Code Section 54.
- (1) For any person who is a Qualified Permanent Resident under this paragraph whose disabling condition ends, the Board may require the formerly disabled resident to cease residing in the Property upon receipt of six months' written notice; provided, however, that the Board may allow the person to remain a resident for up to one year after the disabling condition ends.
  - (2) The Board may take action to prohibit or terminate occupancy by a person who is a Qualified Permanent Resident under this paragraph if the Board finds, based on credible and objective evidence, that the person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation; provided, however, that the action to prohibit or terminate the occupancy may be taken only after doing both of the following: (a) providing reasonable notice to and an

opportunity to be heard for the disabled person whose occupancy is being challenged and reasonable notice to the co-resident parent or grandparent of that person, and (b) giving due consideration to the relevant, credible and objective information provided in the hearing. The evidence shall be taken and held in a confidential manner, pursuant to a closed session, by the Board in order to preserve the privacy of the affected persons. The affected persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.

- (iv) "Co-habitant" refers to persons who live together as husband and wife or persons who are domestic partners within the meaning of Section 297 of the Family Code.
- (v) "Permitted Health Care Resident" means a person hired to provide live-in, long-term or terminal health care to a Qualified Resident or a family member of the Qualifying Resident providing that care. For the purposes of this section, the care provided by a Permitted Health Care Resident must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment or both. A Permitted Health Care Resident shall be entitled to continue his or her occupancy, residency or use of the Residence as a permitted resident in the absence of the Senior Citizen from the Residence only if both of the following are applicable:
  - (1) The Senior Citizen became absent from the Residence due to hospitalization or other necessary medical treatment and expects to return to his or her Residence within 90 days from the date the absence began; and
  - (2) The absent Senior Citizen or an authorized person acting for the Senior Citizen submits a written request to the Board stating that the Senior Citizen desires that the Permitted Health Care Resident be allowed to

remain in order to be present when the Senior Citizen returns to reside in the Property. Upon written request by the Senior Citizen or an authorized person acting for the Senior Citizen, the Board shall have the discretion to allow a Permitted Health Care Resident to remain for a time period longer than 90 days from the date that the Senior Citizen's absence began if it appears that the Senior Citizen will return within a period of time not to exceed an additional 90 days.

- b. One person in each Residence must be required to be a Senior Citizen who intends to reside in the Residence as his or her primary residence on a permanent basis. Any other occupant in the same Residence must be a Qualified Permanent Resident, a Permitted Health Care Resident, or a person under 55 years of age whose occupancy is permitted under Civil Code Section 51.11.
- c. Temporary residency, as a guest of a Senior Citizen or Qualified Permanent Resident, by a person of less than 55 years of age is allowed for not more than a cumulative 60 days in any 12-month period.
- d. Upon the death or dissolution of marriage or upon hospitalization or other prolonged absence of the Qualifying Resident, any Qualified Permanent Resident shall be entitled to continue his or her occupancy, residency or use of the Residence as a permitted resident. This subdivision shall not apply to a Permitted Health Care Resident.
- e. The occupancy of a Residence by a Permitted Health Care Resident is allowed during any period that the person is actually providing live-in, long-term or hospice health care to a Qualifying Resident for compensation. For purposes of this subdivision, the term "for compensation" shall include provision of lodging and food in exchange for care.

## ARTICLE VIII

### MAINTENANCE RESPONSIBILITIES

- 8.1 Association Maintenance Responsibilities. The Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Area. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon the Common Area. In addition, no person shall remove any tree, shrub or other vegetation from or plant any tree, shrub, or other vegetation upon the Common Area.
- 8.2 Owner Maintenance Responsibilities. Each Owner shall be responsible for the maintenance and repair of his or her Residence and Lot. Each Owner shall maintain his/her Residence and Lot in a neat, clean, attractive, safe, sanitary and orderly condition and make all structural repairs as may be required. Without in any way limiting the foregoing, the Board shall have the power to adopt minimum Lot maintenance standards as Association Rules. In no event shall any Owner permit his/her Lot to fall below the standards imposed by the City's code or by the Association Rules; whichever standard is the most stringent shall prevail.
- 8.3 Recovery of Costs of Certain Repairs and Maintenance.
- a. In the event that the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder, is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants, or invitees, and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Reimbursement Assessment against the offending Owner in accordance with Section 4.4 hereof.
  - b. In the event that an Owner fails to perform maintenance functions for which he or she is responsible, the Association may give written notice to the offending Owner with a request to correct the failure within 15 days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association may exercise its rights under Section 3.6(b) to enter the Owner's Lot



and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance with Section 13.6 hereof.

## ARTICLE IX

### EASEMENTS

- 9.1 Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees and to any management company or contractor selected by the Association, to enter in or to cross over the Common Area and any Lot to perform the duties of maintenance and repair of the Lots and Common Area, provided that any entry by the Association or its agents onto any Lot shall only be undertaken in compliance with Section 3.6(b).
- 9.2 Other Easements. Each Lot and its Owner, and the Association as to the Common Area, are hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Property and each Lot and Common Area shown as accepted or reserved on the Map for the Property.
- 9.3 Utilities and Services.
- a. *Owners Rights and Duties.* The right and duties of the Owners of Lots within the project with respect to sanitary sewer, water, drainage, landscape slope areas, electric, gas, television receiving, telephone equipment, cables and lines (hereinafter referred to, collectively, as "Utility Facilities") shall be as follows:
    - (i) Whenever Utilities Facilities are installed within the Property, which utility facilities or any portion thereof lie in or upon Common Area or Lots owned by other than the Owner of a Lot served by said utility facilities, the Owners of any Lot served by said Utility Facilities shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain said Utility Facilities as and when necessary.

- (ii) Whenever Utility Facilities are installed within the Property which Utility Facilities serve more than one Lot, the Owner of each Lot served by said Utility Facilities shall be entitled to the full use and enjoyment of such portions of said Utility Facilities as service his Lot.
- b. *Easement Maintenance.* All utility installations located in the Property which serve Lots or Residences shall be maintained by the Owners thereof, unless maintained by the utility companies, public, private or municipal. The Association shall pay all charges for utilities supplied to the Common Area.

9.4 Encroachment Easements.

- a. Each Lot is hereby declared to have an easement over all adjoining Property (including Lots and Common Area) for the purpose of accommodating any minor encroachments due to original engineering or survey errors, errors in original construction or settlement or shifting of a building, wall or other structure or for any other similar reason, together with an easement for maintaining such encroachment.
- b. If any Improvement on or portion of the Common Area encroaches upon any Lot, a valid easement for encroachment and for maintenance of same, so long as it stands, shall and does exist.

9.5 Drainage System. Each Owner and the Association shall accept the established drainage pattern for the Lots and Common Area as established by the completed, final grading. Neither the Association nor any Owner shall alter the established drainage pattern without the prior written approval of the Association and the Architectural Committee. Reasonable and adequate provisions for proper drainage shall be established by the Association and/or the Architectural Committee in the event it is later determined to be necessary to alter the drainage pattern, and each Owner shall be responsible to perform such alterations to his/her Lot at the Owner's expense.

## ARTICLE X

### INSURANCE

10.1 Types of Insurance Coverage. The Association shall purchase, obtain and maintain, with the premiums therefor being paid out of common funds, the following types of insurance, if and to the extent such insurance, with the coverages described below, is available at a reasonable premium cost:

a. *Fire and Casualty Insurance.* A policy of fire and casualty insurance naming, as parties insured, the Association and containing the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the full insurable, current replacement cost (excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, all Common Area and the personal property of the Association for or against the following:

- (i) Loss or damage by fire or other risks covered by the standard extended coverage endorsement;
- (ii) Loss or damage from theft, vandalism or malicious mischief; and
- (iii) Such other risks, perils or coverage as the Board of Directors may determine.

Such policy or the endorsement shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of Article XI of this Declaration as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Area.

b. *Public Liability and Property Damage Insurance.* To the extent such insurance is reasonably obtainable, the Association shall obtain and maintain a policy of comprehensive public liability and property damage insurance naming, as parties insured, the Association, each member of the Association's Board of Directors,

any manager, the Owners and occupants of Lots, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Area and any other Association owned or maintained real or personal property and including, if obtainable, a cross liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$2 million covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against any other liability or risk customarily covered with respect to projects similar in construction, location and use.

- c. *Additional Insurance and Bonds.* To the extent such insurance is reasonably obtainable, the Association may also purchase with common funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this section, demolition insurance, flood insurance, earthquake insurance and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than the total annual Regular Assessments, plus the Association's total reserve account balances, and shall contain an endorsement covering acts of any person who may serve with or without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance, including directors' and officers' liability insurance, that it deems necessary or desirable.

10.2 Responsibility for Deductible Amounts. The full insurance deductible shall be paid by the party whose acts or omissions are responsible for any damage that results in a property damage claim filed under the Association's insurance policy. If the acts or omissions are those of an Owner or the Owner's tenant, guest or occupant, the Owner shall be responsible for paying the deductible. If it is impossible to determine whose acts or omissions were responsible for the loss, the deductible shall be paid by the party who owns or is responsible for the maintenance and repair and replacement of the component or property where the cause of the damage originated.

- 10.3 Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 10.1 is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.
- 10.4 Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners.

## ARTICLE XI

### DAMAGE OR DESTRUCTION

- 11.1 Common Area; Bids and Determination of Available Insurance Proceeds. In the event any Common Area is ever damaged or destroyed, then, as soon as practicable, the Board of Directors shall (a) obtain bids from at least two reputable, licensed contractors, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Area to substantially the same condition as they existed prior to the damage and the itemized price asked for such work; and (b) determine that amount of all insurance proceeds available to the Association for the purpose of effecting such repair, reconstruction and restoration.
- 11.2 Common Area; Sufficient Insurance Proceeds. Subject to the provisions of Section 11.1 hereof, if, in the event of damage to or destruction of any portion of any Common Area, the insurance proceeds available to the Association are sufficient to cover the costs of repair, reconstruction and restoration, then the Association may cause such Common Area to be repaired, reconstruction and restored, provided that in the event of a total destruction of the Common Area, the Association shall not be obligated to restore the Common Area to its prior appearance and condition if, in the Board's opinion, architectural or design modifications to the damaged Common Area will result in providing the Members with an improved facility available for substantially the same use and enjoyment as the destroyed Common Area.

- 11.3 Common Area; Insurance Proceeds Insufficient in an Amount Exceeding \$100,000.00. In the event that any Common Area is totally or substantially damaged or destroyed or if, in the event of damage to or destruction of only a portion of the Common Area, the insurance proceeds available to the Association are insufficient in an amount exceeding \$100,000.00 to cover the estimated cost of repair, reconstruction and restoration, then a majority of a quorum of the Owners constituting a majority of the voting power of the membership of the Association shall determine whether (a) to repair, reconstruct and restore the damaged or destroyed Common Area and specially assess all Owners for such additional funds as may be needed for such purpose, or (b) not to repair, reconstruct or restore the damaged or destroyed Common Area but, rather, to utilize the insurance proceeds available for such reconstruction, together with any other sums otherwise available to the Association for such purpose, to demolish and remove the damaged or destroyed Improvements from the Common Area and to level and landscape the sites thereof and apply any balance of such proceeds and/or funds as the Members holding such voting power may determine.

## ARTICLE XII

### CONDEMNATION

- 12.1 Association as Trustee for Owner, Etc. If all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be payable to the Association as trustee for all Owners according to the loss or damages to their respective interest in the Common Area. The Association, acting through its Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation, settlement and litigation of the issues with respect to the taking and compensation affecting the Common Area. Each Owner hereby designates and appoints the Association as his or her attorney in fact for such purposes. Nothing in this Declaration shall be construed as depriving the Association of its constitutional right to just compensation for any acquisition or taking of this Declaration or of any Property subject to this Declaration by a public agency; without limiting the foregoing, the reference to exemption from assessment of any

property dedicated to public use at Section 4.6 shall in no way alter, waive or limit the right of the Association to just compensation if any Lot subject to assessment is taken or acquired for public use and the stream of assessment income therefrom is lost.

### ARTICLE XIII

#### BREACH AND DEFAULT

- 13.1 Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, or any portion of the Common Area, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest. Before initiating any court action seeking declaratory or injunctive relief to interpret or enforce the governing documents (including either of those actions coupled with a claim for monetary damages not in excess of \$5,000.00), the Association shall first comply with the provisions of Civil Code Sections 5925-5940, or comparable superseding statute, relating to alternative dispute resolution.
- 13.2 Nuisance. Without limiting the generality of the foregoing Section 13.1, the result of every act or omission whereby any covenant contained in this Declaration is violated, in whole or in part, is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.
- 13.3 Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner or other party hereto under this Declaration, the court may award to any prevailing party in any such action such attorneys' fees and other costs as the court deems just and reasonable.

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

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

13.6 Rights and Remedies of the Association.

- a. *Rights Generally.* In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey such rules, covenants or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including, but not limited to, the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use any recreational Common Area or suspension of the Owner's voting rights as a Member of the Association; provided that the Association's right to impose fines, monetary penalties or suspensions of any membership rights against its Members shall be subject to the conditions set forth in this Section 13.6.

'The decision of whether it is appropriate or necessary for the Association to initiate enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as



may exist by virtue of the California Civil Code Section 5975 or otherwise by law.

- b. *Schedule of Fines.* The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate.
- c. *Definition of "Violation."* A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures.
- d. *Hearings.* No penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least 10 days' prior notice of the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least five days before the effective date of the proposed disciplinary action. If the Board imposes discipline on the Member, the Board shall provide the Member with written notice of the decision within 15 days of the hearing.
- e. *Notices.* Any notice required by this Article shall, at a minimum, set forth the date, time and place for the hearing; that the Owner may address the Board (or hearing committee); a brief description of the action or inaction constituting the alleged violation of the Governing Documents; and a reference to the specific Governing Document provision alleged to have been violated and describe the proposed disciplinary measure or measures to be imposed. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice, provided that if notice is given by U.S. mail, it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.

- 13.7 Payment of Any Fine Does Not Authorize Continued Violation. An Owner's payment of any fine imposed by the Association for a violation of the Governing Documents does not give the violating Owner any right to continue the violating conduct or to fail to take action to bring his/her/its Lot into compliance.
- 13.8 Fines and Other Penalties are Not the Exclusive Remedies of the Association. Notwithstanding any other provision in the Association's various rules, policies and procedures, the Association, in the discretion of the Board of Directors, may initiate any lawful enforcement or disciplinary action which the Board determines to be in the best interests of the Association, including, but not limited to, filing a Superior Court action to compel compliance. The Board is not obligated to implement enforcement procedures in any particular order. Accordingly, where the Board determines a violation merits immediate legal action, the Association may seek injunctive or other relief without any internal discipline having been imposed.
- 13.9 Rules Regarding Disciplinary Proceedings. The Board shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary or enforcement proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

## ARTICLE XIV

### NOTICES

- 14.1 Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner: To the street address of his or her Lot or to such other address as he or she may from time to time designate in writing to the Association.

If to the Association: At the principal office of the Association (or to such other address as the Association may from time to time designate in writing to the Owners).

- 14.2 Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-Owners of any Lot, to any general partner of a partnership which is the Owner of record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of record of the Lot shall be deemed delivered to all such co-Owners, to such partnership, or to such corporation, as the case may be.
- 14.3 Deposit in United States Mail. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four days after deposit in the United States mail in Riverside County, California.
- 14.4 Electronic Mail. Any Owner who consents, in writing, to receiving notices from the Association via e-mail may be given notice via e-mail.

## ARTICLE XV

### NO PUBLIC RIGHTS IN THE PROPERTY

- 15.1 No Gift or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or a dedication of all or any portion of the Property to the general public or for any public use or purpose whatsoever.

## ARTICLE XVI

### AMENDMENT OF DECLARATION

- 16.1 Amendment in General. This Declaration may be amended or revoked in any respect by the vote or assent by written ballot of the Members entitled to vote and holding at least a simple majority of the voting power of the Association. Notwithstanding the foregoing, the percentage of the Members necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.
- 16.2 Effective Date of Amendment. The amendment will be effective upon the recording in the Office of the Recorder of Riverside County a Certificate of Amendment, duly executed and certified by the president and secretary of the Association setting forth in full the amendment so approved and that the approval requirements of Section 16.1 above have

been duly met. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or mortgage recorded prior to the recording of such amendment.

- 16.3 Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid.

## ARTICLE XVII

### PROTECTION OF LENDERS

- 17.1 Priority of First Deed of Trust. No breach of any of the covenants, conditions and restrictions herein contained nor the enforcement of any lien provisions herein shall defeat or render invalid the lien of any first Mortgage or deed of trust on any Lot made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale or otherwise.
- 17.2 Request for Notice. Any lender who holds a first trust deed or first Mortgage on any Lot may request in writing (stating name, address and Lot number) to be given notice of Association meetings and shall be entitled to send a representative to the Association meetings but shall not be entitled to vote thereat.
- 17.3 Federal National Mortgage Association. In the event that FNMA participates in the financing of Lots in the project, any of the following amendments, to be effective, must be approved in writing by 75 percent of the First Mortgagees on all of the Lots in the Property at the time of such amendment, based upon one vote for each Mortgage owned:
- (a) Any amendment which affects or purports to affect the validity or priority of Mortgagees or the rights or protection granted to Mortgagees as provided herein.
  - (b) Any amendment which would or could result in a Mortgage being cancelled by forfeiture or in the individual Lot not being separately assessed for tax purposes.

- (c) Any amendment which would or could result in termination or abandonment of the project or partition or subdivision of a Lot in any manner inconsistent with the provisions of this Declaration.
- (d) Any amendment which would subject any Owner to a right of first refusal or other such restriction in favor of the Association in the event such Owner exercises his right to sell, transfer or otherwise convey his Lot.

17.4 Further Mortgagee Protections. The following provisions contained within this Article are added hereto, and to the extent these added provisions conflict with any other provisions in this Declaration, these added provisions shall control.

- a. The right of an Owner to sell, transfer or otherwise convey his Lot shall not be subject to any right of first refusal to any similar restriction in favor of the Association.
- b. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage as hereafter recorded upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage or pursuant to any remedies provided for in the Mortgage shall extinguish the lien of such assessments as to payments which became due prior thereto. No sale or transfer shall relieve such Lot from liability for assessments due thereafter. Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or any purchaser at a foreclosure sale of a first Mortgage will not be liable for any unpaid assessments or charges which accrue prior to the acquisition of title to such Lot by the Mortgagee (except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots, including the mortgaged Lot).
- c. Except as provided by statute in case of condemnation or substantial loss to the Lots and/or Association Property of the project, unless 75 percent of the first Mortgagees (based upon one vote for each first Mortgage owned) and 75 percent of the Owners

other than Declarant have given their prior written approval, the Association shall not be entitled to:

- (i) By act or omission, seek to abandon or terminate the project;
  - (ii) Record or file any material amendment to the constituent documents which would change the pro rata interest or obligations of any Lot for the purposes of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share of ownership of each Lot in the Association property;
  - (iii) Partition or subdivide any Lot except as provided in the Article herein entitled "Covenant Against Partition"; provided, however, that no Lot may be partitioned or subdivided without the prior written approval of the first Mortgagee for such Lot.;
  - (iv) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any or all of the Association Property. The granting of easements for public utilities or for other public purpose consistent with the intended uses of the Association Property by the project shall not be deemed a transfer within the meaning of this clause;
  - (v) Use hazard insurance proceeds for losses to the project (whether to Lots or to Association Property) for other than repair, replacement or reconstruction; or
  - (vi) Effect any decision of the Association to terminate professional management and assume self-management of the project.
- d. Any Mortgagee approval required herein shall require the Association to give notice to (i) such first Mortgagees who have requested notice from the Association in writing, and (ii) such first Mortgagees as to which their borrower Lot Owners have provided the Association written notice. Upon the Association's mailing of notice to such first Mortgagees via first-class mail, postage

prepaid, said Mortgagees shall have 30 days in which to object, in writing, to the proposed Association action. In the absence of the Association's receipt of written notice of objection from a Mortgagee entitled to notice hereunder, said Mortgagee shall be deemed to have approved the proposed action.

- e. All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to individual Lots and not to the project as a whole.
- f. No provision of the Governing Documents shall be interpreted to give the Owner of a Lot, or any other party, priority over any rights of the first Mortgagee of the Lot pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Lots and/or the Association Property.
- g. The assessments provided for in the Governing Documents shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Association Property that must be replaced on a periodic basis and shall be payable in regular installments rather than by Special Assessments.
- h. A first Mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by an individual Owner of any obligation under the constituent documents which is not cured within 60 days.
- i. Any agreement for professional management of the project or any contract providing for services of the Declarant may not exceed one year, renewable by agreement of the parties for successive one-year periods. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on 30 days' written notice.
- j. In the event of substantial damage to or destruction of any Lot or any part of the Association Property, the first Mortgagee for such Lot will be entitled to timely written notice of any such damage or destruction.

- k. A first Mortgagee of a Lot in the project will, upon request, be entitled to (i) examine the books and records of the Association during normal business hours; (ii) receive an annual audited financial statement of the project within 90 days following the end of any fiscal year of the project if such statement has been prepared for the Association; and (iii) receive written notice of all meetings of the Association.
- l. Each Owner shall notify the Association, in writing, within 10 days after the close of escrow for the purchase of his Lot of the name and address of his first Mortgagee, and thereafter each Owner shall promptly notify the Association of any changes of name or address for his first Mortgagee.
- m. If any Lot (or portion thereof) or the Association Property (or any portion thereof) is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any first Mortgage on such Lot will be entitled to timely written notice of any such proceeding or proposed acquisition.
- n. In the event any portion of the Association Property encroaches upon any Lot or any Lot encroaches upon the Association Property or another Lot as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the project, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

No breach of any of the foregoing covenants shall cause any forfeiture of title or reversion or bestow any right of re-entry whatsoever, but in the event that any one or more of these covenants shall be violated, the Association, or any Owner of a Lot in the project, may commence a legal action in any court of competent jurisdiction to enjoin or abate said violation and/or to recover damages; provided, however, that any such violation shall not defeat or render invalid the lien of any Mortgage or deed of trust made in good faith and for value as to said Lot. Said covenants shall be binding upon and effective against any Owner of said Lot, or a portion thereof, whose title thereto is acquired by foreclosure, trustee sale or otherwise.



## ARTICLE XVIII

### GENERAL PROVISIONS

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

18.2 Construction of Declaration.

- a. *Restrictions Construed Together.* All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.
- b. *Restrictions Severable.* Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.
- c. *Singular Includes Plural.* The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

- d. *Captions.* All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.
- e. *Exhibits.* All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.
- f. *Statutory References.* Any references to statutes or code sections shall be deemed to refer to subsequent amendments thereto or to successor statutes as the case may be, whether reference is made in the covenant to such statutory changes.

IT IS SO COVENANTED AND AGREED as of the dates subscribed below.

Dated: 7/21/2017 Jacqueline Haas  
Name Printed: Jacqueline Haas  
President, Riverside Sun City Homeowners Association

Dated: 7/21/17 Andrea L. Owens  
Name Printed: Andrea L. Owens  
Secretary, Riverside Sun City Homeowners Association

CERTIFICATE OF PRESIDENT AND SECRETARY

The undersigned certify that the foregoing Amended and Restated Declaration of Restrictions for Riverside Sun City Homeowners Association was deemed approved by the attached California Superior Court Order dated May 15, 2017, in Riverside County Case No. RIC 1704121, based upon approval by a majority of the Association's Members obtained by balloting duly conducted in accordance with the requirements of the Davis-Stirling Common Interest Development Act.

Date: 7/21/2017 Jacqueline Haas  
Name Printed: Jacqueline Haas  
President, Riverside Sun City Homeowners Association

Date: 7/21/17 Andrea L. Owens  
Name Printed: Andrea L. Owens  
Secretary, Riverside Sun City Homeowners Association

## 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.

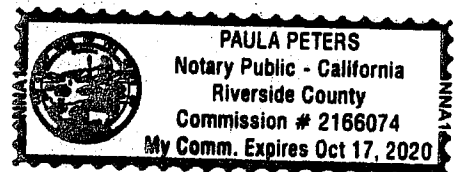
State of California )  
County of Riverside )

On 7/21/17, before me, Paula Peters, a Notary Public, personally appeared Jacqueline Haas + Andrea L. Owens, 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 Paula Peters



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Facsimile: (951) 369-6355

Attorneys for Petitioner RIVERSIDE SUN CITY  
HOMEOWNERS ASSOCIATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE, RIVERSIDE JUDICIAL DISTRICT

IN RE:

RIVERSIDE SUN CITY HOMEOWNERS  
ASSOCIATION

Petitioner.

Case No. RIC1704121

~~[REPOSED]~~  
ORDER GRANTING CIVIL CODE  
SECTION 4275 PETITION

[Civil Code §4275]

The petition of RIVERSIDE SUN CITY HOMEOWNERS ASSOCIATION  
("ASSOCIATION") for an order modifying voting requirements pursuant to Civil Code Section 4275  
came on regularly for hearing by this Court on May 15, 2017. Petitioner appeared by counsel Tiffany  
N. Smith-Nguyen of Fiore, Racobs & Powers; no one appeared in opposition. On proof made to the  
satisfaction of the Court that the motion ought to be granted for the reasons set forth in the statute and  
in furtherance of justice,

R0265151-1

ORDER

AMC

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

MAY 15 2017

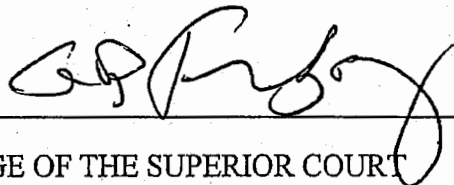
C- Zuniga

MAY 16 2017  
R

1 IT IS ORDERED that the petition be granted and that the amendment to the Declaration of  
2 Restrictions for Sun City Homes ("CC&Rs") amending and restating the CC&Rs is approved based  
3 on the approvals actually received from the members.  
4

5 IT IS SO ORDERED.  
6

7  
8 Dated: 5/15/17  
9

  
JUDGE OF THE SUPERIOR COURT

Gary B. Tranbarger