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2003 AMENDED AND RESTATED

DECLARATION OF RESTRICTIONS

FOR

THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC.  
*A Residential Planned Development*

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2003 AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS

FOR

THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC.

THIS 2003 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS is made on the day and year hereinafter written, by The Village Grove Town House Association, Inc., a California nonprofit mutual benefit corporation ("Declarant"), with reference to the following Recitals.

**RECITALS**

A. Declarant is a corporation whose Members are the Owners of all the Lots within that certain real property in the City of Corona, County of Riverside, State of California, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter "*Property*").

B. The Property was developed as a Planned Development, as defined in section 1351(k) of the California Civil Code, and consists of one hundred fifty (170) residential Lots and eleven (11) Common Area Lots.

C. The Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the following document:

The Declaration of Covenants, Conditions and Restrictions recorded July 27, 1971 as Document No. 71-83537 of Official Records of the County Recorder of Riverside County (hereinafter "*Declaration*").

D. Declarant now desires to amend and restate the Declaration and replace it in its entirety with this Restated Declaration. Declarant further desires that, upon recordation of this Restated Declaration, the Property shall be subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens, and charges contained herein, and that this Restated Declaration take the place of and relate back in time to the recording of the original Declaration.

E. The Declaration, at Article XI, Section 5, provides that it may be amended by the affirmative vote or written consent of seventy-five percent (75%) of the total voting power of the Association. The undersigned President and Secretary of the Association certify that, to the best of their knowledge, the affirmative vote or written consent of at least the required percentage of Association Members has been obtained.

NOW, THEREFORE, Declarant hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Restated Declaration, and as may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Restated Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs, executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Lot.

## DECLARATION

### ARTICLE 1 - DEFINITIONS

1.1 **"Articles"** means the Articles of Incorporation of The Village Grove Town House Association, Inc., filed in the Office of the Secretary of State of the State of California on July 19, 1971 as File No. 629239, and any amendments thereto now existing or hereafter adopted.

1.2 **"Association" and "Declarant"** means The Village Grove Town House Association, Inc., a California nonprofit mutual benefit corporation created for the purpose of managing a common interest development.

1.3 **"Board"** means the Board of Directors of the Association.

1.4 **"Bylaws"** means the Bylaws of the Association and any amendments thereto.

1.5 **"Common Area"** means those portions of the Property and all improvements thereon owned by the Association for the common use and enjoyment of the Owners, consisting of Lot Nos. 19, 38, and 49 of Tract 4170; Lot Nos. 20, 37, 38, and 56 of Tract 4171; and Lot Nos. 9, 28, 45, and 56 of Tract 4172.

1.6 **"Dwelling"** shall mean a residential structure or structures, including any enclosed yard, balconies, patio areas and garages located on a Lot.

1.7 **"Governing Documents"** means this Restated Declaration and any other documents such as the Articles, Bylaws, or Rules and Regulations which govern the operation of the Association.

1.8 **"Lot"** shall refer to all the Lots within the Project, including all improvements now or hereafter thereon, with the exception of the Common Area.

1.9 **"Member"** means every person or entity entitled to membership in the Association as provided in this Restated Declaration.

1.10 **"Owner"** means any natural person, firm, corporation, partnership, trust or other entity which owns a fee simple interest in any Lot, as shown on the most recent deed for the Lot recorded in the Office of the San Diego County Recorder, including Association, and any contract sellers under recorded contracts of sale. "Owner" shall not include any persons or entities who hold an interest in a Lot merely as security for performance of an obligation. For purposes of exercising membership rights and incurring membership obligations when an Owner is a corporation, firm, limited liability company or other entity, any director, officer, employee or agent designated by the Owner may exercise the membership rights attributable to the Owner. When an Owner is a trust, the trustee may exercise the membership rights attributable to the trust unless otherwise designated in writing by the trustee.

1.11 **"Person"** means a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

1.12 **"Project" or "Property"** means the entire common interest development including all improvements thereon.

1.13 **"Restated Declaration"** means this Amended and Restated Declaration of Restrictions and any amendments hereto.

1.14 **"Rules and Regulations"** means any Rules and Regulations for the Association regulating the use of the Lots, the Common Areas, the Project and any facilities located thereon adopted by the Board pursuant to Subsection 3.6.2 herein.

## ARTICLE 2 - THE PROPERTY

2.1 **Project Subject to Restated Declaration.** The entire Project shall be subject to this Restated Declaration upon recordation hereof.

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

2.3 **Prohibition Against Partition.** There shall be no judicial partition of the Project or any part of it, nor shall the Association or any person acquiring an interest in the Project or any part of it seek any judicial partition, except upon showing that such partition is consistent with the requirements of section 1359 of the California Civil Code.

2.4 **Prohibition Against Severance of Elements.** Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Lot shall include all interests and



appurtenances as shown in the original deed of conveyance. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's membership interest in the Association, as provided in Article 3 herein. Any transfer that attempts to sever those component interests shall be void.

2.5 **Drainage Easements.** The Owner of any Lot shall not in any way interfere with the established drainage pattern over his or her Lot from adjacent or adjoining Lots, and unless the Owner makes adequate provisions for continued drainage over his or her Lot from adjacent or adjoining Lots. For the purpose herein, "established drainage" is defined as the drainage which occurred at the time the overall grading of the Project was completed.

2.6 **Association Easements Over Lots.** The Association has an easement over each Lot, as the servient tenement, for the purpose of allowing the Association's agents to enter the Lot to perform such duties as may be required by the Governing Documents. Each Owner subject to this Restated Declaration acknowledges and expressly consents to this easement.

2.7 **Owner Easements Over Common Area.** Each Owner shall have a nonexclusive easement for use and enjoyment of the Common Area now or hereafter owned by the Association and for ingress, egress, and support over and through the Common Area. These easements shall be appurtenant to, and shall pass with the title to each Lot and shall be subordinate to any exclusive easements granted elsewhere in this Restated Declaration, as well as to the right of the Association pursuant to the Governing Documents to (a) limit or deny use thereof, (b) regulate time and manner of use, (c) charge reasonable admission or use fees or deposits, (d) charge for supplying and replacing keys to the Common Area including charges calculated to limit distribution and deter loss of keys, (e) perform its obligations under this Restated Declaration, or (f) otherwise regulate the Common Area as provided in the Governing Documents. Each of the easements reserved or granted herein shall be covenants running with the land for the use and benefit of the Owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the Project. Individual grant deeds to Lots may, but shall not be required to, set forth the easements specified in this Article.

2.8 **Association Grant of Easements.** The Association may grant to third parties easements in, on, and over the Common Area for the purpose of constructing, installing, or maintaining necessary utilities and services, or for any other purpose reasonably related to the operation and maintenance of the Project. Each Lot Owner, in accepting his or her deed to the Lot, expressly consents to such easement. No such easement can be granted, however, if it would interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Lot without the approval of the affected Owner.

2.9 **Encroachment Easements.** None of the rights and obligations of the Owners created herein, or by the deed creating the Project, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall

be valid easements for the maintenance of such encroachments over the Common Area or Lots upon which the encroachment exists so long as the encroachments shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners. In the event a structure on a Lot is partially or totally destroyed and then rebuilt or repaired, the Owners of any adjoining Lots agree that minor encroachments over the adjoining Lots shall be permitted and there shall be easements for maintenance of such encroachment so long as they shall exist.

2.10 **Utility Easements.** In the case where utility facilities are located on a Lot or Lots owned by other than the Owner of a Lot served by said utility facilities, the Owners of any Lots served by said utility facilities shall have the right of reasonable access for themselves or their agents to repair, replace and generally maintain said utility facilities as and when the same may be necessary. A Lot Owner shall be entitled to reasonable access to the Common Area for the purpose of maintaining utility facilities servicing such Owner's Lot. The access shall be subject to the consent of the Association, whose approval shall not be unreasonably withheld, and which may include such conditions as the Board determines reasonable.

In the case of utility facilities which serve more than one (1) Lot, the Owner of each Lot served by the utility facilities shall be entitled to the full use and enjoyment of such portions of the utility facilities as service his or her Lot.

### ARTICLE 3 - ASSOCIATION

3.1 **Organization of the Association.** The Association is incorporated as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. The Association is created for the purpose of managing the Project and is charged with the duties and invested with the powers prescribed by law and set forth in the Governing Documents.

3.2 **Board of Directors.** The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in Article 3 of the Bylaws.

3.3 **Membership.** Every Owner, upon becoming an Owner, shall automatically become a Member of the Association. Ownership of a Lot is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations as set forth in the Governing Documents. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Lot. All memberships shall be appurtenant to the Lot conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Lot shall automatically transfer the appurtenant membership to the transferee.

3.4 **Membership Class; Voting Rights.** 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. On matters presented to the membership for a vote, Owners of each Unit may cast one vote, subject to the provisions of the Bylaws.

3.5 **Inspection of Accounting Books and Records.** The rights of Members and Directors to obtain and inspect the accounting books and records of the Association shall be in accordance with Article 6 of the Bylaws.

3.6 **General Powers and Authority.** The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject to any limitations set forth in the Governing Documents. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it. Its powers shall include, but are not limited to:

3.6.1 The power to establish, fix, levy, collect, and enforce the payment of assessments against the Owners in accordance with the procedures set forth in Article 4 herein.

3.6.2 The power to adopt reasonable Rules and Regulations governing the use of the Lots, Dwellings, Common Area, any common facilities and Association owned property, and the conduct at Board and Members' meetings, in accordance with the following:

(a) The Rules and Regulations may include, but are not limited to:

(i) Reasonable restrictions on use of the Common Area, Lots and Dwellings by the Owners and their families, guests, employees, tenants and invitees.

(ii) Reasonable restrictions on the conduct of Owners and their families, guests, employees, tenants and invitees as to activities on the Common Area, Lots and Dwellings.

(iii) Subject to Section 3.14 of the Bylaws, the establishment of reasonable hearing procedures and a schedule of monetary penalties and fines which may be imposed for violations of any provisions of the Governing Documents.

(b) A copy of the current Rules and Regulations, if any, and all modifications, revisions and updates shall be given to each Owner within thirty (30) days of adoption by the Board.

- (c) If any provision of the Rules and Regulations conflicts with any provision of this Restated Declaration, the Articles, or the Bylaws, the Restated Declaration, Articles, or Bylaws shall control to the extent of the inconsistency.
- 3.6.3 The right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to:
  - (a) Enforcement of the Governing Documents.
  - (b) Damage to the Common Area.
  - (c) Damage to any Lots that the Association is obligated to maintain or repair.
  - (d) Damage to the Lots that arises out of, or is integrally related to, damage to the Common Area or Lots that the Association is obligated to maintain or repair.
  - (e) Enforcement of payment of assessments in accordance with the provisions of Section 4.13 herein.
  - (f) Any other matter(s) in which the Association is a party, including, but not limited to, contract disputes.
- 3.6.4 Subject to Section 3.14 of the Bylaws, the right to discipline a Member for violation of any of the provisions of the Governing Documents by (a) suspending the Member's membership rights, including the Member's voting rights and the rights and privileges to use the Common Area and facilities appurtenant to the Member's Lot, (b) imposing monetary fines, and (c) recording a notice of noncompliance in the Office of the County Recorder of Riverside County encumbering the Lot of the Owner.
- 3.6.5 The right for its agents and employees to enter any Lot when necessary in connection with any maintenance, landscaping, or construction work for which the Association is responsible. This entry shall be made only upon reasonable notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable.
- 3.6.6 Notwithstanding any nonexclusive easement rights to the Common Area granted herein or by any deed or other conveyance, the right to allow one or more Owners to exclusively

use portions of the Common Area, provided that such portions of the Common Area are nominal in area and adjacent to the Owner's Lot, and, provided further, that such use does not unreasonably interfere with any other Owner's use or enjoyment of the Project.

- 3.6.7 The power to remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations in accordance with the provisions of California Vehicle Code section 22658.2 and any amendments thereto.
- 3.6.8 The authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that no contract with a person or firm appointed as a manager or managing agent shall be longer than one (1) year.

3.7 ***Duties of the Association.*** In addition to the duties of the Association, its agents and employees set forth elsewhere in the Governing Documents, the Association shall be responsible for the following:

- 3.7.1 The Association, acting through the Board, shall operate, maintain, repair, and replace those components described in Section 6.2, 6.3, or contract for the performance of that work, subject to the provisions of the Governing Documents.
- 3.7.2 The Association shall use the general operating fund described in Article 4 herein to, among other things, acquire and pay for goods and services for the Project, including, but not limited to:
  - (a) Water, sewer, refuse, electrical, telephone, gas, and other necessary utility service for the Common Area [and, to the extent not separately metered and charged, for the Lots. If any utility service to a Lot is separately metered by either the utility provider or the Association and the Association is liable for payment to the utility provider, the costs thereof may be assessed against Owners as a utility assessment or as otherwise provided herein.]
  - (b) The insurance policies described herein.
  - (c) The services of any personnel that the Board determines are necessary or proper for the operation of the Common Area and the Association.

- (d) Legal and accounting services necessary or proper in the operation of the Common Area and the Association or the enforcement of the Governing Documents.

## ARTICLE 4 - ASSESSMENTS AND COLLECTION PROCEDURES

4.1 **Covenant to Pay.** Each Owner by acceptance of the deed to the Owner's Lot is deemed to covenant and agrees to pay to the Association the regular, special, individual and utility assessments and all other charges duly levied by the Association pursuant to the provisions of this Restated Declaration. A regular, special, individual or utility assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall also be a personal debt of each Owner of the Lot at the time the assessment or other sums are levied. Co-Owners of a Lot shall be jointly and severally liable for all charges levied by the Association on that Lot. No Owner may waive or otherwise escape liability for these assessments by non-use of the Common Area or abandonment of the Owner's Lot.

4.2 **Purpose of Assessments.** Except as provided herein, the Association shall levy regular, special, individual and utility assessments sufficient to perform its obligations. The assessments levied by the Association shall be used exclusively to promote the safety, recreation and welfare of the Owners; for the operation, replacement, improvement, and maintenance of the Project, and to discharge any other obligations of the Association under this Restated Declaration. All assessment payments shall be put into general operating and reserve funds to be used for the foregoing purposes.

4.3 **Regular Assessments.** Concurrently with preparation of the financial documents and budget as required in Section 3.13 of the Bylaws, the Board shall estimate the net charges to be paid during that next fiscal year, including a reasonable provision for contingencies, replacements and reserves, with adjustments made for any expected income and surplus from the prior year's fund. The resulting amount shall constitute the regular assessments for the budgeted year. Regular assessments shall be levied equally on all Lots. Failure of the Board to estimate the net charges within the time period stated herein shall not void any assessment imposed by the Board. Regular assessments for fractions of any month shall be prorated. Each Owner is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.

4.4 **Special Assessments.** If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Area, or any other reason, it shall make a special assessment for the additional amount needed, subject to any limitations imposed by law or the Governing Documents. Special assessments shall be levied equally against each Lot and collected in the same manner as regular assessments.

4.5 **Limitations on Regular and Special Assessments.** Except in emergency situations, the Board may not, without the approval of Members constituting a quorum of the Owners and casting a majority of the votes at a meeting or election of the Association conducted in accordance with Corporations Code sections 7510 - 7527 and 7613, impose a regular assessment per Lot that is more than twenty percent (20%) greater than the regular assessment for the preceding fiscal year, or levy special assessments that in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. For purposes of this Section, a "quorum" means more than fifty percent (50%) of the Owners of the Association. These limitations shall not apply to assessment increases that are necessary for emergency situations. An emergency situation is an extraordinary expense that is:

- 4.5.1 Required by a court order.
- 4.5.2 Necessary to repair or maintain the Project or any part of it for which the Association is responsible when a threat to personal safety in the Project is discovered.
- 4.5.3 Necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget. Before the Board may impose or collect an assessment in this emergency situation, it shall pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Owners with the notice of assessment.

4.6 **Owner Notice of Regular and Special Assessments.** The Association shall provide notice by first-class mail to the Owners of any increase in the regular assessments or the imposition of a special assessment not less than thirty (30) nor more than sixty (60) days prior to the increase in the regular assessment or special assessment becoming due.

4.7 **Individual Assessments.** Subject to the limitations of the Governing Documents and in addition to regular and special assessments, the Board may levy individual assessments against Owners and Lots whenever the Association (a) performs any service or accomplishes any item of repair or maintenance which is the duty of any Owner to accomplish, but which has not been accomplished by such Owner, or (b) incurs any costs which by law or as required by the Governing Documents must be reimbursed by an Owner. Such individual assessment shall include the cost thereof, together with any financing costs and administrative costs incurred by the Association. Prior to levying such an individual assessment, the Board shall provide the Owner with notice and a hearing in accordance with Section 3.14 of the Bylaws. The notice and hearing regarding the levy of an individual assessment may be combined with the notice and hearing regarding any

underlying violation. Duly levied individual assessments shall be subject to the provisions in the Governing Documents regarding costs, late charges and interest for delinquent payment, and may become a lien on the Lot and foreclosed in the same manner as regular and special assessments.

4.8 **Monetary Penalty Assessments.** The Board of Directors may levy, subject to the limitations of the Governing Documents, monetary penalties or fines against an Owner and his or her Lot. In the event the Board of Directors imposes a monetary penalty or fine, that fine shall be subject to costs, late charges and interest as described in Section 4.10 for delinquent payment, and may become a lien on the Lot, collectible by the Association through judicial foreclosure as allowed by Section 4.13 herein. In no event may the Association collect a monetary penalty or fine through nonjudicial foreclosure.

4.9 **Lots Not Subject To Assessment.** Assessments which would normally become due on Lots, but which Lots are owned by the Association by virtue of the Association having acquired such Lots through foreclosure, shall be deemed to be common expenses collectible from all of the remaining Lots in the same proportion that each Lot bears to the others less the number of Lots owned by the Association.

4.10 **Costs, Late Charges and Interest.** Late charges may be levied by the Association against an Owner for the delinquent payment of regular, special, individual and utility assessments, fines, and monetary penalties. An assessment, including any installment payment, is delinquent fifteen (15) days after its due date. If an assessment is delinquent, the Association may recover all of the following from the Owner:

- 4.10.1 Reasonable costs incurred in collecting the delinquent assessment, including actual attorneys' fees.
- 4.10.2 A late charge not exceeding ten percent (10%) of the delinquent assessment or ten dollars (\$10.00), whichever is greater, or the maximum amount allowed by law.
- 4.10.3 Interest on the foregoing sums, at an annual percentage rate of twelve percent (12%) commencing thirty (30) days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. The amounts delinquent, including the entire unpaid balance and any related costs described herein, may be collected by the Association as provided in Section 4.13 hereinbelow.

4.11 **Priority of Payments.** The Board, in its sole discretion, may enact policies, in compliance with applicable law, addressing how payments received from Owners will be applied to any outstanding balances due the Association from that Owner.



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

4.13 **Enforcement of Assessments and Late Charges.** A delinquent regular, special, individual or utility assessment, and any related late charges, reasonable costs of collection (including actual attorneys' fees), and interest assessed in accordance with Section 4.10 herein, excluding monetary penalties, shall become a lien upon the Lot when a Notice of Assessment Lien is duly recorded as provided in section 1367 of the California Civil Code or applicable statute. Unless otherwise provided by statute, the Notice of Assessment Lien shall describe the amount of the delinquent assessment or installment, the related charges authorized by this Restated Declaration, the legal description of the Lot, the name of the purported Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice may be signed by any officer or director of the Association, or any employee or agent of the Association authorized to do so by the Board. The Notice shall be mailed in the manner set forth in Civil Code section 2924b, to all record owners of the Lot no later than ten (10) calendar days after recordation.

Unless otherwise allowed by statute, the Notice of Assessment Lien may not be recorded until after the Association has mailed, via certified mail and first class mail, a written demand for payment to the delinquent Owner. The written demand shall include the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the Owner, including items on the statement which indicate the principal owed, and any late charges and the method of calculation, and any attorneys' fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. If the delinquent assessment or installment and related charges are paid or otherwise satisfied in accordance with the demand for payment, the Association shall not record the Notice of Assessment Lien.

If not paid in full within thirty (30) days after recordation of the Notice of Assessment Lien, any lien described herein may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the Notice or by a trustee substituted pursuant to section 2924(a) of the California Civil Code, in accordance with the provisions of sections 2924, 2924(b), and 2924(c) of the California Civil Code.

If all sums specified in the Notice of Assessment Lien are paid before the completion of any judicial or nonjudicial foreclosure, the Association shall (i) record a notice of satisfaction and release of lien, and (ii) upon receipt of a written request by the Owner, shall also record a notice of rescission of any recorded notice of default and demand for sale.

The Notice of Assessment Lien is not required to be amended by the Association or Trustee to reflect any partial payments made on the account of the delinquent Owner after its recordation, and any such partial payments received shall not be construed to invalidate the Notice of Assessment Lien and said Notice of Assessment Lien may be foreclosed upon as set forth herein even though the delinquent Owner has made one or more partial payments.

Notwithstanding any other provision herein, a monetary penalty or fine may not become a lien on a Lot enforceable by the sale of the Lot through nonjudicial foreclosure. Any Notice of Assessment Lien recorded to enforce a monetary or penalty or fine must specifically state that such lien may not be enforceable by sale of the Lot through nonjudicial foreclosure.

**4.14 Priority of Assessment Lien.** As set forth hereinbelow, the assessment lien referred to in Section 4.13 shall be superior to all other liens, except (i) all taxes, bonds and governmental assessments which, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record. Notwithstanding any other provision to the contrary, the following provisions shall govern the priority and obligation for payment of the assessment lien:

- 4.14.1 Only the judicial or nonjudicial foreclosure of the First Mortgage shall operate to transfer title free of the assessment lien or obligation for any assessment lien, and then only as to payments which became due prior to the date of sale, and excluding those assessment liens recorded prior to the recording of the First Mortgage.
- 4.14.2 Neither the transfer of a Lot pursuant to a foreclosure of any Mortgage, nor an election by the Association to proceed against any new Owner for payment, shall serve to cancel the personal obligation of the prior Owner for payment of the delinquent assessments and charges which accrued during such Owner's period of ownership. The personal obligation of any Owner for payment of delinquent assessments and charges may only be satisfied, and therefore discharged, by payment of the entire amount of the delinquent assessments and charges, whether or not such Owner remains in possession of his or her Lot.
- 4.14.3 No sale or transfer of any Lot shall relieve such Lot or its new Owner from liability for any future assessments which accrue during such Owner's period of ownership.

**4.15 Statement of Delinquent Assessment.** The Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Lot.

## ARTICLE 5 - USE RESTRICTIONS AND COVENANTS

5.1 **General.** The use and enjoyment of the Project by Owners and their tenants, guests, invitees or any other person deriving rights from such Owner, shall be subject to the covenants and restrictions contained in this Restated Declaration. Each such person shall comply with the provisions hereof and be subject to any enforcement actions in the event of violations. Unless otherwise stated in the Governing Documents, the Association, through the Board of Directors, shall be responsible for the enforcement of these provisions.

5.2 **Common Area.** The following provisions govern the use and enjoyment of the Common Area:

5.2.1 Owners may use the Common Area subject to the provisions of this Restated Declaration.

5.2.2 An Owner who has sold his or her Lot to a contract purchaser or who has leased or rented the Lot shall be deemed to have delegated his or her rights to use and enjoy the Common Area to such contract purchaser or tenant, subject to reasonable regulation by the Board. If the Owner is deemed to have delegated such rights, the Owner and the Owner's family, guests, employees, and invitees shall not be entitled to use and enjoy the Common Area for so long as the delegation remains effective. The rights of a contract purchaser or tenant shall be subject to the same restrictions and regulations in the Governing Documents as are applicable to Owners.

5.2.3 The Board may:

- (a) Adopt and enforce reasonable Rules and Regulations for the use of the Common Area and the Project.
- (b) Reasonably limit the number of guests and tenants using the Common Area.
- (c) Charge a fee or deposit for use of any Common Area facilities and improvements.
- (d) Set fees and deposits for supplying and replacing keys or key codes to Common Areas, including charges calculated to limit distribution and deter loss of keys or codes.
- (e) Remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations of the Board in accordance with the provisions of California

Vehicle Code section 22658.2 and any amendments thereto.

- (f) Suspend the right of any Owner, and the Persons deriving rights from any Owner, to use and enjoy the Common Area for any period during which the Owner is delinquent in the payment of any assessment, is in violation of the Governing Documents, or as otherwise provided in the Governing Documents.
- (g) Cause the construction of additional improvements in the Common Area, or cause the alteration or removal of existing improvements on the Common Area.
- (h) Dedicate, grant, or join in the grant or conveyance of easements, licenses or rights-of-way in, on and over the Common Area as may be determined by the Board to be in the best interests of the Association; provided that no such easement, license or right-of-way may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Lot.
- (i) Approve any proposed alteration of or modification to the Common Area.

**5.3 General Restrictions on Use.** In exercising the right to occupy or use a Lot or the Common Area and its improvements, the Owner and the Owner's family, guests, employees, tenants, and invitees shall not:

- 5.3.1 Modify, construct, build or otherwise alter any portion of his or her Lot or Dwelling other than as provided in Article 8, below.
- 5.3.2 Attempt to further subdivide a Lot.
- 5.3.3 Occupy or use a Lot, or permit all or any part of a Lot to be occupied or used, without Board approval, for any purpose other than as a private residence. The Board may establish guidelines in the Rules and Regulations to allow certain home occupations which (a) are consistent and compatible with the typical residential use of the Project, and (b) do not have any detrimental effect on neighboring Lots or the Project.
- 5.3.4 Lease or rent a Lot in derogation of the following:
  - (a) All leases and rental agreements must be in writing.

- (b) All leases and rental agreements must be for the entire Dwelling, and not merely parts thereof, unless the Owner remains in occupancy.
  - (c) No lease or rental shall be for a period of less than thirty (30) days.
  - (d) All leases and rental agreements shall be subject in all respects to the Governing Documents, and shall provide that failure to comply with the requirements of the Governing Documents shall constitute a default under the lease which may be cured by eviction of the tenant either by the Owner or the Association.
  - (e) Any Owners leasing or renting their Lot shall promptly notify the Association in writing of the names of all tenants and members of a tenant's family occupying such Lot and shall provide the Association with whatever information is reasonably needed and requested by the Association.
  - (f) Any Owners leasing or renting their Lot shall promptly notify the Association of the address and telephone number where such Owner can be reached.
- 5.3.5 Permit anything to obstruct the Common Area or store anything on the Common Area without the prior written consent of the Board, except as otherwise provided in the Governing Documents.
- 5.3.6 Perform any act or keep anything on or in any Lot or in the Common Area that will increase the rate of insurance on the Common Area without the Board's prior written consent. Further, no Owner shall permit anything to be done or kept on his or her Lot or in the Common Area that would result in the cancellation of insurance on any Lot or on any part of the Common Area or that would violate any law.
- 5.3.7 Store gasoline, kerosene, cleaning solvents, or other flammable liquids or substances, or any toxic or hazardous materials on the Common Area or in any Lot; provided, however, that amounts of these liquids, substances or materials which are reasonable for household use may be placed in appropriate containers and properly stored.
- 5.3.8 Discharge or cause the emission of any dust, sweepings, dirt, cinders, odors, gases, or other substances into the atmosphere

other than those caused by normal residential use such as chimney or outdoor grill emissions.

- 5.3.9 Erect or display any sign on or from any Lot except as allowed by sections 712 and 713 of the California Civil Code. No signs may be erected or displayed on the Common Area without the prior written approval of the Board.
- 5.3.10 Erect or display any radio or television antenna, satellite dish or other equipment or apparatus for transmitting or receiving transmissions except as allowed by any applicable statute or law, with Board approval. The Board may impose reasonable restrictions on its approval.
- 5.3.11 Raise or keep pets or other animals in derogation of the following:
  - (a) Owners may keep two (2) ordinary household pets on the Project subject to any Rules and Regulations enacted by the Board; provided, however, that no Owner or other occupant of a Lot may raise or keep pets which interfere with, or have a reasonable likelihood of interfering with, the rights of any Owner or other occupant of a Lot to the peaceful and quiet enjoyment of the Lot. In the event the Board determines that any such pet(s) or other animal(s) create an unreasonable annoyance or nuisance to any Owner or other occupant of a Lot, the raising or keeping thereof shall be discontinued within a reasonable time after such determination.
  - (b) Notwithstanding the above, persons with disabilities may keep or otherwise maintain an animal within the Project if documented, written evidence is provided to the Board that (i) the person has a disability which limits one or more of his or her major life activities; (ii) a trained animal would assist the person in carrying out his or her major life activities which are limited by the person's disability; and (iii) the particular animal in question has been trained to provide and does provide the type of assistance needed by the person to carry out his or her major life activities which are limited by the person's disability.
  - (c) No pets or other animals shall be permitted in the Common Area except as specifically permitted by the Rules and Regulations, and then only when on a leash held by a person capable of controlling the animal.

- (d) No Owners may raise or keep animals for commercial purposes.
  - (e) The Association, its Board, officers, employees and agents shall have no liability to any Owner, their family members, guests, invitees, tenants and contract purchasers, or any other person on the Project, for any damage or injury to persons or property caused by any pet, absent any willful or wanton negligence on the part of the Association, or its Board, officers, employees and agents.
- 5.3.12 Engage in any illegal, noxious or offensive activity in any part of the Project, or do any act which unreasonably threatens the health, safety and welfare of other residents of the Project.
- 5.3.13 Engage in any type of harassment, illegal, noxious or offensive activity toward any Owners, residents, Association representatives, management representatives, Board members and/or vendors working in the Project, including interfering with or disrupting a meeting of the Board of Directors or the membership.
- 5.3.14 Alter, attach, construct, or remove anything on or from the Common Area, except upon the written consent of the Board.
- 5.3.15 Convert or use any garage for habitation, living quarters, or for any purpose other than parking of the number of vehicles such garage was designed to contain, and the storage of reasonable amounts of household goods that do not interfere with the ability to park the number of vehicles such garage was designed to accommodate or create a fire or safety hazard.
- 5.3.16 Park any automobile or other motor vehicle in the Project except in accordance with rules enacted by the Board of Directors. No junk or derelict vehicle or unregistered vehicle shall be kept upon any portion of the Project so as to be visible from the Common Area or another Lot. The Board, in its discretion, may adopt reasonable rules governing the operation, maintenance, storage and parking of any vehicle, including trucks, campers, trailers, boats or commercial vehicles on the Common Area and on the Lots, including within the garages or driveways.
- 5.3.17 Alter or modify the cable television system except upon the written consent of the Board.

5.4 **Damage Liability.** Each Owner shall be liable to the Association for any damage to the Common Area or to Association owned property, including any access

control systems, to the extent that the damage is not covered by insurance, if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installment or maintenance of any improvement by the Owner or the Owner's family, guests, tenants, contract purchasers, or invitees. In the case of joint ownership of a Lot, the liability of the co-owners shall be joint and several, unless the co-owners and the Association have agreed in writing to an alternative allocation of liability.

## ARTICLE 6 - REPAIR AND MAINTENANCE

6.1 **General; Standards of Maintenance.** The Association and all Owners are required to fulfill the maintenance requirements imposed by the Governing Documents. For purposes of this Article "maintenance" shall include, without limitation, painting, weatherproofing and cleaning to keep a clean, safe, and sanitary condition necessary to preserve the attractive appearance of the Lots, Dwellings, and the Project, and protect the values thereof. The Board shall have the power to determine the standards of such maintenance.

6.2 **General Division of Responsibility.** Attached hereto as Exhibit "B," and incorporated herein by reference, is a listing of the allocation of responsibility for various components in the Project. Generally, each Owner shall be responsible for the maintenance, repair and replacement of his or her Lot, except certain identified maintenance of the exterior of the structures, and the Association shall be responsible for the maintenance, repair and replacement of the Common Area, and the maintenance on the Lots identified in Section 6.3 and in Exhibit "B". In the event of any inconsistency between the general provisions in this Article 6, and the specific provisions of Exhibit "B," the provisions of Exhibit "B" shall prevail. Provided any item is not listed in Exhibit "B," the responsibility for its maintenance shall be determined in accordance with the above general provisions or as otherwise provided by statute or law. Except as otherwise provided in the Governing Documents, the costs of maintenance, repair and replacement shall be borne by the party responsible for the maintenance, repair and replacement.

6.3 **Association Responsibility.** The Association shall paint, maintain, repair and replace (if required because of normal wear, tear or deterioration) roofs and exterior building surfaces, and maintain the landscaping (including the trees, shrubs, grass and walks) within each lot.

Such exterior maintenance shall not include: glass surfaces, landscaping within the private patio areas of each lot; patio covers or other additions built or maintained within a private patio area by an owner; repairs or replacements arising out of or caused by the willful or negligent act of the owner, his family, guests, or invitees, or caused by any of the perils covered by a standard form fire insurance policy with extended coverage endorsement thereon, or caused by flood, earthquake or other acts of God. Such excluded items shall be the responsibility of each lot owner.



6.4 **Owner Improvements.** Each Owner shall be responsible for the maintenance, repair, and replacement of all improvements installed or planted on Owner's Lot for which the Association is not responsible pursuant to Section 6.2.

6.5 **Access over Common Area.** The Owner of the Lot shall be entitled to reasonable access over and through the Common Area, subject to the consent of the Association and to any other conditions reasonably imposed by the Association, for the purposes of performing any maintenance, repairs or replacement as required by the Governing Documents. The Association's consent shall not be unreasonably withheld.

6.6 **Failure to Maintain.** In the event an Owner fails to maintain, repair or replace the areas described herein pursuant to the standards set by the Board, the Board may notify the Owner of the work required and request that the same be done within a reasonable time from the giving of such notice. In the event the Owner fails to carry out such maintenance within said time period, the Board may, following notice and a hearing, cause such work to be done and the cost may be collected as an Individual Assessment pursuant to Section 4.7 of Article 4.

6.7 **Termite Control.** The responsibility for control of wood destroying pests or organisms shall be as follows:

- 6.7.1 Each Owner shall be responsible for the maintenance and repair of their personal property, their Dwelling and any other Lot improvements as required to control the presence of or damage caused by wood-destroying pests or organisms.
- 6.7.2 The Association shall be responsible for the maintenance and repair of the Common Area as required to control the presence of or damage caused by wood destroying pests or organisms in accordance with the provisions of Civil Code section 1364.
- 6.7.3 Neither the Association, the Board, officers, agents and employees shall have any liability, absent willful or wanton negligence, to any Owner, family member, guest, invitee or tenant for any damage caused by the treatment.

6.8 **Damage Caused by Owner or Item Under Control of Owner.** Should any damage to the Common Area, any Lot or Dwelling result from the willful or negligent act or neglect of any Owner, or such Owner's tenants, guests, invitees, pets or other person or entity deriving any interest through such Owner, or from any item the maintenance, repair or replacement of which an Owner is responsible, the cost of all repairs shall be borne solely by the culpable Owner.

The Association shall be responsible for performing the repair of any damage to the Common Area or items over which the Association has control at the culpable Owner's expense. The culpable Owner shall be responsible for performing the repair of

any damage to his or her own property. The Owner of any other property which sustained damage shall be responsible for performing the repair of any such damage, and may charge the cost thereof to the culpable Owner.

If the culpable Owner disputes or refuses to pay any repair costs incurred by the Association, the Association, after reasonable notice and hearing procedures as provided for the imposition of monetary fines or suspensions, may charge the cost of those repairs to such Owner as an individual assessment, with the full authority to lien on such amount in the event of non-payment. If the damage is such as may be covered by any insurance carried by the Association, the Board may, in its sole discretion, elect to submit the claim for the cost of repairs to its insurance carrier. Provided the submitted claim is covered by the Association's insurance, the culpable Owner shall be responsible for the cost of any deductible applicable to the covered claim. If the submitted claim is not covered by the Association's insurance, the Owner shall be responsible for the total cost of repair.

All repairs performed to correct any damage shall be sufficient to return the damaged property only to its condition prior to the damage, with upgrades as may be required to conform with any applicable building codes in effect at the time the damage is repaired.

6.9 **Limitation of Liability.** The Association shall not be liable to any Owner or his or her tenants, guests or others, for damage to or loss of any such property, or the cost of repair or replacement of any damaged property or portions of such Owner's Unit or Exclusive Use Common Area, unless such damage is caused by the gross negligence of the Association, its Board, officers, agents or employees.

6.10 **Water Intrusion Damage.** Notwithstanding any other provision in the Governing Documents, each Owner shall be solely responsible for the repair or replacement of any damage to any and all interior items of his or her Separate Interest, and the cost thereof, including, but not limited to, any personal property, decorations, interior surfaces, floor and wall coverings, appliances, fixtures or other items therein, caused by any Common Area component or Improvement or any other component or Improvement maintained by the Association, including water intrusion from any Common Area source. An Owner may obtain and maintain such insurance, at his or her sole expense, to protect against any damage or loss of property due to water intrusion, or the cost of repair or replacement of damaged items for which such Owner is responsible. The Association shall not be liable for damage to property in the Development resulting from water which may leak or flow from outside of any Separate Interest or from any part of the Building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, unless caused by the gross negligence of the Association, its Board, Officers, agents or employees.

6.11 **Owner Notification to Association.** If, at any time, an Owner discovers or otherwise becomes aware of any condition within the Common Area that may constitute a risk to the health, safety or welfare of the Owners, their family members, tenants, and

any other persons entering the Project, the Owner shall notify Association representatives of the condition as soon as possible.

## ARTICLE 7 - COMMON WALLS, FENCES AND ROOFS

7.1 **Party Walls.** Each wall and fence which is built as a part of the original construction of the Dwellings and placed on the dividing line between the Lots shall constitute a Party Wall (thus the term "Party Walls" refers to both shared walls and fences). To the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

7.2 **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall in equal proportion to such use.

7.3 **Destruction by Fire or Other Casualty.** If a Party Wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in equal proportion without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

7.4 **Weatherproofing.** Notwithstanding any other provisions of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his or her negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

7.5 **Party Wall Easements.** In all cases where a structural wall constituting a portion of a single Dwelling, or a structural wall or fence constituting a common wall or fence for two Dwellings, is located upon the dividing line between adjacent Lots, the Owner of said adjoining Lots shall have reciprocal mutual nonexclusive easements for the maintenance of said wall or fence, the reconstruction of said wall or fence in the event of the partial or total destruction of the same, drainage associated with said wall or the Dwelling of which said wall is a part, and an easement to accommodate the foundation and/or roof or eaves encroachment as depicted in the original design, plans and specifications which were the basis for the original construction of the Dwelling or Dwellings on said Lot or Lots. The Owner of a Lot having a structural wall or fence situated on the boundary line between his or her Lot and the adjoining Lot shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining Lot, and the Owner of the adjoining Lot upon which such a wall or fence is situated shall not attach

anything to the outside of said wall or fence without the consent and permission of the Owner of the adjoining Lot upon which the Dwelling of which said wall or fence is a part is situated.

7.6 **Rights of Contribution Are Appurtenant.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

7.7 **Dispute Resolution.** In the event of any dispute between Owners concerning a Party Wall or Fence, or sharing the cost of repair or replacement of any Party Wall or Fence, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Association's Board of Directors who shall be empowered to decide the dispute. The Board's decision on the matter shall be conclusive and binding on the parties.

## ARTICLE 8 - ARCHITECTURAL AND DESIGN CONTROL

8.1 **General.** Any change or improvement to the exterior of a Dwelling or a Lot shall be governed by this Article. Changes or improvements to the Common Area by the Association do not need to comply with the requirements of this Article. The powers and duties set forth in this Article shall be vested in, and exercised by, the Board. The Board may establish an architectural committee as provided herein to assist the Board in reviewing architectural submittals, and to provide recommendations to the Board with regard to approval or disapproval of any submittal. The foregoing notwithstanding, the Board shall be solely responsible for approving or rejecting any architectural submittal.

8.2 **General Modifications Requiring Prior Approval.** Nothing may be erected, placed or planted on the exterior of any Dwelling or Lot, or on the Common Area by any Owner, including any building, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, trellis, tree, grass, shrub or other landscaping, any improvement or structure of any kind without the prior written approval of the Board in accordance with this Article. Additionally, and except as provided in Section 8.3 below, prior written Board approval shall be required for any alteration, modification, painting or other change, addition or deletion to any existing improvement or landscaping.

8.3 **Architectural Changes Not Requiring Prior Approval.** Notwithstanding Section 8.2 above, no permission or approval shall be required to rebuild or replace in accordance with plans and specifications previously approved by the Board. Nothing contained herein shall be construed to limit the right of an Owner to paint the interior of his or her Dwelling any color desired, or to improve or alter any improvements within the interior of the Dwelling; provided such improvement or alteration does not impair or alter the Common Area, any utilities, or other systems servicing the Common Area or other Lots.

8.4 **Procedure for Obtaining Approval of Architectural Changes.** The procedure for obtaining approval of any architectural change shall be as follows:

- 8.4.1 Complete plans and specifications showing the nature, kind, shape, color, size, height, materials to be used and location of any proposed improvements, alterations or landscaping, as well as the proposed contractor and any other information as required by the Board, shall be prepared by the requesting Owner and submitted to the architectural committee. A duplicate request shall be submitted to the Board at the same time as the submittal to the architectural committee.
- 8.4.2 The architectural committee shall review the submission and provide a written recommendation as to approval or disapproval of any such submission, including the reasons for any decision, to the Board and the requesting Owner within thirty (30) days of receipt of such submission.
- 8.4.3 The Board shall review such recommendation within thirty (30) days of receipt of the architectural committee's written recommendation, or within sixty (60) days of receipt of the submission, whichever is earlier, and provide a written response to the requesting Owner, including reasons for such response.
- 8.4.4 In the event the Board fails to provide a written response to the requesting Owner within sixty (60) days of receipt of the request from the Owner, the Owner may notify the Board in writing that a response has not been received. If the Board fails to respond within 30 days of the receipt of the notice, approval will not be required and the related covenants shall be deemed to have been fully satisfied.
- 8.4.5 Once an Owner has obtained approval for an architectural submittal, work on such approved submittal shall promptly commence and shall be completed within the time limit set by the Board.

8.5 **Estoppel Certificate.** Within a reasonable time after written demand is delivered to the Board by any Owner, and upon payment to the Association of a reasonable fee, if any, the Board or Committee shall provide the Owner with an estoppel certificate certifying that as of the date thereof, either: (a) all improvements made and other work completed by said Owner complies with the Governing Documents, or (b) such improvements or work do not so comply, in which event the certificate shall also identify the non-complying improvements or work and set forth with particularity the basis of such non-compliance. Any purchase from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on said certificate with respect to the

matters therein set forth, such matters being conclusive as between the Association, the Owners and such persons deriving any interest through them.

8.6 **Architectural Rules.** The Board may, in its sole discretion, adopt, amend and repeal, as it deems necessary, rules and regulations to be known as "Architectural Rules." Said Architectural Rules shall interpret and implement the provisions of this Article by setting forth the standards for review by the Board and architectural committee and guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Project; provided, however, that said Architectural Rules shall not be in derogation of the standards required by this Restated Declaration. The Architectural Rules may also address the information which is required to be presented in connection with an architectural submittal.

8.7 **Standard of Architectural Review.** An architectural submittal made by an Owner shall be reviewed for conformity with the Architectural Rules. Additional factors to be considered include, but are not limited to, the quality of proposed workmanship, the design and harmony of the improvement with existing structures, the location of the improvement in relation to surrounding structures, topography, and finish grade elevation, Owner and contractor insurance coverage, compliance with governmental permit requirements and contractor license status.

8.8 **Architectural Committee.** The architectural committee shall consist of at least three (3) but not more than five (5) members, formed as follows:

- 8.8.1 The Board shall have the right to appoint all of the members of the committee.
- 8.8.2 Members appointed to the committee by the Board shall be Members of the Association.
- 8.8.3 Members shall be appointed for terms as prescribed by the Board. All members of the committee may be removed by the Board at any time with or without cause.
- 8.8.4 The committee shall meet as often as it deems necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.
- 8.8.5 The committee or the Board may consult with an outside professional at the applicant's expense if deemed necessary or appropriate in order to arrive at a recommendation or decision.
- 8.8.6 The vote or written consent of the majority of the committee shall be required for any recommendation.

8.9 **Compensation.** The members of the Board and architectural committee shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred by them in the performance of their duties hereunder.

Notwithstanding the above, the Board may hire an architect or other design professional to serve on the architectural committee or consult with the committee and Board and compensate the architect or design professional for services rendered to the Association.

8.10 **Liability.** Neither the Board, the architectural committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the neighborhood; or (d) the execution and filing of a certificate, pursuant to Section 8.5 above, whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him or her.

8.11 **Enforcement.** In addition to other enforcement remedies set forth in this Restated Declaration, the Board shall have enforcement rights with respect to any matters required to be submitted to and approved by it, and may enforce such architectural control by any proceeding at law or in equity in accordance with this Section.

- 8.11.1 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.
- 8.11.2 The Board 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 Board or if it does not conform to the plans and specifications submitted to the Board.
- 8.11.3 If the Owner fails to remedy any noticed noncompliance within the time specified by the Board, the Board shall set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The notice and hearing shall comply with the requirements of Section 3.14 of the Bylaws.
- 8.11.4 At the hearing, the Owner, a representative(s) of the architectural committee 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.

- 8.11.5 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.
- 8.11.6 If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board at its option, may pursue all legal and equitable remedies available to remedy or remove the noncomplying improvement 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 an individual assessment against such Owner.
- 8.11.7 The approval by the Board of any plans, drawings or specifications for any work of improvement done or proposed, or for any other matter requiring the approval of the Board under this Restated Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different location for improvements, the size of the structure, proximity to other Dwellings or the Common Area and other factors may be taken into consideration by the Board and committee in reviewing a particular submittal.
- 8.11.8 Notwithstanding any other provisions herein, the Board of Directors shall have the authority to obtain a restraining order or injunction at any time after discovery that work is proceeding without proper approval of the Board if the Board deems such action necessary to protect the Association's interests.

8.12 ***Non-Compliance with Laws.*** Neither the Association, the Board, nor the architectural committee shall be responsible for any non-compliance with any governmental law, rule or regulation of any building or other structure erected, constructed, installed, placed, altered or maintained in accordance with or pursuant to any plans and specifications approved by the Board or any defect in any conditions or requirements they may have imposed with respect thereto.

8.13 ***Governmental Approval.*** Prior to commencing any alteration or improvements approved by the Board, the Owner shall comply with all appropriate governmental laws and regulations. The Association shall not be obligated to enforce the provisions of this Section. Approval by the Board shall not be considered to satisfy the



appropriate approvals that may be required by any governmental entity with appropriate jurisdiction, nor shall the approval of any governmental entity be considered to satisfy the requirement of Board approval. An Owner's failure to obtain such governmental approval may subject such Owner to certain penalties imposed by the governmental entity, notwithstanding the approval of the Board, which penalties shall be the responsibility of such Owner.

## ARTICLE 9 - INSURANCE

9.1 **Fire and Casualty Insurance.** The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Common Area, and the residential buildings located on the Lots. Such insurance for the Lots shall be bare walls coverage as opposed to single entity. The amount of any deductible shall be determined by the Board. This insurance shall be maintained for the benefit of the Association, the Owners, and their Lenders, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Restated Declaration.

9.2 **General Liability Insurance.** The Association shall obtain and maintain a policy or policies insuring the Association, its officers, directors, agents and employees, the Owners, and the Owners' relatives, invitees, guests, employees, and their agents against any liability for bodily injury, death, and property damage arising from the activities of the Association and its Members, with respect to the Common Area and any Units owned by the Association. Limits of liability under the insurance shall not be less than Three (3) Million Dollars covering all claims for death, personal injury, and property damage arising out of a single occurrence.

9.3 **Directors and Officers Liability Insurance.** The Association shall obtain and maintain one or more policies of insurance which include coverage for individual liability of officers and directors of the Association for negligent acts or omissions of those persons acting in their capacity as officers and directors. Limits of liability under this insurance shall be determined by the Board at its sole discretion.

9.4 **Fidelity Coverage.** The Association may, in the discretion of the Board of Directors, purchase and maintain fidelity coverage for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services.

9.5 **Other Association Insurance.** The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association also may purchase and maintain a blanket policy of flood insurance, and demolition insurance in an amount that is sufficient to cover any demolition that occurs following the total or partial destruction of the Project and a decision not to rebuild. The Association may purchase such other insurance as the Board of Directors considers necessary or advisable, including earthquake insurance coverage.

9.6 **Review of Insurance; Notice of Cancellation or Modification.** The limits and coverage of insurance carried by the Association shall be reviewed at least annually by the Board and increased or decreased in its discretion. Such policies shall include a provision for at least ten (10) days' prior written notice to the Association.

9.7 **Qualifications of Insurance Carriers.** The Association shall use generally acceptable insurance carriers from which to purchase and maintain the coverage required herein.

9.8 **Failure to Acquire Insurance.** The Association, and its directors and officers, shall have no liability to any Owner or Lender if, after a good faith effort, it is unable to obtain any insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Lender entitled to notice that the specific insurance will not be obtained or renewed.

The Association, and its directors and officers, shall also have no liability to any Owner or Lender if it does not obtain any of the insurance referenced hereunder which is not required but may be obtained at the discretion of the Association. The Board may, in good faith in its sole discretion, determine that obtaining any of the discretionary insurance is unreasonable or unnecessary under the circumstances. In making a determination as to whether to acquire any such discretionary insurance, the Board may base its decision upon, among other things, a vote of the Owners.

9.9 **Trustee for Policies.** The Association, acting through its Board, is appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article 10 herein. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

9.10 **Insurance Premiums.** Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular or special assessments. That portion of the assessments necessary for the required insurance premiums shall be used solely for the payment of the premiums when due.

9.11 **Insurance Policy Deductibles.** The Board of Directors shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association

insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

- 9.11.1 If the damage or loss occurs to an item of personal property or other item for which an Owner is responsible, the Owner shall be responsible for the cost of any deductible.
- 9.11.2 If the damage or loss occurs to an item owned by the Association or for which the Association is responsible, the Association shall be responsible for the cost of any deductible.
- 9.11.3 If the damage or loss occurs to any Lot and the Common Area, or to more than one Lot, the responsibility for the payment of any deductible shall be apportioned among the affected parties on the basis of the ratio of each party's cost of repair to the total costs of repair.
- 9.11.4 The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, such Owner shall be liable for the cost of the deductible.

9.12 **Insurance Disclosures.** The Association shall disclose such information regarding insurance coverage as and when required by any applicable statute or law. Failure to disclose such information shall not impose any liability upon the Association or Board other than that provided for in such statute or law.

9.13 **Individual Property Insurance.** Each Owner shall insure his or her personal property, and all improvements, betterments and other property not insured by the Association's policy, against loss. In addition, any improvements made by an Owner shall be insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, and any institutional First Lender of such Unit. Except as provided in this Section, no Owner shall separately insure his or her Lot, against loss by fire or other casualty to the extent it is covered by the Association's insurance carried under Section 9.1. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 9.1 that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner will be liable to the Association to the extent of any diminution.

9.14 **Individual Liability Insurance.** An Owner shall carry whatever personal liability and property damage liability insurance with respect to his or her Lot that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable by the Board and to any First Lender.

9.15 **Damage to or Loss of Owner Property; Insurance; Limitation of Liability.** An Owner is responsible for obtaining and maintaining such insurance, at his or her sole expense, to protect against any damage to, or loss of property, and the cost of repair or replacement of damaged items, including, but not limited to, any personal property, decorations, floor and wall coverings, appliances, fixtures or other items therein, or any exterior items such as landscaping, which is caused by any Common Area component or any component maintained by the Association. The Association shall not be liable to any Owner or his or her tenants, guests or others, for damage to or loss of any such property, or the cost of repair or replacement of any damaged property or portions of such Owners' Lot, unless such damage is caused by the gross negligence of the Association, its Board, officers, agents or employees.

## ARTICLE 10 - DAMAGE OR DESTRUCTION

10.1 **Duty to Restore Lot.** If all or any portion of any Lot or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Lot to rebuild, repair or reconstruct the Dwelling and the Lot in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the Board. The Owner of any damaged Lot or Dwelling and the Board shall be obligated to proceed with all due diligence hereunder, and such Owner shall mitigate any danger presented by such damage or destruction and thereafter cause reconstruction to commence within three (3) months after the damage occurs and be completed within one year after damage occurs, unless prevented by causes beyond his or her reasonable control.

10.2 **Duty to Restore Common Area.** If all or any portion of the Common Area is damaged or destroyed, it must be repaired or replaced promptly by the Association unless:

- 10.2.1 The Project is terminated;
- 10.2.2 Repair or replacement would be illegal under a state statute or municipal ordinance; or
- 10.2.3 The damaged or destroyed portion of the Project is partitioned in accordance with Section 2.3, above.

10.3 **Cost of Repair.** Any cost of repair or replacement in excess of insurance proceeds and reserves shall be a common expense, levied against Lots as a special assessment.

10.4 **Repair Plans.** The Common Area must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved in writing by the Board and a majority of Owners.

Updates to conform to currently applicable building codes shall be deemed to be repairs and restoration in accordance with the original plans.

10.5 **Insurance Proceeds.** An insurance trustee appointed by the Board or insurance company, or if there is no trustee, then the Board, acting by the President, shall hold any insurance proceeds in trust for the Association, Owners and Lenders. Subject to the provisions of this Restated Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property. The Association, Owners and Lenders are not entitled to receive payment of any portion of the proceeds unless there is a surplus after the Common Areas have been completely repaired or restored, or unless the Project is terminated.

10.6 **Disbursements to Owners and Lenders.** Any insurance proceeds distributed to Owners and Lenders shall be distributed proportionately according to the fair market values of the Lots at the time of the destruction as determined by an independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Board and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

10.7 **Certificates By Board.** The trustee, if any, may rely on the following certifications in writing made by the Board:

- 10.7.1 Whether or not damaged or destroyed property is to be repaired or restored; and
- 10.7.2 The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

10.8 **Certificates by Attorneys or Title Insurance Companies.** If payments are to be made to Owners or Lenders, then the Board and the trustee, if any, shall obtain and may rely on a title insurance company's or attorney's title certificate or a title insurance policy based on a search of the Official Records of the County Recorder, stating the names of the Owners and the Lenders.

## ARTICLE 11 - EMINENT DOMAIN

11.1 **Association as Trustee for Owners.** If all or part of the Common Area is threatened to be, or 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 and Lenders according to the loss or damages to their respective interest in the Common Area. The Association, acting through the Board, 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.

11.2 **Condemnation of a Lot.** If all or any part of a Lot is taken by eminent domain, the award shall be disbursed to the Owner of the Lot subject to the rights of the Owner's Lenders. If the taking renders the Lot uninhabitable, the Owner shall be divested of any further interest in the Project, including membership in the Association, and the interest of the remaining Owners shall be adjusted accordingly.

## ARTICLE 12 - RIGHTS OF LENDERS

12.1 **General.** No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any First Lender 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.

## ARTICLE 13 - ENFORCEMENT

13.1 **Right to Enforce; Remedies.** The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the Governing Documents. Each Owner of a Lot shall have a right of action against the Association or any Owner for failure to comply with the provisions of the Governing Documents. The remedies provided for herein are to be considered cumulative and the use of one remedy shall not preclude the use of any other.

13.2 **Nuisance.** The result of every act or omission, whereby any provision, condition, restriction, covenants, easement, or reservation contained in the Governing Documents is violated in whole or in part, is declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner and/or the Association. Each remedy provided herein shall be cumulative and not exclusive.

13.3 **Failure to Enforce.** Failure by the Association or any Owner to enforce any provisions of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

13.4 **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Lot within the Project is declared to be a violation of this Restated Declaration and subject to any or all of the enforcement procedures herein set forth.

13.5 **Compliance with Statute.** All activities to enforce the provisions of the governing documents shall be conducted in accordance with all applicable laws, statutes and ordinances. This Section shall apply to both the Association and to all Owners.

## ARTICLE 14 - AMENDMENTS

14.1 **Owner Approval of Amendments.** This Restated Declaration may be amended by the vote or written consent of Owners representing not less than fifty-one percent (51%) of the voting power of the Association. Notwithstanding any contrary provision in this Section, the percentage of the voting power necessary to amend a specific clause or provision of this Restated Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision.

An amendment becomes effective after (a) the approval of the required percentage of Owners has been given, (b) that fact has been certified in the form of a written document executed and acknowledged by an officer designated by the Association for that purpose or, if no such designation is made, by the President of the Association and (c) the document has been recorded in San Diego County.

14.2 **Amendment of Restated Declaration or Bylaws by Board Vote.** The Board of Directors shall have the power to amend this Restated Declaration or the Bylaws, as the case may be, but only as this Section permits. By a majority vote of the full Board, the Board shall have the power to prepare and, in the case of the Restated Declaration, to record an amendment for the following purposes:

- 14.2.1 To correct any printing or grammatical error or omission in this Restated Declaration or Bylaws.
- 14.2.2 To make any change in the Restated Declaration or Bylaws required by a change in any applicable law, which obligates the Association, the Board or the Owners to conform their conduct with the terms of the law.
- 14.2.3 To make any change in the Restated Declaration or Bylaws needed to comply with any requirements of an Institutional Lender.
- 14.2.4 If the Board approves an amendment using the procedure in this subsection 14.4.2 or 14.4.3, the amendment shall not be recorded or filed until the following procedure is implemented. The Board shall first send notice of such action to the Owners, which notice shall include the text of the proposed amendment and an opinion from legal counsel that the proposed change in the Governing Documents is either required by law or by an Institutional Lender. An amendment shall be considered ratified, unless within thirty (30) days after the date such notice is sent to the Owners, the

Owners entitled to cast twenty percent (20%) of the votes in the Association, sign a written petition to reconsider the Board's action and file it with the Board. If such a petition is filed, the Board shall call a special meeting of the Members to reconsider the Board's action. At the meeting, unless a majority of the total voting power of the Association rejects the proposed amendment, the amendment shall be considered ratified, whether or not a quorum is present at the special meeting.

This section shall not restrict the powers of the Owners to amend this Restated Declaration or the Bylaws by any other method, but is intended to authorize a simple process for amendment where the property rights of Owners are not materially or adversely affected.

14.3 **Statute of Limitations to Challenge Amendments.** No action to challenge the terms or validity of any amendment to this Restated Declaration or to the Bylaws may be made more than one (1) year after the recording date in the case of an amendment to the Restated Declaration, or more than one (1) year after the official tally of the vote in the case of an amendment to the Bylaws.

## ARTICLE 15 - GENERAL PROVISIONS

15.1 **Term.** The provisions of this Restated Declaration shall continue in effect for a term of fifty (50) years from the date of execution. Thereafter, it shall be automatically extended for successive periods of ten (10) years, until the membership of the Association decides to terminate it.

15.2 **Nonwaiver of Remedies.** Each remedy provided for in this Restated Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

15.3 **Severability.** The provisions of this Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision. If for any reason this Restated Declaration is declared completely invalid in its entirety, the Original Declaration shall be deemed to have survived and thereafter become effective without any further action.

15.4 **Binding.** This Restated Declaration, as well as any amendment thereto and any valid action or directive made pursuant to it, shall be binding on the Owners and their heirs, grantees, tenants, successors, and assigns.

15.5 **Interpretation.** The provisions of this Restated Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a common interest development. Failure to enforce any



provision of this Restated Declaration shall not constitute a waiver of the right to enforce that provision or any other provision of this Restated Declaration.

15.6 **Limitation of Liability.** The liability of any Owner for performance of any of the provisions of this Restated Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Lot but only with respect to obligations arising from and after the date of the divestment.

15.7 **Fair Housing.** Neither Association nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Lot to any person on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, age, marital status, physical handicap or any other classification prohibited by law.

15.8 **Number and Headings.** As used in this Restated Declaration, the singular shall include the plural, unless the context requires the contrary. The headings are not a part of this Restated Declaration, and shall not affect the interpretation of any provision.

15.9 **Attorneys' Fees.** In the event an attorney is engaged by the Board to enforce the Governing Documents, the Association shall be entitled to recover from the adverse party to the controversy its attorneys' fees and costs so incurred, whether or not such controversy proceeds to litigation. In the event litigation is commenced to enforce the Governing Documents, the prevailing party shall be entitled to its attorneys' fees and costs. Said costs and attorneys' fees shall constitute a lien on the Lot which is enforceable pursuant to Article 4 herein. This Section shall also apply to attorneys' fees incurred to collect any post-judgment costs.

15.10 **Variances.** The Board may authorize variances from compliance with any of the architectural or use provisions of this Restated Declaration as follows:

15.10.1 Variances may be granted, without limitation, to restrictions upon use contained in Article 5, restrictions on repair and maintenance in Article 6, and architectural restrictions in Article 8, when circumstances such as topography, location, engineering, economy, hardship, aesthetic or environmental considerations warrant.

15.10.2 Variances shall be in writing and shall become effective upon final approval by the Board or an authorized committee.

15.10.3 When a variance is granted, no violation of the Restated Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the terms and provisions of this Restated Declaration for any purpose except as to the particular property and particular provision covered by

the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the premises, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by the City of Corona, the County of Riverside, or any other governmental authority.

- 15.10.4 The Association may charge a reasonable fee to cover any costs associated with the variance approval process, or for issuance of a variance.
- 15.10.5 The Board may enact additional rules and regulations regarding the variance approval process, the circumstances under which a variance may be granted, and may require the execution of indemnity or other agreements by the Owner as a condition to issuance of a variance.

**15.11 *Governing Document Priorities.*** In the event of a conflict between the Governing Documents, or any provision thereof, the following documents shall take precedence in the order given: (1) the Articles, (2) this Restated Declaration, (3) the Bylaws, and (4) the Rules and Regulations.

**15.12 *Conflict with Statutes.*** Provided any federal, state or local statute, law or ordinance is inconsistent with any provision or provisions of the Governing Documents, and compliance with that statute, law or ordinance is mandatory, neither the Association, the Board nor any member thereof shall have any liability for complying with the federal, state or local statute, law or ordinance and not with the inconsistent provision or provisions of the Governing Documents.

**15.13 *References to Code Sections.*** In the event any of the statutes or laws referenced herein are amended, modified, or otherwise changed, the references herein shall be deemed to refer to the statutes or laws as amended, modified or otherwise changed. If a statute or law is deleted, any reference herein shall be deemed to refer to any successor statute or law.

IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Declaration of Restrictions this 8<sup>th</sup> day of June, 2003 ~~2004~~.

DECLARANT:

VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC.  
a California nonprofit corporation

By: [Signature]  
President

By: [Signature]  
Secretary

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )  
~~SAN DIEGO~~

On June 8, 2004 before me, Candice Wescott, Notary Public, personally appeared Christopher ~~and~~ MARSACK and Christine Genthe

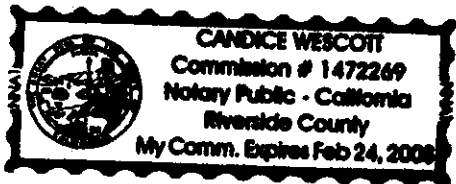
personally known to me

- OR -

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.

WITNESS my hand and official seal.



[Signature]  
Notary Public

## EXHIBIT "A" - PROJECT LEGAL DESCRIPTION

1. Lots 1 through 49, inclusive, of Tract No. 4170 per Map recorded in Book 68, pages 42 to 44, inclusive, Subdivision Maps, Records of Riverside County, California, on May 23, 1971.
  
2. Lots 1 through 56, inclusive, of Tract No. 4171 per Map recorded in Book 73, pages 66 to 68, inclusive, Subdivision Maps, Records of Riverside County, California, on September 21, 1972.
  
3. Lots 1 through 56, inclusive, of Tract No. 4172 per Map recorded in Book 73, pages 69 to 71, inclusive, Subdivision Maps, Records of Riverside County, California, on September 21, 1972.

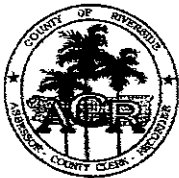
### EXHIBIT "B" - MAINTENANCE LIST

The following is a listing of the items within the Development, the maintenance, repair and replacement duty for which Owners and the Association are responsible in accordance with Article 6 of the Restated Declaration.

COMPONENT(S)	OWNER	ASSOC
Air Conditioning System - Residence	X	
Appliances - Built-in	X	
Appliances - Free Standing	X	
Bathtub Waste and Overflow	X	
Bearing Walls, Non-bearing Walls, Studs, Frames, Tie-Downs, other structural items	X	
Carpeting - in Residence	X	
Caulking - Exterior		X
Caulking - Interior	X	
Common Area Improvements		X
Crawl Spaces in Attic (including personal contents)	X	
Doorbell - Interior and Exterior Components	X	
Doors - Entry - Frame, Door & Hardware	X	
Doors - Entry - Painting - Exterior Surface		X
Doors - Entry - Painting - Interior Surface	X	
Doors - Entry - Weather Stripping/Waterproofing	X	
Doors - Interior	X	
Doors, Sliding Glass - Hardware, Frame & Screen	X	
Drainage System - Common Area		X
Drainage Systems - Yard	X	
Drains - Bathtubs, Showers, Sinks	X	
Drains - Curb		X
Drains - Yards	X	
Driveways and Alleys		X
Dryer Vents - Cleaning and Repair	X	
Drywall - Damage Repairs (e.g. cracks, inside minor localized water damage, dents, holes, etc.)	X	
Drywall - Interior - Replace	X	
Electrical Panel/Circuit Breakers/Interior	X	
Electrical Switches, Sockets, Wall Plates - Interior	X	

COMPONENT(S)	OWNER	ASSOC
Electrical Wiring - Interior	X	
Exhaust Fans	X	
Exterior Building Surfaces		X
Exterior Faucets, Handles, Washers	X	
Exterior Lighting Fixtures (Common Area)		X
Fences - Common Area		X
Fences - Individual	X	
Fireplace - Chimney and all Components, Including Cleaning	X	
Floor Coverings - Carpet, Vinyl and Tile	X	
Furnace - Residence	X	
Garage Door Openers	X	
Garage Doors - Replacement	X	
Garbage Disposal	X	
Gas Lines - Below Ground	X	
Glass - Common Area		X
Glass - Residence Windows & Doors	X	
Gutters & Downspouts	X	
Hose Bibs	X	
Insulation	X	
Landscaping - Common Area		X
Landscaping - Patios	X	
Lighting Fixtures - Common Areas		X
Lighting Fixtures - Inside Units	X	
Lighting Fixtures - Outside - Front and Patio	X	
Painting - Interior	X	
Patio Including Owner Improvements	X	
Plumbing Fixtures - Interior (Toilets/Tubs/Sinks/Faucets, etc.)	X	
Plumbing Lines - Common Area		X
Plumbing Lines - Inside Dwelling, or Located within floors, behind or within walls or ceilings, and outside to the Lot Line	X	
Pool, Pool Building, Equipment		X
Pressure Regulators (Water )	X	
Railings and Planter Boxes	X	

COMPONENT(S)	OWNER	ASSOC
Roof Decking		X
Roof Flashing & Other Roofing Components		X
Roof Shingles/Tiles		X
Roof Underlayment		X
Roof Vents and Fans		X
Sewer Backups	X	
Sewer Lines - Common Use		X
Sewer Lines - Single Use	X	
Sidewalks - Common Areas		X
Slab - Residence	X	
Spraying for Household Pests (Ants, Fleas, etc.)	X	
Stucco Painting/Coloring		X
Stucco Repair & Replacement		X
Toilet - Wax Ring	X	
Trim - Wood - Exterior - Maintenance & Replacement		X
Trim - Wood - Exterior - Painting		X
Wallpaper/Paneling	X	
Water Heater - Common Area		X
Water Heater - Residence	X	
Window Flashing/Waterproofing	X	
Window Frames	X	
Window Hardware	X	
Wiring - Cable TV	X	
Wiring - Electrical - From Breaker to Interior	X	
Wiring - Electrical - From Outside To Breaker in Unit	X	
Wiring - Telephone	X	



GARY L. ORSO  
COUNTY OF RIVERSIDE  
ASSESSOR-COUNTY CLERK-RECORDER

Recorder  
P.O. Box 751  
Riverside, CA 92502-0751  
(909) 486-7000

<http://riverside.asrclkrec.com>

## NOTARY CLARITY

Under the provisions of Government Code 27361.7, I certify under the penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary: CANDICE WESCOTT

Commission #: 1472269

Place of Execution: RIVERSIDE

Date Commission Expires: FEB 24 2006

Date: 6-23-04

Signature: [Handwritten Signature]

Print Name: \_\_\_\_\_





Recording Requested By:  
THE VILLAGE GROVE TOWN HOUSE  
ASSOCIATION, INC.

When Recorded Mail To:  
James F. Danow, Esq.  
EPSTEN GRINNELL & HOWELL, APC  
9980 Carroll Canyon Rd, 2<sup>ND</sup> Floor  
San Diego, CA 92101

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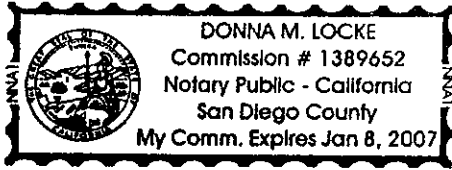
ADDENDUM TO  
2003 AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR  
THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC.

This Addendum certifies the approval and enactment of the 2003 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS ("AMENDED DECLARATION") made by THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC. ("ASSOCIATION") as Declarant.

1. The AMENDED DECLARATION amends the original Declaration of Covenants, Conditions and Restrictions recorded July 27, 1971, as Document No. 71-83537 in the Official Records of the County Recorder of Riverside County.
2. The property to which the AMENDED DECLARATION and this Addendum apply is identified in Exhibit A attached to this Addendum.
3. The ASSOCIATION had originally sought to adopt the AMENDED DECLARATION pursuant to the requirements of Article XI, Section 5 of the original Declaration which, inter alia, requires approval by seventy-five percent (75%) of the members of the ASSOCIATION. The ASSOCIATION obtained the approval of more than one half, but less than seventy-five percent (75%) of the membership.
4. On February 13, 2004, the ASSOCIATION filed a Petition pursuant to the authority of California Civil Code Section 1356. The Petition was filed in the Superior Court of the State of California, County of Riverside, as case number RIC407591. The Petition sought a court order approving the AMENDED DECLARATION by virtue of the approval of members actually obtained, as permitted by Civil Code Section 1356. At a hearing held April 16, 2004, the Court granted the Petition, approved the AMENDED DECLARATION, and authorized its recordation. A copy of the Court's order is attached to this Addendum as Exhibit B.
5. The attorney for THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC., Epsten, Grinnell & Howell, APC, has been authorized by the Association to attest to, and does hereby attest to the foregoing facts, and has been authorized to execute,

acknowledge, and record this ADDENDUM TO 2003 AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS.

Executed this 17 day of June 2004, at San Diego, California.



ATTY. FOR THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC.  
EPSTEIN GRINNELL & HOWELL, APC

By:

James F. Danow

STATE OF CALIFORNIA )  
COUNTY OF San Diego ) ss.

On June 17, 2004, before me, <sup>Donna M. Locke</sup> the undersigned Notary Public in and for said County and State, personally appeared James F. Danow, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is subscribed in the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Donna M. Locke  
Notary Public

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**FILED**  
SUPERIOR/MUNICIPAL COURT  
OF RIVERSIDE COUNTY

APR 16 2004

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE**

In Re THE VILLAGE GROVE TOWN  
HOUSE ASSOCIATION, INC., a  
California Non-Profit Mutual Benefit  
Corporation,

Petitioner.

) CASE NO. RIC 407591

) **ORDER GRANTING PETITION FOR  
ORDER REDUCING PERCENTAGE OF  
VOTES NECESSARY TO AMEND  
DECLARATION OF COMMON  
INTEREST DEVELOPMENT (CIVIL  
CODE SECTION 1356)**

) **DATE: April 16, 2004  
TIME: 8:30 a.m.  
DEPT: 11  
JUDGE: Richard T. Fields**

The Petition of THE VILLAGE GROVE TOWN HOUSE ASSOCIATION, INC. for Order Reducing Percentage of Votes Necessary to Amend Declaration of Common Interest Development under Civil Code §1356 came on regularly for hearing on April 16, 2004, in Department 11 of the above-titled Court at 8:30 am. Petitioner appeared by and through its counsel, Linda L. Adams of Epsten Grinnell & Howell, APC. No appearances were made in opposition to the Petition.

1           Having considered the petition, the declarations filed in support of the petition, the  
2 records on file in this case, and the oral and documentary evidence produced at the  
3 hearing, the Court finds:

4           1.     The allegations contained in petitioner's Petition for Order Reducing  
5 Percentage of Votes Necessary to Amend Declaration are true and accurate.

6           2.     Petitioner provided at least 15 days' written notice of the hearing to all  
7 association members and to all others entitled to such notice.

8           3.     The balloting on the proposed 2003 Amended and Restated Declaration  
9 was conducted in accordance with all applicable provisions of the governing documents.

10          4.     Petitioner made a reasonably diligent effort to permit all eligible members to  
11 vote on the 2003 Amended and Restated Declaration.

12          5.     Owners with more than 50 percent of the votes voted in favor of approving  
13 the 2003 Amended and Restated Declaration.

14          6.     Of petitioner's total membership of 170 members, 109 ballots were cast,  
15 comprising 64.1 percent of petitioner's total membership. Ninety (90) members voted in  
16 favor of adopting the 2003 Amended and Restated Declaration, while four members  
17 voted in opposition. A total of 86 affirmative votes were required to satisfy the majority  
18 approval requirement of Civil Code §1356.

19          7.     Petitioner's 2003 Amended and Restated Declaration is reasonable.

20          8.     The granting of the petition is not improper for any reason stated in Civil  
21 Code §1356(e).

22         Wherefore, good cause appearing,

23         IT IS ORDERED that:

24           1.     Petitioner's Petition for Order Reducing Percentage of Votes Necessary to  
25 Amend Declaration of Common Interest Development is granted.

26           2.     The 2003 Amended and Restated Declaration shall be effective when  
27 recorded in the Official Records of Riverside County, together with a copy of this order.  
28         Within 60 days after its recordation, petitioner shall mail a copy of the 2003 Amended

1 and Restated Declaration to each member of the Association, together with a statement  
2 that the 2003 First Amended and Restated Declaration shall have the same force and  
3 effect as if it had been adopted in compliance with every requirement for amendments  
4 imposed by the governing documents of THE VILLAGE GROVE TOWN HOUSE  
5 ASSOCIATION, INC.

6  
7 Dated: \_\_\_\_\_



**RICHARD T. FIELDS**

JUDGE OF THE SUPERIOR COURT  
RICHARD T. FIELDS

## EXHIBIT "A" - PROJECT LEGAL DESCRIPTION

1. Lots 1 through 49, inclusive, of Tract No. 4170 per Map recorded in Book 68, pages 42 to 44, inclusive, Subdivision Maps, Records of Riverside County, California, on May 23, 1971.
2. Lots 1 through 56, inclusive, of Tract No. 4171 per Map recorded in Book 73, pages 66 to 68, inclusive, Subdivision Maps, Records of Riverside County, California, on September 21, 1972.
3. Lots 1 through 56, inclusive, of Tract No. 4172 per Map recorded in Book 73, pages 69 to 71, inclusive, Subdivision Maps, Records of Riverside County, California, on September 21, 1972.