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FIRST RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

BEL AIR RIDGE
HOMEOWNERS ASSOCIATION
a non-profit mutual benefit corporation

Seventh Draft: 09/13/11

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

BEL AIR RIDGE HOMEOWNERS ASSOCIATION
a non-profit, mutual benefit corporation

This Restated Declaration of Covenants, Conditions and Restrictions (“Declaration”) is made as of _____, 2011 by the Bel Air Ridge Homeowners Association (“Association”) and all Members of the Association.

PREAMBLE

A. The Association is comprised of all persons who own Townhouses or Detached Dwellings at that certain common interest development (“Development”) located in the City of Los Angeles, County of Los Angeles, State of California known as Bel Air Ridge, more particularly described in Exhibit 1.

B. The Association intends by this Declaration to revoke all instruments which are referenced in Exhibit 2, as well as all amendments thereto, and to substitute in their place this Declaration.

C. The Association is a California nonprofit mutual benefit corporation formed to manage a common interest development within the meaning of Section 1351(a) of the Civil Code.

D. This Declaration is intended to:

- (i) Be for the benefit and protection of the Development and each Unit;
- (ii) Be for the benefit of all Owners;
- (iii) Run with the land and be binding upon all parties having or acquiring any right, title or interest in any Unit or in the Development; and
- (v) Run with the land and be binding upon any resident, occupant, invitee, tenant, guest, or other person entering the Development at any time for any reason.

NOW, THEREFORE, the Association and the Owners hereby adopt the following covenants, conditions and restrictions.

ARTICLE 1
DEFINITIONS

1.1 “**Articles**” shall mean the Articles of Incorporation of the Association as amended from time to time.

1.2 “**Assessment**” shall mean any charge levied against a Unit in accordance with this Declaration and as permitted in Section 1366 of the Civil Code.

1.3 “**Association**” shall mean the Bel Air Ridge Homeowners Association, a nonprofit mutual benefit corporation, formerly known as the Glenridge Homeowners Association and prior thereto the Beverly Glen Village Condominium Association.

1.4 “**Beverly Glen Crest**” shall mean that community of residential homes and lots with restricted rights as indicated below described as Lots 2 through 16, inclusive, of Tract No. 26083, as per Map recorded August 12, 1966 in Book 758, Pages 34 and 35 of Maps, in the Office of the County Recorder of Los Angeles County, California.

1.5 “**Board**” and “**Board of Directors**” shall mean the Board of Directors of the Association whose members are duly elected by the Owners except as provided in this Declaration.

1.6 “**Bylaws**” shall mean the Restated Bylaws of the Association as amended from time to time.

1.7 “**Common Area**” shall mean the entire Development except for the Units and Exclusive Use Common Areas, including without limitation the Recreational Facilities, the unassigned parking spaces, and Landscaped Areas.

1.8 “**Common Area Lot**” shall mean the separate parcels of real property shown as separate lots on the Final Subdivision Tract Maps (“Tract Maps”) for the Development. The Tract Maps were recorded in the Office of the Los Angeles County Recorder and consist of Tract Nos. 32228, 32229, and 31315.

1.9 “**Common Expenses**” shall mean all costs, expenses and charges incurred by the Association in maintaining, repairing and replacing the Common Areas and managing and operating the Association itself, as estimated from time to time by the Board of Directors, including Reserves for long-term maintenance, repairs and replacements.

1.10 “**Condominium**” shall mean a condominium as defined in Sections 783 and 1351(f) of the California Civil Code, located within the Development, consisting of (i) a separate fee estate in a Unit, (ii) an undivided interest in that Common Area situated within the Common Area Lot on which the Unit is located, and (iii) membership in the Association.

1.11 “**Condominium Plan**” shall mean the Condominium Plan recorded for the Association by the developer of the Development attached hereto as Exhibit 3.

1.12 “**Declaration**” shall mean this Restated Declaration of Covenants, Conditions and Restrictions as it may be amended or restated from time to time.

1.13 “Department” shall mean the Department of Water and Power of the City of Los Angeles.

1.14 “Department Property” shall mean that real property owned by the Department of Water and Power in the City of Los Angeles, located adjacent to the Development, as depicted in the Agreement to Permit Grading on Department Property, dated January 17, 1974, by and between the Department of Water and Power of the City of Los Angeles and BGP Corporation, which is attached as Exhibit “2” to that certain Notice to Owners and Purchasers of Condominium Units at Beverly Glen Village by Beverly Glen Village Condominium Association and BGP Corporation, recorded on July 26, 1976, as Instrument No. 18, in the Official Records of Los Angeles County, California (hereinafter referred to as the “DWP Agreement”). The DWP Agreement is attached hereto as Exhibit 4 and incorporated herein by reference.

1.15 “Detached Dwelling” shall refer to a detached single-family home constituting one Unit and sharing no common structural elements with any other building containing Units.

1.16 “Development” shall mean the entire common interest development commonly known as Bel Air Ridge, which falls within the definition of a “project” in Section 1351(f) of the Civil Code.

1.17 “DWP Agreement” shall mean that certain Agreement to Permit Grading on Department Property, dated January 17, 1974, by and between the Department of Water and Power of the City of Los Angeles and BGP Corporation, which is attached as Exhibit “2” to that certain Notice to Owners and Purchasers of Condominium Units at Beverly Glen Village by Beverly Glen Village Condominium Association and BGP Corporation, recorded on July 26, 1976, as Instrument No. 18, in the Official Records of Los Angeles County, California.

1.18 “Exclusive Use Common Area” shall mean that portion of the Common Area reserved for the exclusive use of one Owner as generally defined in Section 1351(i) of the Civil Code. Without limitation, the following shall constitute the Exclusive Use Common Area of an Owner: (i) the Yard areas adjacent to and surrounding each Unit, including the landscape, hardscape, and all drains and portions of pipe located within or underneath the Yard which service or otherwise help drain water from that Yard, (ii) gates and fences that enclose the Yard areas, (iii) a proportionate share of common rear Yard gates and party walls between Townhouses, (iv) driveways, (v) common driveways that serve two or more Units, (vi) parking spaces, (vii) the structural elements of a Detached Dwelling or Townhouse, (viii) the roofs and attic areas of any Detached Dwelling or Townhouse, (ix) patios and balconies adjacent to each Unit including all elements thereof, (x) mailboxes, (xi) exterior walls, doorsteps, stoops, entry or porches, exterior doors, door frames and hardware, screens and windows, and (xii) all other fixtures and improvements adjacent to the Unit designed to serve that Unit only.

1.19 “Governing Documents” shall mean those documents identified in Section 1351(j) of the Civil Code, as they may be amended from time to time.

1.20 “Guest” shall mean any person who enters the Development at any time at the request or for the benefit of a Resident but who does not reside in the Development. A “Guest” shall include collectively a Resident’s invitees, social guests, contractors, employees, and service providers such as gardeners, pool cleaners, and the like.

1.21 “Improvements” shall mean all buildings, structures, landscaping, slopes and other physical components now or hereafter constructed in the Development but shall not include the interior of a Unit or the fixtures, walls, or contents therein.

1.22 “Landscaped Areas” shall mean that portion of the Common Area on which grass, shrubs, flowers, ground cover, and trees currently exist or are planted in the future.

1.23 “Manager” shall mean any Person appointed or employed by the Association to oversee the operation, maintenance and management of the Development.

1.24 “Member” shall mean an Owner who by reason of his record title ownership of a Condominium holds a membership in the Association.

1.25 “Mortgage” shall mean any mortgage, deed of trust or other security device encumbering all or any portion of the Development or any Condominium located therein.

1.26 “Owner” shall mean the person, firm, corporation or other legal entity in which title to a Townhouse or Detached Dwelling is vested as shown by the Official Records of the Office of the Los Angeles County Recorder, but excluding those having such an interest merely as security for the performance of an obligation.

1.27 “Person” shall mean a natural person, trust, corporation, partnership, or other entity and shall include (except where the context otherwise requires) an Owner.

1.28 “Personal Property” shall mean all tangible and intangible personal property owned, held or controlled by the Association.

1.29 “Recreational Facilities” shall mean those portions of the Common Area now or hereafter designed to be utilized primarily by Owners, Residents, their families, tenants and Guests for recreation, sports, games, hobbies, social gatherings, and similar activities. The Recreational Facilities shall include, but not be limited to, all tennis courts, racquetball court(s), swimming pools, spa, gyms, meeting rooms, clubhouses, and parks located in the Common Area.

1.30 “Regular Assessment” shall mean an annual Assessment, payable by the Owners in monthly installments, made and levied by the Association each year under Section 1366(a) of the Civil Code against the Owners and their Condominiums as described in this Declaration to pay for the Common Expenses.

1.31 “Reserves” or “Reserve Accounts” shall mean those monies set aside in a separate account for the purpose of repairing, replacing, restoring, or maintaining the major components of the Development in accordance with the provisions of this Declaration.

1.32 “Resident” shall mean any person residing in a Unit other than the record title Owner of the Unit including tenants, occupants, and family members living in the Unit.

1.33 “Rules” shall mean the rules and regulations, including architectural and landscaping guidelines, adopted and amended from time to time in accordance with Sections 1357.100, *et seq.* of the Civil Code.

1.34 “Special Assessment” shall mean all Assessments levied against the Members collectively for the Association to raise money for purposes to meet the Common Expenses, as specified in Section 1366(a) of the Civil Code. In addition, the term shall refer to a fine or charge against an Owner as a result of his or her noncompliance with the Governing Documents or to reimburse the Association for an expense it incurred due to the acts or omissions of an Owner.

1.35 “Townhouse” shall mean a portion of a residential building containing one Unit, which shares siding with one or more Units located in the same building. A Townhouse shall be comprised of a Unit and Garage.

1.36 “Unit” shall include all elements of a Townhouse and Detached Dwelling which are not owned in common with other Owners. There are 377 Units in the Development, including 237 Townhouses and 140 Detached Dwellings. The boundaries of each Unit shall be as reflected in the Condominium Plan (Exhibit 3).

1.37 “Watershed Area” shall mean that portion of the Property consisting of approximately twenty (20) acres, as more particularly described in the DWP Agreement and the exhibits thereto, which are attached to this Restated Declaration as Exhibit 4.

1.38 “Yard” shall refer to the front, side and rear yards adjoining each Unit, as shown on the Condominium Plan for the Development, which is reserved for the exclusive use of the Owner of that Unit and is part of that Owner’s Exclusive Use Common Area. Except as otherwise expressly described below, a Yard shall be deemed to include all components of these areas including all concrete, brick, tile, wooden decking, grass, dirt or other flooring, all block walls, fences and other structures which enclose or partly enclose a Yard, and all Improvements of any kind or nature contained within the enclosed or partly enclosed Yards.

1.39 Definition of Other Terms. Unless the context clearly requires otherwise, all other terms used in the Governing Documents are intended to be defined as set forth in Section 1351 of the Civil Code.

ARTICLE 2
OWNERSHIP RIGHTS AND LIMITATIONS

Each Owner, by virtue of his or her membership in the Association, shall be entitled to certain rights and benefits described below in this Article 2. The rights and benefits are subject to limitations, however, as listed in Section 2.10 and elsewhere in the Governing Documents.

2.1 Right to Membership in Association. All Owners shall automatically be deemed Members of the Association and shall be entitled to the rights and benefits of membership subject to the limitations contained in the Governing Documents.

2.2 Right of Ownership. Each Member shall have the following ownership interests in the Development: (i) fee title interest in a Unit, (ii) the right to exclusive use of his or her Exclusive Use Common Area, and (iii) an equal, undivided, fractional interest, as tenant-in-common, in the Common Area situated within the Common Area Lot on which his or her Detached Dwelling or Townhouse is situated as reflected in Exhibit 5.

2.3 Right of Access. When an Owner has an actual, bonafide need to maintain, repair or replace his or her Unit or Exclusive Use Common Area, in order to access such area when there is no other reasonable alternative, he or she shall have a nonexclusive easement over all portions of the Common Area, Exclusive Use Common Area, and Common Area Lots. If such access is required the Owner shall do the following:

- (a) **Notice.** Notice shall be given in writing by the Owner to the relevant party whose property is to be accessed (the Association or the neighbor) at least 48 hours before the property is entered, except in the case of an emergency or in the case of gardeners performing regular gardening or maintenance services;
- (b) **Indemnification.** The Owner shall indemnify, defend and hold harmless the relevant party whose property is to be accessed (the Association or the neighbor) from all damage, injury, expense, liability, attorneys' fees and costs arising from or related to the exercise of the right of entry under this Section 2.3.

2.4 Structural Support. Each Owner shall have a nonexclusive easement for ingress, egress, and support over, across and through the Common Area and Common Area Lots for the structural support of his or her Unit.

2.5 Right to Vote. Each Owner shall have the right to vote in all Association elections as provided in this Declaration and the Bylaws.

2.6 Right to Inspect Records. Members shall have the right to inspect records of the Association as provided in Section 1365.2 of the Civil Code and the Bylaws.

2.7 Right to Use. Except as expressly provided elsewhere in the Governing Documents, each Owner is entitled to the exclusive use of his or her Unit and Exclusive Use Common Area.

2.8 Utility Rights. Each Owner shall be deemed to own that portion of all surface drains, underground drain lines, pipes, wires, conduits, and public utility lines for sewer, storm drains, water, electricity, gas, telephone, television cables, and air conditioning, which run through or below his or her Unit or Exclusive Use Common Area and are utilized for that Owner's Unit. To the extent such elements are not maintained or repaired by a governmental agency, utility company, or cable company, it shall be the duty of the Owner to maintain, repair and replace such components wherever located and Owner shall have a nonexclusive easement over all areas of the Development for the purpose of meeting this duty. If a segment of pipe, wire, or line serves more than one Unit, then the Owners whose Units are serviced thereby shall jointly be responsible for the maintenance, repair or replacement of the element.

2.9 Encroachment. As of the date this Declaration is adopted, if any part of a Unit or Improvement encroaches upon the Common Area, by inadvertence and without intent of the Owner or his or her predecessors, a valid easement exists for the encroachment and for the maintenance of same so long as there is no serious threat of injury or damage to other Owners or the Association. Likewise, if any part of the Common Area encroaches or hereafter encroaches upon any Unit or Exclusive Use Common Area, a valid easement exists in the Association's favor for the maintenance of same. As for any encroachment which first occurs after the date this Declaration is adopted, Owners are responsible for all of his or her encroachments and can be made to remove them.

2.10 Limitations. The rights described above in this Article 2 and elsewhere in the Governing Documents are subject to the following limitations:

- a. ***Suspension of Rights.*** An Owner's right to vote, utilize the Common Areas (other than for ingress and egress), and utilize Common Area Lots including the Recreational Facilities, and the right to receive all nonessential services from the Association, may be suspended under the circumstances and according to the procedures described elsewhere in the Governing Documents;
- b. ***No Separation of Interests.*** An Owner's interest in a Unit, Exclusive Use Common Area, and Common Area, as well as his or her easements and membership in the Association, shall not be separated or separately conveyed. Any such attempt to do so shall be void. Any conveyance of a Unit shall be deemed to automatically include fee title to the Unit, an interest in the Common Area Lot on which the Unit is situated, membership in the Association, and the easements specified in this Declaration, whether mentioned or omitted in the deed. For purposes of this subsection the granting of a recorded life estate shall also be deemed to convey all of the foregoing membership rights and property interests exclusively to the grantee during the term of his or her life;
- c. ***Prohibition Against Partition.*** There shall be no judicial partition of the Development or any part thereof. Neither the Association nor any Person acquiring an interest in the Development may seek any judicial partition except as allowed, if at all, in Section 1359 of the Civil Code;

- d. ***Delinquencies.*** Any person who acquires a Unit by any means shall be bound by the restrictions in this Declaration but shall not be entitled to the rights, benefits and privileges of Membership, if at the time of acquisition any former Owner of that Unit has failed to pay any portion of his or her Assessments due under this Declaration to the Association and any portion of the debt remains unpaid. If and only if the entire prior debt is paid shall the new Owner become entitled to receive the rights, benefits and privileges of membership;
- e. ***Health and Safety.*** The right of the Association to impose reasonable conditions on the use of the Common Areas including the Recreational Facilities to protect the health and safety of the Members and other Persons using them and to protect the Common Areas from damage or premature deterioration;
- f. ***Rules.*** The right of the Association to adopt, and to modify from time to time, Rules pursuant to Sections 1357.100, *et seq.* of the Civil Code; and
- g. ***Governing Documents.*** Any other reasonable restrictions and limitations contained in the Governing Documents.

ARTICLE 3

ASSOCIATION RIGHTS AND DUTIES

The Association, acting alone or through its directors, officers, and other duly authorized managing agents, shall constitute the management body of the Development within the meaning of Section 1351(a) of the Civil Code. It shall have the powers, rights, and duties which are specified below in this Article 3.

3.1 General Powers and Authority. The Association shall have all the powers of a non-profit mutual benefit corporation organized and operating pursuant to Sections 7000, *et seq.* of the California Corporations Code. Without limiting the foregoing, the Association shall act in conformance with, and subject to the limitations contained in, the Governing Documents.

3.2 Specific Powers. The Association shall have full authority to do the following acts.

- a. ***Levy Assessments.*** The Association shall impose Regular and Special Assessments on the Members, pursuant to Section 1366 of the Civil Code, to defray the cost of paying the budgeted gross annual expenses of the Association and any other legitimate expenses which the Board deems prudent in the management and operation of the Association or the Development;
- b. ***Adopt Rules.*** The Board shall have the power to adopt, amend, delete and add Rules in accordance with the procedures described in Sections 1357.100, *et seq.*

of the Civil Code. Upon adoption, the provisions of the Rules will have the same force and effect as though set forth in this Declaration;

- c. ***Impose Sanctions.*** The Association shall have the power to impose discipline in the form of sanctions, including fines and suspensions of privileges and rights, as described elsewhere in this Declaration;
- d. ***Make or Settle Claims.*** The Association shall have the right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings, and to seek injunctive, equitable, declaratory, or monetary relief, in its own name as the real party in interest and without joining the Owners as described in Section 1368.3 of the Civil Code;
- e. ***Borrow Money.*** The Association shall have the power to borrow money as may be needed in the discharge of its powers and duties, except that any loan in an amount exceeding five percent (5%) of the budgeted annual gross expenses of the Association in that fiscal year must be approved in advance by a majority of a quorum of the Owners;
- f. ***Right of Entry.*** The Association may enter any Exclusive Use Common Area for the purpose of (i) making emergency repairs therein, (ii) performing necessary maintenance, repairs, or replacements to the Common Area, (iii) abating any nuisance or dangerous, unauthorized, prohibited or unlawful activity, or (iv) to perform any other maintenance or repairs which the Association is authorized to do under this Declaration. Except in the case of an emergency, or where access is needed to perform routine maintenance and/or inspection of slope areas, the Association shall give at least 24 hours' notice to the Resident of its intent to enter for these purposes. No trespass will be deemed committed by the Association or its designees in connection with exercising the foregoing right.
- g. ***Admission and Other Fees.*** The Board shall have the power to charge reasonable admission, security deposit, and other fees for the use of the Recreational Facilities.
- h. ***Enforce Governing Documents.*** The Association shall have the power to enforce the Governing Documents by any means provided therein or under California law;
- i. ***Contract for Goods and Services.*** The Association shall have the power to contract for goods and services as reasonably required to protect, manage, and operate the Association and the Development including without limitation contracts for utility services for the Common Area, insurance, management services, accounting services, legal services, security services, maintenance and repairs, gardening and landscape services, supplies, and all other expenses reasonably required for the Association to perform its powers and duties under

the Governing Documents. The length of any such contract shall not exceed one (1) year unless the Board adopts a formal resolution stating that the best interests of the Association are served by entering into a contract for a longer period not to exceed a maximum length of five (5) years;

- j. **Pay Taxes.** The Association shall have the power to file tax returns and pay taxes levied against it by virtue of its corporate existence and its operations;
- k. **Corporate Standing.** The Association shall have the power to prepare and file documentation and pay such expenses as are required to maintain its corporate status in good standing; and
- l. **Miscellaneous.** The Association shall have the power to incur expenses, subject to the limitations in this Declaration, to promote the health, safety, security, management, operations, and enhancement of the Development.

3.3 Maintenance. The Association shall have the power and the duty to maintain the Common Area including without limitation all Recreational Facilities.

3.4 Board of Directors. The affairs of the Association shall be managed and its duties and powers performed by a Board of Directors whose members are elected as provided in the Bylaws.

3.5 Committees. The Board may form committees as it deems prudent from time to time to assist in performing discrete functions as are defined by the Board. Each committee shall consist of at least one Board member. In addition, the President and Manager may participate as *ex officio* members of each committee. Other than the Architectural and Landscaping Committee, described elsewhere in this Declaration, all other committees may be formed at the discretion of the board and when formed act in an advisory capacity only.

3.6 Meetings. The Association shall conduct at least one membership meeting annually to elect directors and conduct any other legitimate business which may be raised at the meeting. The meetings shall be conducted as prescribed in the Bylaws.

3.7 Limitation of Liability. In the absence of clear and convincing evidence of negligence or willful misconduct, neither the Association, nor any officer, director, employee, managing agent, committee member, or agent of the Association, shall be liable for any (i) damage, loss, or injury that occurs in the Development, (ii) failure to provide any service or perform any duty or function, or (iii) injury or damage to persons or property from electricity, water, rain, dust or sand that may leak or flow from outside any Unit or Exclusive Use Common Area.

3.8 Indemnification. The Association shall indemnify, defend and hold harmless each officer, director, employee, managing agent, and committee member against all expenses, liabilities, judgments, claims, demands, attorneys' fees and costs reasonably incurred by such Person in connection with any proceeding to which he or she may be a party by reason of his or

her representative relationship with the Association. No such obligations exist, however, where the Person is determined under Section 7237 of the Corporations Code or any successor statute to have acted in bad faith in the performance of his or her duties or in the case of a criminal proceeding, to have had reasonable cause to believe his or her conduct was unlawful.

ARTICLE 4

MAINTENANCE OBLIGATIONS

The Development shall be maintained at all times in good condition so as to preserve the property values of the Units, the quiet enjoyment of the Residents, and the right of each Owner to the full use and occupancy of his or her Townhouse or Detached Dwelling. As described below, each Owner shall be solely responsible for the maintenance, repair and replacement of his or her Unit and Exclusive Use Common Area and the Association shall have no responsibility for such work. In contrast, the Association shall be solely responsible for the maintenance, repair and replacement of the Common Areas and the Common Area Lots.

The respective rights and duties of the Association and the Owners with regard to maintenance of the Development are described in this Article 4.

4.1 Maintenance by Owners. Every Owner shall be responsible for the following at his, her or its sole expense:

- a. Maintain, repair, replace and restore all portions of his or her Unit so the Unit is in good and sanitary condition at all times;
- b. Maintain, repair, replace and restore all portions of his or her Exclusive Use Common Area.
- c. Treat, repair, replace, restore and maintain his Unit and Exclusive Use Common Area in the event dry rot, mold, mildew, fungus or other similar conditions are found inside the Unit or Exclusive Use Common Area from any source.

4.2 Maintenance by the Association. The Association shall have the duty to maintain, repair, replace and restore, as needed, the Common Area, and all components thereof. Without limiting the foregoing this shall include:

- a. Maintenance, repair and replacement of all Recreational Facilities;
- b. Maintenance, repair and replacement of all portions and elements of the Development (including the hillsides and landscaping in the Common Areas and Common Area Lots) other than those specified in this Declaration to be part of the Units and Exclusive Use Common Areas; and
- c. Treatment and repair of mold, mildew, fungus or other similar conditions found in the Common Area only.

4.3 Termites. Without limiting any of the maintenance and repair obligations specified in Sections 4.1 and 4.2 above:

- a. The Association shall treat, repair, replace, and restore any part of the Common Area (except Exclusive Use Common Area) which is damaged or infested by termites, rodents, insects or other pests.
- b. Each Owner shall treat, repair, replace and restore any part of his or her Unit or Exclusive Use Common Area damaged as a result of termites, rodents, insects, and other pests (it shall be the Owner's duty to eradicate the termites, pests and other like infestations and repair or replace any areas damaged by such pests and infestations). If any such infestation is discovered the following rules will apply:
 - (i) Each Owner of a Townhouse will cooperate with the Owners of adjoining Townhouses in treating the presence of or damage caused by pests or organisms. Failure of an Owner in a cluster of Townhouses to cooperate shall entitle the other affected Owners to obtain a court order compelling such cooperation;
 - (ii) In the event the Owners in a Townhouse building fail to agree on the method of scope of eradication, the Association shall have the right (but not the duty) to decide on the appropriate course of action and may perform the work at its expense. In addition, the Association may demand that all Units which adjoin the Unit in which the infestation is found be tested at the expense of the Owners of those Units. In such event, after the work is completed the Association shall impose a Special Assessment on each Owner in the Townhouse building for reimbursement of the cost incurred. If any Owner fails to pay his or her portion of the Special Assessment a lien may be recorded against that Owner which lien may be enforced by the Association by any means provided in this Declaration or under California law.
 - (iii) If the Association exercises its right under subpart b(ii) above, it may cause the temporary, summary removal of any occupant of the Townhouse building so that the eradication and work can safely be performed, as provided in Section 1364(d) of the Civil Code;
 - (iv) If the Association exercises its right under subpart b(ii) above neither the Association nor any of its officers, directors, employees, or agents shall incur any liability arising from or related to the eradication, treatment or repairs in the absence of gross negligence or willful misconduct; and

- (v) In the event any Owner wishes to obtain a termite clearance certificate for his or her Unit that Owner shall pay all costs associated with applying for and obtaining a certificate.

4.4 Drainage.

- (a) Each Owner shall be responsible for keeping in open, undamaged, and unobstructed condition all sewer, water, and drainage pipes and lines serving his or her Unit or Exclusive Use Common Area, wherever located, except to the extent such component is maintained by the City of Los Angeles or a utility company.
- (b) In connection with all drains and portions of pipe which are located in or under an Owner's Yard, the Owner shall check regularly to ensure they are unbroken and in good operating condition and shall repair such components immediately when they are found to be in need of repair.
- (c) If there is a problem in a line of drainage pipe which services more than one Townhouse in a cluster but it cannot be determined where the problem arises, the Owners of each such Townhouse in whose Yard the problem may exist shall pay his or her equal share to investigate the problem to ascertain its location. Once the location of the problem is determined, the Owner or Owners of the Exclusive Use Common Area(s) in which a problem is found to exist shall be responsible to pay for the repairs.
- (d) No Owner shall interfere with or alter any established drainage pattern within the Development without the prior written approval of the Architectural and Landscaping Committee, which approval may be given or withheld in the Committee's absolute discretion.
- (e) Each Owner shall be liable for any damage to the Common Areas or Common Area Lots, including the hillsides and slopes, caused by his or her failure to maintain, repair and replace the drains and drainage pipes in or under his or her Yard.

4.5 Shared Maintenance. In the event any Exclusive Use Common Area shared by two or more Owners is in need of maintenance, repair or replacement, each such Owner shall pay an equal share of the cost of the maintenance, repair or replacement.

4.6 Common Driveways. Certain Units in the Development have complete or partial common driveways for shared usage by the Owners of two or more Units. The Owner of each such Unit has an easement for driveway and related purposes in, on and upon such driveway. All Owners of such Units shall be responsible collectively for the maintenance, repair and replacement of same. They shall share equally the costs thereof and shall have equal liability for occurrences thereon (unless one such Owner has caused the damage or injury, in which case he or she alone shall be responsible). If the Owners fail to maintain, repair or replace

their Common Driveway the Association may exercise its right to enter and repair the driveway under paragraph 4.9 below.

4.7 Owner Liability for Damage to Common Area. Each Owner is liable to the Association for any damage to the Common Area caused by (i) his or her acts or omissions, (ii) the acts or omissions of his or her Residents and Guests, and (iii) any condition originating in his or her Unit or Exclusive Use Common Area.

4.8 Owner Liability for Damage to Other Owners. Each Owner is liable to all other Owners for any damage to their Units or Exclusive Use Common Areas caused by (i) his or her acts or omissions, (ii) the acts or omissions of his or her Residents and Guests, and (iii) any condition originating in his or her Unit or Exclusive Use Common Area.

4.9 Association's Right to Make Repairs. If an Owner fails, in the Board's opinion, to adequately maintain, repair or replace the exterior of his or her Unit or Exclusive Use Common Area, or any elements thereof, the Association may, after giving not less than twenty (20) days written notice to the Owner (except in the case of an emergency), enter the Unit or Exclusive Use Common Area and make the necessary repairs or perform maintenance on the Owner's behalf. In such event, Owner shall reimburse the Association for all costs incurred and should Owner fail to do so the Association may impose a Special Assessment on the Owner for the cost which shall be enforceable by any means available under this Declaration or California law.

4.10 Limitation on Association's Liability. In the absence of clear and convincing evidence of negligence or willful misconduct, neither the Association nor any officer, director, committee member, employee, managing agent, or agent of the Association shall be liable to any Person (including any Owner) for (i) theft of or injury to any article, vehicle or thing which may be kept by such Owner or other Person in any part of the Development, (b) water leakage or mold from any source which results in damage to the Person's Unit or Exclusive Use Common Area, or (c) the Association's need to access Common Area in order to perform maintenance or repairs for which the Association is responsible.

ARTICLE 5

ASSESSMENTS

The purpose of Assessments is to fund the operations and management of the Association so that it may perform those rights and duties which are prescribed in the Governing Documents. Assessments shall be calculated, levied, and collected by the Association in the manner described below in this Article 5.

5.1 Budget. The Association shall prepare each year a pro forma operating budget which shall include those items specified in Section 1365(a) of the Civil Code. A copy of the budget shall be distributed annually to the Owners not less than thirty (30) days nor more than ninety (90) days before the beginning of the Association's fiscal year. In lieu of distributing the budget the Board may elect to distribute a summary thereof with a written notice that the actual

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budget itself is available at the Association's business office and the copies will be provided free of charge upon request.

5.2 Regular Assessments. Each Owner shall pay dues to the Association on a monthly basis. These dues, known as Regular Assessments, shall be levied by the Board each year to pay the anticipated operating expenses reflected in the budget described in Section 5.1 above.

- a. **Limitation.** The amount of any increase in Regular Assessments imposed by the Board from one fiscal year to the next shall not exceed the limits contained in Section 1366(b) of the Civil Code without a vote of the Owners as specified in that statute.
- b. **Assessment Schedule.** All Regular Assessments shall be divided among and paid by the Owners in equal shares.
- c. **Payable Monthly.** The Regular Assessment shall be payable by all Owners in twelve (12) equal monthly installments. Each such payment is due on the first day of the calendar month and will automatically be deemed delinquent if not received by the Association by the 15th day of the calendar month. No portion of any Assessment is refundable if a person ceases to be a Member in the middle of a month.
- d. **Written Notice.** Any increase in Regular Assessments shall be made by written notice to each Owner at least thirty (30) days in advance of the first payment due and shall be payable in the manner specified in said notice.
- e. **Modification of Assessment.** The Board may modify the Regular Assessment during the course of a fiscal year if necessary to conform to a revised estimate of costs and expenses, provided the total increase for that year does not exceed the amount allowable under Section 1366(b) of the Civil Code.
- f. **No Apportionment or Reimbursement.** If an Owner sells his or her Unit and escrow closes after the first day of the month he or she shall still be responsible for paying that month's Assessment and shall not be entitled to apportion the amount due or receive a refund for any part of that month's Assessment which was paid.

5.3 Special Assessments to All Owners. In addition to the Regular Assessments, the Board of Directors may levy during any fiscal year Special Assessments to all Owners needed to pay for capital improvements or unanticipated expenses.

- a. **Limitation.** The amount of any Special Assessments imposed by the Board against all Owners in any fiscal year shall not exceed the limits contained in Section 1366(b) of the Civil Code without a vote of the Owners as specified in that statute.

- b. **Assessment Schedule.** The total of any such Special Assessment shall be fixed in equal amounts for each Unit.
- c. **Payment Schedule.** The Special Assessment shall be payable by each Owner against whom assessed as directed by the Board or as approved by the vote of the Owners.
- d. **Written Notice.** A Special Assessment against all Owners shall be made by written notice to each Owner at least thirty (30) days in advance of the first payment due and shall be payable in the manner specified in said notice.

5.4 Reimbursement Assessments. The Board may levy against any individual Owner an Assessment to reimburse the Association in the following circumstances:

- a. **Owner Damage.** Reimbursement for expenses incurred by the Association for damage caused to the Common Area by the Owner or his or her Residents and Guests.
- b. **Unit Repairs.** Reimbursement of expenses incurred by the Association for repairs made to Owner's Unit or Exclusive Use Common Area as permitted under Section 4.6 above.
- c. **Noncompliance.** Reimbursement of all costs and expenses, including attorneys' fees, incurred in bringing an Owner into compliance with the terms of the Governing Documents, whether or not a lawsuit is filed.
- d. **Written Notice.** An Assessment under this section shall be made by written notice to such Owner who shall have thirty (30) days, or longer as directed by the Board, to pay the Assessment.

5.5 Emergency Assessments. Notwithstanding any other provision of this Article 5, the Board may increase Regular Assessments without regard to the 20% limitation or levy Special Assessments without regard to the 5% limitation for emergency situations. An emergency situation is any one of the following:

- a. **Order of Court.** An expense required by an order of a court of competent jurisdiction.
- b. **Threat to Personal Safety.** An extraordinary expense necessary to repair or maintain the Development or any part of it for which the Association is responsible where a threat to personal safety on the Development is discovered.
- c. **Unforeseen Expenses.** An extraordinary expense necessary to repair or maintain the Development or any part of it for which the Association is responsible and could not have been reasonably foreseen by the Board of

Directors in preparing and distributing the pro-forma operating budget. However, prior to the imposition or collection of an Assessment under this subsection, the Board of Directors shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Owners with the notice of the Assessment imposed pursuant to this subsection.

5.6 Deposit of Assessments. All sums received by the Association from Assessments, together with any interest charges attributable thereto, shall be promptly deposited into a checking or savings account in a bank or savings and loan association selected by the Board of Directors, which account shall be clearly designated in the Association's name as the "Common Funds" or "Operating Account" of the Association.

- a. **Exclusive Control.** The Board shall have exclusive control of the account and is responsible to the Owners for the maintenance of accurate records thereof. All checks written in the name of the Association shall be signed by two officers or as otherwise specified in the Bylaws.
- b. **Commingling.** The Association shall maintain separate accounts for its Operating funds and its Reserves, and no funds from those separate accounts shall be commingled at any time.
- c. **Interest.** No Owner shall have the right to receive interest on any such funds deposited.

5.7 Reserves. All sums collected by the Association as part of the Regular Assessments which are budgeted to fund Reserves for anticipated long-term maintenance, repair and replacement of major components of the Common Area, shall:

- a. **Segregated.** Be received in trust by the Board, set aside and segregated from the other Common Funds and not commingled with the Association's Operating Account.
- b. **Invested.** Be invested with prudence and in accordance with fiduciary obligations owed to the Association in accounts or other instruments which are FDIC insured or backed by the full faith and credit of the United States government.
- c. **Interest.** No Owner shall have the right to receive interest on any such funds deposited.
- d. **Restricted Use.** Be used for the sole purposes described in Section 1365.5 of the Civil Code.

- e. **Two Signatures.** Be withdrawn from the Reserve account only upon the signature of two (2) members of the Board of Directors.
- f. **Temporary Transfers.** The Board may authorize the temporary transfer of money from a Reserve fund to the general Operating Account to meet short term cash flow requirements or other expenses; provided there is compliance with the provisions of Section 1365.5(c)(2) of the Civil Code.
- g. **No Reimbursement.** All contributions to Reserves inure to the benefit of the Association and not to the benefit of any Member or individual. As such, contributions to Reserves are not refundable to individual Owners when such Owners cease to be Members of the Association.

5.8 Delinquencies. Any Assessment made in accordance with this Declaration shall be the separate debt of the Owner against whom it is levied. Unpaid Regular Assessments shall be deemed delinquent if not received by the fifteenth (15th) day of the calendar month. In the event an Owner defaults in the payment of an Assessment, the following consequences shall or may occur:

- a. **Late Charge.** Delinquent Assessments shall be assessed a late charge of ten percent (10%) or Ten Dollars (\$10.00), whichever is greater.
- b. **Interest.** Delinquent Assessments and all late charges and costs of collection shall bear interest at the maximum rate allowable under Section 1366 of the Civil Code. Interest shall commence thirty (30) days after the Assessment becomes due.
- c. **Acceleration.** At the Board's election the total Regular Assessment due to be paid by the delinquent Owner during that fiscal year may be accelerated in which case the total annual Regular Assessment will be due and payable immediately by that Owner.
- d. **Assignment of Rents.** Each Owner who is renting a Unit to a tenant hereby assigns to the Association all of the rents and other income which may become due from the lease or rental to compensate the Association in the event of a delinquency by that Owner. Upon notice from the Association to the tenant with a copy to the Owner, the tenant shall pay to the Association, rather than to the Owner, all rent and other income until such time as the delinquency, including late charges, interest, and collection costs, are paid in full.

5.9 Liability for Assessments. Each Owner shall be personally liable for any Assessments levied against him or her under this Declaration together with any late charges, interest, costs and attorneys' fees as may be authorized. In a conveyance of a Unit by an Owner, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments, late charges, interest, costs and attorneys' fees.

5.10 Enforcement of Delinquent Assessments. Delinquent Assessments may be enforced by the Association by any means available under California law which shall include without limitation those remedies described in Sections 1367, *et seq.* of the Civil Code. The Owner who is delinquent shall be liable to the Association for all costs of enforcement and collection including reasonable attorneys' fees.

5.11 No Offsets. No offsets shall be permitted against any Assessments levied pursuant to this Declaration, for any reason, including without limitation, (i) a claim that the Association is not properly exercising its duties and powers, (ii) a Member has made or elects to make no use of the Common Area; (iii) any construction or maintenance for which the Association is responsible has not been performed; or (iv) any construction or maintenance for which the Association is responsible has not been performed to a Member's satisfaction.

5.12 Waiver of Use. No Owner of a Unit may exempt himself or herself from liability for Assessments duly levied by the Association, nor release the Unit owned by him or her from the liens and charges thereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his or her Unit.

5.13 Waiver of Homestead. With respect to liens created pursuant to this Article, each Owner waives to the fullest extent permitted by law the benefit of any homestead or exemption or redemption laws of the State of California. Each Owner shall be estopped to raise homestead or any other exemption or redemption in any action or proceeding to enforce or foreclose such liens.

ARTICLE 6

ASSESSMENT LIENS

As described elsewhere in the Declaration, the Association has a duty to collect Assessments from each Owner according to the procedures described in the Governing Documents. When an Owner fails or refuses to pay his or her Assessments, the Association may exercise the powers described below in this Article 6 in order to collect the delinquent sums.

6.1 Enforcement of Assessments. The Association may collect delinquent Assessments by: (i) suing the Owner on the debt, or (ii) establishing a lien against the Owner's Unit and foreclosing the lien through judicial or nonjudicial proceedings. The filing of a suit and obtaining judgment thereon does not waive the Association's right to record a lien against the Unit for the delinquent Assessment.

6.2 Assessment Becomes Lien. A delinquent Assessment, together with the related late charges, interest, costs, and attorneys' fees shall become a lien on the Unit upon the recordation of a "Notice of Delinquent Assessment" in the Office of the County Recorder. The lien shall be recorded in compliance with Sections 1367 and 1367.1 of the Civil Code.

6.3 Foreclosure. If the Association elects to enforce a delinquent assessment by foreclosure on a lien, as described in Section 6.1 above, it shall proceed with the foreclosure in the manner provided in Sections 1367.1 and 1367.4 of the Civil Code.

6.4 Additional Remedies. The remedies specified in this Article shall be in addition to any other rights and remedies which the Association may have by law or in the Governing Documents.

ARTICLE 7

BUDGETS, RESERVES AND FINANCIAL STATEMENTS

The Association shall have a duty to receive, protect, and account for Assessments paid by the Owners and other sums collected in a prudent, responsible manner. In meeting this duty the Board shall do the following.

7.1 Review of Accounts. The Board of Directors shall do the following not less frequently than quarterly:

- a. ***Operating Accounts.*** Cause a current reconciliation of the Association's Operating Accounts to be made and review the same.
- b. ***Reserve Accounts.*** Cause a current reconciliation of the Association's Reserve Accounts to be made and review the same.
- c. ***Actual to Budget.*** Review the current year's actual revenues and expenses compared to the current year's budget for the Association's Operating and Reserve Accounts.
- d. ***Bank Statements.*** Review the most current bank statements prepared by the financial institution where the Association has its Operating and Reserve Accounts.
- e. ***Income and Expense Statements.*** Review an income and expense statement for the Association's Operating and Reserve Accounts.

7.2 Operating Budget. The Board shall prepare and distribute annually to all Owners an estimated operating Budget for the next fiscal year as described in Section 5.1.

7.3 Annual Review. The Board shall cause to be conducted, on an annual basis, an audit, or a review of the financial statement of the Association in accordance with generally accepted accounting principles, by a licensee of the State Board of Accountancy as required in Section 1365(c) of the Civil Code. A copy of the audit or review shall be distributed to the Owners within 120 days after the close of each fiscal year.

7.4 Insurance Information. The Association shall disclose to the Owners in writing on an annual basis the insurance information which is described in Section 1365(f)(1) of the Civil Code.

7.5 Lien Policies. The Association shall, during the sixty (60) day period immediately preceding the beginning of the Association's fiscal year, distribute to the Owners as required by Sections 1365(e) and 1365.1 of the Civil Code a statement describing the Association's policies and practices in enforcing lien rights and other legal remedies for default in payment of its Assessments.

7.6 Reserve Study. At least once every three (3) years as required by Section 1365.5(e) of the Civil Code, the Board shall cause a study of the Reserve account to be performed.

7.7 Reserve Funding Plan. The Board shall disclose to the Owners on an annual basis a summary of the reserve funding plan it has adopted pursuant to Sections 1365(b), 1365.2.5, and 1365.5(e)(4) of the Civil Code. In the summary the Owners shall be notified that a copy of the current reserve study is available upon their request.

ARTICLE 8

ARCHITECTURAL CONTROL

It is the Association's duty to exercise architectural and landscaping control over Improvements constructed or installed in the Development as described in this Article 8. In order to meet this duty the Association shall act in accordance with the following regulations as well as those contained in the Rules.

8.1 Right to Improve and Decorate. Except as expressly provided elsewhere in this Declaration including Section 8.3 below, Owners shall have the following rights with regard to the interior of their Unit:

- a. ***Townhouse Units.*** Each Owner of a Townhouse shall have the exclusive right at his or her sole expense to paint, repaint, tile, wax, paper or otherwise furnish and decorate the interior surfaces of the walls, partitions, ceilings, floors, and doors within his or her Unit.
- b. ***Detached Dwellings.*** The Owner of a Detached Dwelling shall have the exclusive right at his or her sole expense to decorate, remodel or alter any aspect of the interior of his or her Unit as he or she sees fit.

8.2 Architectural and Landscaping Committee. The Board shall appoint an Architectural and Landscaping Committee ("Committee") comprised of not less than five Members. At least one Committee member shall be a current member of the Board. The Committee may consult as needed with an independent professional such as a licensed architect, contractor, or engineer. All requests for the Association to approve any work, remodeling or

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improvement as required in this Article, or elsewhere in this Declaration, shall be submitted in writing to the Architectural and Landscaping Committee as described in the Rules.

8.3 Prior Approval. No repair, alteration, improvement, construction or remodeling may commence on the exterior of any Detached Dwelling, on the exterior or interior of a Townhouse, or in any Exclusive Use Common Area, until the Owner thereof has applied for and received prior written approval of the Committee, if such work is related to or could potentially affect any of the following: (i) The electrical, HVAC, or plumbing systems in any other location within the Development, (ii) any Unit's resistance to water intrusion, (iii) the drainage, landscaping, or hardscape in any other location within the Development, (iv) the foundation or structural integrity of another Unit or Exclusive Use Common Area, (v) the geological integrity of any slopes, (vi) the exterior uniform appearance of any Unit, Yard, or other component of the Exclusive Use Common Area, (vii) any exterior wall, fence, driveway, walkway or other structure, (viii) the level of noise transference to another Unit, Exclusive Use Common Area, or Common Area, (ix) the right to quiet enjoyment of any other Owner, or (x) the right of any other Owner to the full ownership, occupancy, and use of his or her Unit and Exclusive Use Common Area.

8.4 Exceptions. Notwithstanding Section 8.3, it is unnecessary for an Owner to apply for approval of an alteration under this section if he or she is merely (i) repainting a Unit or structure in the Exclusive Use Common Area a color that is pre-approved in the Rules, (ii) replacing flowers or shrubs which have died with the same basic type of flowers and shrubs, or (iii) adding additional drainage in the Exclusive Use Common Area which does not remove, disable or change the flow of current drainage. Further, the Board or the Architectural and Landscaping Committee may specify in the Rules other types of work which may be performed without seeking approval under Section 8.3.

8.5 Procedure for Submitting Application. Detailed procedures for submitting an application for approval under Section 8.3 above will be contained in the Rules. The Owner must submit detailed plans and such other supporting documentation and information as is requested by the Committee. He or she will sign a construction agreement if requested by the Committee.

8.6 Decisions by the Committee. All decisions by the Committee shall be communicated to the Owner in writing. If the Committee disapproves an application or any part of it, it shall specify the reasons for the disapproval in writing. The Committee shall meet regularly and shall act diligently in processing all applications. In making a decision, the Committee may properly consider (i) its subjective belief that the plans are or are not consistent with the general design, construction, appearance, and harmony of other improvements in the Development, (ii) precedents, or lack thereof, for the work the Owner wishes to perform, (iii) the long-range aesthetic goals of the community even if such goals depart from or conflict with prior precedents, (iv) compliance with the standards contained in the Governing Documents, and (v) the impact of the alteration on the property values, quiet enjoyment, and full use of other Units and Exclusive Use Common Areas in the Development.

8.7 No Liability for Approval. By approving an application the Committee and the Association are not representing to the Owner that what he or she plans to build is prudent, safe, or legal. The Committee's approval shall not (i) relieve the Owner of the duty to satisfy the terms of the Governing Documents and of all applicable laws, statutes, regulations, and codes; (ii) provide a defense to a legal action by the Association, or (iii) give rise to any liability on the part of the Association, the Board, the Committee, or their representatives.

8.8 Compliance With Laws. It is the Owner, and not the Association, who must ensure that the final product meets all applicable laws and regulations, is free of defects, meets all provisions of the Governing Documents, and does not disturb the quiet enjoyment of any other Owner.

8.9 Conduct of Construction. During any remodel or construction Owner shall use best efforts to minimize inconvenience to other Residents of the Development. In addition to those provisions in the Rules, construction activities shall be limited to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday and from 8:00 a.m. to 5:00 p.m. on Saturdays. No work may take place on Sundays or national holidays.

8.10 Notice of Completion. For any project that requires approval and for which approval was given under sections 8.3 to 8.6 above, the Owner shall promptly notify the Association in writing when the project is complete and affirm that he or she has fully complied with the approved plans. The Architectural Committee may, but is not required, to inspect the final product within 30 days of receiving the notice of completion to verify compliance with the approved plans.

8.11 Acoustical Limitations. In the event an Owner is permitted to make any Improvement that might increase the level of sound transference to another Unit, Exclusive Use Common Area, or the Common Area he or she shall take all such measures at his expense to guarantee that the final product achieves a sound rating that exceeds all code requirements and does not unreasonably disturb the quiet enjoyment of any other Owner or Resident.

8.12 Alteration and Decoration of Common Area. No Owner shall cause to be made any alteration, addition or modification to any portion of the Common Area.

8.13 Obstruction of View. No Owner has a right to the creation or preservation of a view under California law or the Governing Documents. In considering an application from an Owner the Committee may consider the impact of a proposed alteration or improvement on another Owner's view but is under no obligation to protect or preserve the view in deciding whether to approve or disapprove the application.

8.14 Landscaping and Drainage. No landscaping may be installed by any Owner which could impede or render more costly the Association's access to any area to perform any of its maintenance responsibilities under this Declaration, without the prior written approval of the Committee. No drainage pattern, pipes or channels in the Common Area may be obstructed, blocked, or altered at any time by any Owner or his Residents and Guests.

8.15 Mechanic's Liens. Each Owner shall indemnify, defend, and hold harmless the Association, and its officers, directors, employees, committee members, managing agent, and agents, from and against any damage, loss, attorneys' fees, costs, claims, or injuries caused in whole or in part by the recordation of a mechanic's lien against any part of the Development or another Owner's Unit. In the event a mechanic's lien is filed which affects in any way the Common Area or another Owner's Unit or Exclusive Use Common Area, the Owner shall promptly take all steps needed to cause the removal of the mechanic's lien.

8.16 Record Keeping. The Committee shall prepare and retain a written record of all submissions made for its approval together with all of its actions in response thereto.

8.17 Appeals. Any Owner who wishes to appeal the disapproval of the Committee may do so under Section 1378 of the Civil Code by submitting a request, in writing, to the Board in care of the Manager which request must be received not later than fifteen (15) days following the date of the notice of disapproval. If such an appeal is requested it will be considered by the Board at a hearing which is open to the membership unless the Owner requests to meet in executive session. The Board may adopt procedures for the conduct of any such appeal in the Rules. In the event an appeal is timely submitted the Board shall issue a written decision within fifteen (15) days following the date of the hearing and its decision will be final and binding.

8.18 Adoption of Rules. Pursuant to Section 1357.100, *et seq.* of the Civil Code, the Board may adopt in the Rules (or in a separate document entitled Architectural and Landscaping Guidelines) further guidelines, procedures, and regulations pertaining to the exercise of architectural control in the Development.

ARTICLE 9

USE RESTRICTIONS

Owners shall comply with the following restrictions in connection with the use and occupancy of their Units and Exclusive Use Common Areas. These restrictions are intended to preserve and enhance the safety and security of the Development, the value of the Development and the Units, and the quiet enjoyment of the residents.

9.1 Antennas and Dishes. No Owner shall install or maintain any mast, antenna or satellite dish of any size in the Common Area. Owners may install an antenna or satellite dish (not to exceed 36 inches in diameter) to receive television or radio reception as permitted by law, but shall comply with the Rules and obtain prior written approval from the Architectural and Landscaping Committee with regard to the precise location, future maintenance, and other legally permitted conditions relative to the installation or operation of the antenna or dish.

9.2 Alteration of Common Area. No Owner shall alter, construct or remove anything on or from the Common Area, without the prior written approval of the Board of Directors.

9.3 Alteration of Separate Interests. Prior to commencing any construction, alterations or improvements on a Unit or Exclusive Use Common Area which require approval by the Architectural and Landscaping Committee under Article 8 hereof, Owners shall comply with all requirements of the Governing Documents.

9.4 Barbecues; Exterior Fires. There shall be no exterior fires whatsoever except for barbecues in confined receptacles located within an Owner's back Yard and approved by the Architectural and Landscaping Committee.

9.5 Drainage. No Owner may alter or interfere with the established drainage patterns over his or her Exclusive Use Common Area from other parts of the Development without the prior written approval of the Architectural and Landscaping Committee.

9.6 Drilling; Mining Operations. The use of any portion of the surface of the Development for drilling operations, mining or quarrying of any kind, including, but not limited to, oil well drilling, is prohibited.

9.7 Electrical Equipment. No Owner may install, attach or hang any equipment or wiring for electrical installation, machines, air conditioning units, or other like equipment, in any portion of the Common Area except as approved in writing in advance by the Architectural and Landscaping Committee.

9.8 Filming Activities. No Owner shall allow his Unit, Exclusive Use Common Area, or the Common Area, to be used for commercial filming or photography purposes except with the prior written approval of the Board or as otherwise allowed in the Rules.

9.9 Flammable Materials. Under no circumstances may explosives, fireworks or highly flammable materials be stored anywhere in the Development. Nothing contained in this paragraph shall prohibit Owners from keeping normal household products including cleaning and barbeque supplies, provided they are stored in a safe manner.

9.10 Garage Sales. No rummage sales, garage sales, estate sales, or flea markets of any kind shall be permitted unless allowed in the Rules or otherwise approved in writing in advance by the Board.

9.11 Increasing Insurance Rates. Nothing shall be done or kept by any Owner which will increase the rate of insurance for any other Unit or the Common Area or cause the cancellation of any insurance policy. If, by reason of any act or omission by an Owner, the cost of insurance on any policy normally purchased by the Association is increased, that Owner shall be personally liable to reimburse the Association for the cost of any such increase which cost shall become a Special Assessment against his or her Unit.

9.12 Insurance. Each Owner, and not the Association, shall have the continuing duty to insure his or her separate interests and purchase at his or her sole expense (i) Liability insurance with limits of not less than \$250,000.00 per occurrence, (ii) Property insurance covering his or her Unit and any personal property, furniture, furnishings, and decorations within his Unit or Exclusive Use Common Area, and (iii) Any other policy of insurance which the Owner feels is reasonably necessary to protect his or her separate interests. If and when requested by the Association all Owners shall provide written proof of insurance satisfying the foregoing requirements and naming the Association as an additional insured.

9.13 Laundry. No exterior clothesline shall be permitted in the Development which can be seen from the Common Area or another Owner's Unit or Exclusive Use Common Area.

9.14 Leasing Restrictions. No Owner may lease his or her Unit at any time for an initial term of less than four (4) months. All leases shall be in writing and shall contain a provision that any violation by the Resident of the Governing Documents shall constitute a material breach of the lease. In addition:

- a. Owner shall notify the Association of the name and contact information for each Resident living in his or her non-owner occupied Unit.
- b. If Owner chooses to lease his or her Unit it must include the entire Unit as no rentals of individual rooms in a Unit shall be permitted.
- c. Owner shall provide Residents with a copy of the Governing Documents before any lease is signed.
- d. Owners are liable for all acts and omissions of their Residents which cause injury or damage to the Association.
- e. If any Resident violates the Governing Documents the Association may impose such sanctions against the Resident and the Owner, jointly and severally, in order to compel compliance. If the Resident continues to violate the Governing Documents despite multiple warnings, the Association may make a demand on the Owner that he or she bring eviction proceedings against the Resident. If the Owner fails to do so within 14 days, then the Association shall have standing to bring an action in its own name to have the Resident evicted and/or to recover damages. Should this occur the Owner shall be deemed to have assigned his or her rights as landlord to the Association for this limited purpose. Should the Association file an unlawful detainer action, the prevailing party in any such unlawful detainer action shall recover his, her or its reasonable attorneys' fees and costs.

9.15 Nuisance. No noxious, offensive or illegal activities are permitted in the Development. Nothing shall be done or placed in the Development which is a nuisance or causes unreasonable embarrassment, disturbance or annoyance to the Association or any other Owner. Due to the subjective nature of many claimed nuisances, the Board may decline to

become involved in disputes between Owners over their conduct towards one another. In such event the dispute will be resolved by the Owners only and shall not involve the Association in any resulting litigation, arbitration, or mediation. The Board may adopt provisions in the Rules to proscribe specific activities and conduct that may constitute a nuisance.

9.16 Occupancy Restriction. The maximum number of Persons who may reside in any Unit at any time shall not exceed two (2) Persons per bedroom, plus one. For purposes of this Section 9.16 only, a person is deemed to reside in the Unit if he or she spends more than 60 consecutive days, or 120 days (non-consecutive) in any calendar year, using, residing in or occupying the Unit. The Association may require Owners to disclose in writing the names of the Persons residing in the Unit at any time.

9.17 Obstruction of Common Areas. No Owner may obstruct or interfere in the Association's management of, or the right of other Owners to free access and travel through, the Common Areas.

9.18 Parking. No Owner may park any vehicle in his or her Exclusive Use Common Area unless it fits entirely within his or her closed garage. In addition:

- a. No Owner may park any motor vehicle in the Common Area except in authorized locations designated for public parking.
- b. Owners may park their motor vehicles in their driveway or on the street but only in compliance with local laws and ordinances.
- c. Notwithstanding the foregoing, no truck (other than a passenger truck such as a sport utility vehicle or a pickup truck with a manufacturer's rated payload capacity of one ton or less), trailer, camper, boat, aircraft, recreational vehicle, or other similar vehicle shall be permitted to park anywhere in the Development.
- d. A commercial vehicle regularly used by an Owner for both personal and business purposes is permitted only when parked inside the Owner's closed garage. It shall not be parked in any driveway.

9.19 Pets. No animal, bird or reptile may live in the Development or in any Unit except for ordinary domesticated household pets.

- a. **Number and Size.** The Board may decide in its absolute discretion whether the number or size of pets living in a Unit is unreasonable, and it may include such standards in the Rules.
- b. **No Commercial Use.** No animal or pet living in the Development may be bred for commercial purposes.

- c. **Removal.** The Board may cause the removal of any animal or pet which in its subjective opinion is disturbing the quiet enjoyment, health, safety or welfare of any other Owner.
- d. **Liability.** Owners are liable for any loss, damage or injury to Persons or property in the Development caused by their pets.
- e. **Indemnity.** Each Owner shall indemnify, defend and hold harmless the Association and its officers, directors, employees, committee members, managing agent, and agents from all claims, obligations, liabilities, damages, expenses, judgments, attorneys' fees and costs arising from or related to his or her pets.
- f. **Litter.** Each Owner shall immediately remove and dispose of any litter left by his or her pet in the Common Areas or Exclusive Use Common Areas.

9.20 Residential Use. No Owner shall permit his or her Unit or any portion thereof to be occupied or used for any purpose other than a private single-family residence; provided, however, the use of a Unit for limited "home office" purposes will generally be permitted. Factors which may be considered, without limitation, in deciding if a home office business is sufficiently "limited," include whether the use involves (i) the manufacture, production, assembly, sale, marketing, or storage of products or services from or in the Unit or Exclusive Use Common Area, (ii) any advertisements to the public listing the address of the Unit or mentioning the Development, (iii) clients, employees (except for domestic help and caregivers) or customers visiting the Unit, or (iv) any activity that presents a risk of danger, damage, or injury to any Owner or the Association. Further, any such home office use must be consistent with all federal, state and local laws, ordinances, and zoning regulations. If there is any disagreement about whether certain conduct or a particular activity exceeds the scope of the limited home office use permitted by this section, the decision of the Board shall be final and binding.

9.21 Sale/Lease of Unit. Whenever a Unit is for sale or lease, the Owner and all agents and brokers shall comply with the provisions of the Rules. The Owner shall indemnify, defend, and hold harmless the Association and its officers, directors, employees, managing agent, agents, and other Members from any loss, damage, injury, claim, liability, judgment, attorneys' fees or costs arising from all acts or omissions in connection with the effort to sell or lease the Unit.

9.22 Sanitary Conditions. Each Owner shall maintain in clean and sanitary condition and in good repair t his or her Unit and Exclusive Use Common Area.

9.23 Signs. Except as expressly permitted by law, including Sections 712, 713, 1353.5 and 1353.6 of the Civil Code, no signs, banners, flags, decorations, notices, paintings or advertisements of any kind shall be displayed from any Unit or Exclusive Use Common Area.

9.24 Trash; Refuse. All Owners shall comply with federal, state and local laws with respect to the disposal of trash, refuse, and other rubbish. Owners shall place their trash in their own bins only and shall comply with the Rules as it relates to the placement of the bins and trash pickup. No debris or refuse of any kind may be dumped or deposited in swales, streets, Common Areas, or onto the slopes.

9.25 Trees. No living tree with a height of six feet or more, or having a trunk measuring six inches or more in diameter at the ground level, shall be destroyed or removed from the Exclusive Use Common Area without the prior written approval of the Architectural and Landscaping Committee. If any tree dies or is removed the Architectural and Landscaping Committee may direct the Owner to plant a replacement tree and should he or she refuse to do so the Association may enter the Exclusive Use Common Area, plant a new tree, and charge the Owner for the cost which shall become a Special Assessment in order for the Association to be reimbursed.

9.26 Unsightly Items. All weeds, rubbish, debris or unsightly materials or objects of any kind shall be regularly removed by the Owners from Units and Exclusive Use Common Areas and shall not at any time be visible from the street or the Common Areas.

9.27 Use of Independent Contractors. Owners may use vendors and contractors of their choice to perform work at their request and expense, subject to any limitations contained in the Governing Documents. The Association is not responsible for the acts and omissions of such vendors or contractors requested to do work or provide services by the Owner.

ARTICLE 10

ENFORCEMENT OF GOVERNING DOCUMENTS

The Association and all Owners are legally required to adhere to the provisions of the Governing Documents, which may be amended from time to time. In the event of noncompliance the following rights and procedures shall apply.

10.1 Standing to Enforce. Enforcement of the Governing Documents may be accomplished by the means described below in this Article 10 or by any proceeding at law or in equity against the Person who has committed or is attempting to commit a violation. The only Persons who shall have standing in any judicial proceeding to enforce the Governing Documents are:

- a. ***The Association.*** The Board of Directors or any Person duly authorized by the Board of Directors, or
- b. ***The Owners.*** Any Owner or group of Owners.

10.2 Discretion to Take Action. The Association is not obligated to impose sanctions or file a lawsuit for every infraction of the Governing Documents. What sanctions, if any, to impose and whether to bring litigation are decisions left to the sound discretion of the

Board. If, for example, the Board believes a dispute is isolated to two Owners, does not materially impact other Owners/residents or the Common Areas, the Board may decline to impose sanctions or take any other action and may leave resolution of the dispute to the Owners directly involved.

10.3 Suspension of Privileges and Rights. The Board of Directors is authorized to suspend membership rights and privileges against any Owner who violates the Governing Documents, or if there is a violation by his or her Residents or Guests. Following are the rights which may be suspended: (i) Suspension of non-essential services provided by the Association, (ii) suspension of right to use the Recreational Facilities and all other Common Areas (except for ingress and egress), and (iii) suspension of voting rights. After a hearing if required under Section 10.5 below, privileges and rights will remain suspended for the period directed by the Board or until such time as the violation is cured and any fine imposed has been paid.

10.4 Fines. The Board of Directors is authorized to assess fines against any Owner who violates the Governing Documents, or if there is a violation by his or her Residents or Guests. In the case of ongoing violations the fine may be imposed on a daily basis. The Board shall adopt a fine schedule as described in Section 1363(g) of the Civil Code and may impose other conditions on the imposition of fines in the Rules. No fine may exceed \$500 per incident, or, in the case of continuing violations, \$500 for the first day and \$200 per day thereafter.

10.5 Hearing Procedures. Except as described below, before any fine or suspension is imposed by the Board, it shall conduct a hearing and notify the Owner of his or her right to attend the hearing. The hearing will be conducted as follows:

- a. ***Executive Session.*** The Board shall convene a hearing in executive session to consider the issue of possible discipline against the Owner.
- b. ***Notice.*** Notice of the date, time and location of the hearing must be given to the Owner in writing by personal delivery, email, facsimile, or posting by U.S. Mail, not later than 10 calendar days prior to the date of the hearing.
- c. ***Right to Be Heard.*** At the hearing, the Owner has a right to be heard orally and/or in writing. He or she may be accompanied by an attorney or other representative but there is no duty to meet with such person unless the Owner is also present. If the Owner fails for any reason to attend the hearing the Board may convene the hearing anyway and decide the matter based on the information and documentation available to it.
- d. ***Decision of Board.*** After the hearing the Owner will be excused and the Board will deliberate in executive session to determine whether a violation has occurred and if so what sanctions to impose.
- e. ***Notice of Decision.*** Within fifteen (15) days after conclusion of the hearing, the Board shall notify the Owner in writing of its decision and the grounds for the decision.

- f. **Exception for Delinquencies.** The requirement that a hearing be held does not apply in the following instances: (i) when the breach is in the form of a failure to pay Assessments, or (ii) when the breach is in the form of a failure to reimburse the Association, as required in this Declaration, for out-of-pocket costs it incurred performing acts which should have been performed by the Owner at his or her expense. In either event the suspension of all rights and privileges described in Section 10.3 is automatic, does not require any notice, and will remain in effect until such time as the delinquency is cured or the reimbursement is paid in full.

10.6 Fines Constitute Assessment. Unless prohibited by law, any fine imposed pursuant to this Declaration shall constitute a Special Assessment against the Owner and shall be enforceable by any means available under this Declaration or as prescribed in the Civil Code.

10.7 Cumulative Remedies. The exercise by the Association of the rights and remedies specified in this Declaration shall be non-exclusive and shall not limit the right to resort to any other remedy available under California law.

10.8 Failure Not A Waiver. Failure by the Board or any Owner to enforce the Governing Documents shall not be deemed a waiver of the right of such party to do so in the future for the same or a different violation.

10.9 Remedy at Law Inadequate. Any violation of the Governing Documents, except nonpayment of Assessments or a fine, shall be deemed to be a nuisance. In such instance the Association and the Owners expressly declare and stipulate that an action at law to recover damages is inadequate and thus the violation shall be enjoined by a temporary restraining order, preliminary injunction, and permanent injunction.

10.10 Dispute Resolution. In the event of any dispute, to the extent applicable and if invoked by one side or the other, the parties shall comply with the internal dispute resolution procedures contained in Section 1363.840 of the Civil Code. In addition, to the extent applicable, the parties will comply with the alternative dispute resolution procedures contained in Sections 1369.510, *et seq.* of the Civil Code.

10.11 Judicial Reference. Any dispute arising from or related to the Governing Documents or to the management and operation of the Association or the Development shall be submitted for determination by judicial reference pursuant to Sections 638, *et seq.* of the Code of Civil Procedure. The decision of the referee shall be the decision of the court and shall be entered as a judgment pursuant to Section 644(a) of the Code of Civil Procedure. The decision of the referee shall be appealable in the same manner as any other court judgment or order is appealable.

10.12 Attorneys' Fees and Costs. In any legal proceeding or arbitration arising from or related to the Governing Documents, the prevailing party shall recover his, her, or its reasonable attorneys' fees and costs.

ARTICLE 11
ASSOCIATION INSURANCE

The Association shall purchase and maintain in force and effect, as part of the Common Expenses, the policies of insurance which are described below in this Article 11.

11.1 Authority to Purchase. All insurance specified in this Article, or otherwise deemed prudent by the Board, shall be purchased and maintained by the Association if available. The premiums shall be part of the Common Expenses.

11.2 Casualty. The Association shall purchase and maintain a master or blanket policy naming as insureds the Association and its officers, directors, employees, committee members, managing agent, and management company (if any). The policy will include, at a minimum, coverage for fire, theft, vandalism, and any other loss or peril which the Board believes is necessary or appropriate to include. The policy shall also specify that all insurance proceeds shall be payable to the Association as trustee to be held and expended as provided in this Declaration for the benefit of the Owners and their respective mortgagees.

11.3 General Liability Insurance. The Association shall purchase and maintain one or more comprehensive public liability and property damage policies naming as insureds the Association and its officers, directors, employees, committee members, managing agent, and management company (if any). The policy shall provide immediate protection with minimum limits of at least Three Million Dollars (\$3,000,000.00) per occurrence.

11.4 Directors and Officers Insurance. The Association shall purchase and maintain directors and officers errors and omission insurance providing coverage in an amount which is not less than Three Million Dollars (\$3,000,000.00) per occurrence.

11.5 Worker's Compensation. The Association shall purchase and maintain worker's compensation and employer's liability insurance as required by law or otherwise prudent.

11.6 Fidelity Insurance. The Association shall purchase and maintain fidelity coverage against dishonest acts on the part of officers, directors, employees, volunteers, and managing agents who handle or may handle the funds of the Association. The amount of the coverage shall be at least \$1,000,000.

11.7 Choice of Insurance Companies. All policies of insurance purchased by the Association shall be obtained from insurance companies qualified to do and doing business in the State of California and holding a rating of "A" or better in Best's Insurance Reports (or the equivalent rating by another reputable company or agency).

11.8 Waiver by Members. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association and as trustee for the Owners

and the Mortgagees as their respective interests may appear. In the event of damage or injury which is covered by an Association policy, the Owners may pursue collection from such policy and in the event of coverage in the amount of at least \$5,000,000, the Owners hereby waive and release all claims against the Association, the Board, Association employees, and other Owners with respect to any loss covered by such insurance.

11.9 Payment of Policy Proceeds. Regardless of the nature of the claim, all insurance proceeds paid under a policy purchased by the Association shall be delivered and made payable to the Association only. The Association shall then use those funds for the purpose described in the claim or if the funds were intended by the insurer to be paid to an Owner the Association shall promptly remit such funds to the Owner.

ARTICLE 12

DESTRUCTION OF IMPROVEMENTS

In the event of a casualty or other major event that results in destruction of the Development or serious damage to a significant portion thereof, the following regulations will apply.

12.1 Common Area Damage. In the event the Common Area is partially or totally destroyed by fire, earthquake or other casualty, the following will occur:

- a. ***Cost of Reconstruction.*** The Board shall determine the cost of repair and the amount of Reserves and insurance proceeds available for reconstruction. Estimates should be obtained from at least two (2) reputable licensed contractors.
- b. ***Automatic Reconstruction.*** If the estimated cost of repair or replacement is less than or equal to three times the amount of the total Budget of the Association for the fiscal year in which the casualty occurs, it shall be the duty of the Board, without a vote of the membership, to cause the Common Area to be repaired or rebuilt to substantially the same quality as existed prior to the damage (subject to any increased building standards then in effect). The Reserves and insurance proceeds shall be used for this purpose. Further, unless prohibited by law, the Board shall have the authority, without a vote of the membership, to levy a Special Assessment against the Owners to provide any additional funds needed to complete the project.
- c. ***Membership Approval.*** If the estimated cost of repair or replacement is greater than the formula described in subparagraph (b) above, a membership vote will be taken. The Common Areas shall be repaired or rebuilt utilizing Reserves, insurance proceeds and Special Assessments, unless 66 2/3rds of the Owners vote not to do so. A vote not to repair or rebuild shall be subject to the rights of first mortgagees as provided for in this Declaration.

- d. **Decision Not to Rebuild.** In the event the membership votes not to rebuild the Common Areas, it shall record a certificate (and any other required governmental notices) announcing the Association's intention not to repair or rebuild the Common Area. Upon recordation of the certificate the right of partition suspended by this Declaration shall be revived. In such event, after all legitimate Association expenses are paid, the balance of any Reserves and insurance proceeds shall be distributed to each Member in equal amounts, subject to the rights of all lenders.

12.2 Right of Entry to Assess Damage And Make Repairs. If repairs or replacements are made under this Article 12, representatives of the Association may enter any Unit to make repairs or assess damage upon reasonable notice to the Owner.

12.3 Negotiations with Insurer. The Board shall have full authority to negotiate in good faith with representatives of the insurer of the totally or partially destroyed Common Area, and to settle with the insurer for less than full insurance coverage if the Board concludes a settlement is prudent. Any settlement made by the Board in good faith shall be binding upon all Owners.

12.4 Unit Damage. To the extent not covered by insurance, restoration and repair of any damage caused by fire, water intrusion, earthquake or other casualty, to any Unit or Exclusive Use Common Area, as well as damage to the personal property, furniture, furnishings and decorations, fixtures and improvements of any Owner, shall be made by and at the sole expense of the Owner of that Unit.

ARTICLE 13

CONDEMNATION

13.1 Common Area Awards. In the event an action in eminent domain is brought to condemn all or any portion of the Common Areas, the Association shall represent the Owners in all proceedings, negotiations or settlements. Awards for the acquisition of Common Area shall be paid to the Board, as trustee, for distribution to the Owners, each in proportion to his percentage of ownership of the Common Area subject to (i) the rights of lenders, and (ii) recoupment of all delinquent Assessments from any Owner in default at the time of condemnation.

13.2 Unit Awards. In the event all or any portion of one or more Units are condemned, the award made for such taking shall be payable to the respective Owners of the Units subject to the rights of lenders and the duty to pay to the Association any delinquent Assessments.

13.3 Revision of Documents. In the event of any condemnation of a part of the Development, the Board shall, as soon as practicable, cause to be prepared, filed and/or recorded a revised subdivision map, Condominium Plan and/or other documents, reports, schedules or exhibits necessary to show the changed or altered status of the Development.

13.4 Status of Membership. In the event a Unit is taken in condemnation, that Unit shall cease to be part of the Development, the Owner shall cease to be a Member of the Association, and the undivided interest in Common Area appurtenant to that Unit shall automatically become vested in the Owners of the remaining Units in proportion to their respective undivided interests in the Common Area.

ARTICLE 14

PARTITION AND SEVERANCE

14.1 Right of Partition. In accordance with the provisions of Section 1359 of the Civil Code, the right of partition of the Common Area is hereby suspended and no proceeding shall be brought for the partition of said Common Area, except as provided by law or as expressly stated in this Declaration.

14.2 Power of Attorney to Sell. Each Owner does hereby grant to the Association an irrevocable power of attorney coupled with an interest, to sell the entire Development for the benefit of all of the Owners, which power of attorney shall be binding upon all such Owners, but shall be exercisable only after: (i) the happening of one of the conditions set forth in Section 1359 of the Civil Code, (ii) approval of such exercise by a majority of the total voting power of the Association, and (iii) the recordation in the office of the County Recorder a certificate executed by the President and Secretary of the Association or stating that the power of attorney is properly exercisable hereunder.

14.3 Proceeds of Partition Sale. Whenever an action is brought for the partition by sale of the Development, as provided in the Governing Documents, each Owner shall share in the proceeds of such sale in proportion to the relative value of his or her Unit and Exclusive Use Common Area as determined by an MAI appraisal obtained by the Board. Each Owner hereby expressly waives any requirement of law which might be construed as requiring that such proceeds be shared in a different manner, including Section 1359 of the Civil Code or any similar statute then in effect.

14.4 Prohibition Against Severance. No Owner shall have the right, for any purpose, to sever his Unit or Exclusive Use Common Area from his undivided interest in the Common Area.

ARTICLE 15

RESTRICTIONS REGARDING

WATERSHED AREA AND DEPARTMENT PROPERTY

15.1 General. The use and enjoyment of the Watershed Area and the Department Property by the Owners, their Residents and social Guests shall be subject to the Governing Documents and the DWP Agreement, which is attached hereto as Exhibit 4. In the event of a conflict between any provision in the Governing Documents and the DWP Agreement, the provisions in the DWP Agreement shall control.

15.2 Slope Maintenance. The Association shall control and assume full and continuing responsibility for the stability and maintenance of all cut and fill slopes on or off the Department Property which could affect Department Property if failure were to occur. The Association shall be responsible for all maintenance of the Department Property and Watershed Area and shall police the use of the Watershed Area and Department Property as defined in the DWP Agreement.

15.3 Maintenance of Property and All Landscaping; Maintenance of Fire-Resistant Native Plants. The Association shall be responsible for the maintenance, repair and replacement of portions of the Department Property and all landscaping existing on the cut and fill slopes within Department Property or watershed and cut pads therein, in compliance with all applicable Los Angeles County Municipal Codes, including the maintenance of the fire-resistant native plants planted on the Department Property by the Association, all as described in and in accordance with the DWP Agreement.

15.4 Indemnity of Department. The Association will indemnify and hold harmless the Department and its officers and employees from and against all suits, causes of action, claims, demands, losses, expenses, damages or liability for death or injury to any Person by reason of the use, exercise, or enjoyment of the Department Property herein permitted.

15.5 Tennis Courts. Any tennis courts constructed and maintained within the Watershed Area shall be restricted to daytime use. Neither the Association nor any of its Members shall attempt to install lights in an effort to extend the hours of use.

15.6 Foot Trail. Use of the foot trail on Department Property shall be for the exclusive use of the Association's Members and their Residents and social Guests. Use of the foot trail shall be restricted to daytime hours, and the use of any horses or motorized vehicles of any type is prohibited. The Association shall construct and maintain a locked gate to restrict access to the foot trail by any other Persons and will post signs restricting access.

15.7 Limitation on Construction. No other facilities or improvements shall be constructed on the Watershed Area, except for those specifically permitted in this Declaration and the DWP Agreement.

ARTICLE 16

USE OF RECREATIONAL FACILITIES BY BEVERLY CREST RESIDENTS

16.1 Residents of Beverly Glen Crest. Subject to the provisions of Section 16.2 below, all owners of lots in Beverly Glen Crest, their families, tenants, and social Guests, shall have and are hereby granted the right to use and enjoy the Recreational Facilities for recreational purposes, in the same manner and to the full extent that the Owners of Units in the Development, their families, tenants and social Guests are permitted to use and enjoy the facilities, and subject to the same rules, regulations, restrictions and conditions.

16.2 Beverly Glen Crest Fee. The right to use the Recreational Facilities granted in Section 16.1 above, to the owners of units and lots in Beverly Glen Crest, shall be conditioned on each of the owners thereof paying an annual fee for the use of the Recreational Facilities in an amount as set by the Board, but in no event to exceed 50% of the Regular Assessment from time to time applicable to the Owner of the Detached Dwelling Unit on the Development which is assessed the smallest Regular Assessment. The annual fee shall be due and payable quarterly in four (4) equal installments commencing on the first day of the first calendar quarter after the close of escrow for the sale of the lot in Beverly Glen Crest.

ARTICLE 17

PROTECTION OF LENDERS, SALES AND TRANSFERS

17.1 Assessment Lien Subordinated. Any lien created under the provisions of this Declaration in favor of the Association shall be subject and subordinate to the rights of any Mortgagee of any previously recorded first Mortgage or second Mortgage (which shall include a “wrap-around” or “all-inclusive” Mortgage) upon any Condominium made in good faith and for value. No lien created or claimed under the provisions of this Declaration shall in any way defeat, invalidate or impair the rights of any Mortgagee under any such previously recorded first or second Mortgage unless the Mortgagee thereunder shall expressly subordinate his interest, in writing, to such lien.

17.2 Amendments to Declaration. No amendment to this Declaration shall adversely affect the rights of the Mortgagee of any Mortgage which is made in good faith and for value, provided that any such Mortgage is recorded prior to the recordation of such amendment; and provided further that the benefit of this Section shall not apply to the Mortgagee of any such Mortgage if such Mortgagee shall (i) join in the execution of such amendment or (ii) approve said amendment in writing.

17.3 Mortgagee Right to Vote. In the event of a default by any Owner under a first Mortgage encumbering an Owner's Condominium, the Mortgagee in default (or if both Mortgages are in default, the Mortgagee under the first Mortgage) shall, upon (i) giving in written notice to said defaulting Owner, (ii) recording a Notice of Default in accordance with Section 2924 of the California Civil Code and (iii) delivering a copy of such recorded Notice of Default to the Association, have the right to exercise the vote of the Owner at any regular or special meeting of the Association held only during such period as said default may continue.

17.4 Breach. No breach of any provision of this Declaration shall impair or invalidate the lien of any recorded Mortgage made in good faith and for value and encumbering any Condominium.

17.5 Notification as to Mortgagees. Each Owner shall notify the Board through the Secretary of the Association of the name and address of the holders of all Mortgages encumbering such Owner's Condominium. Each Owner shall likewise notify the Board through the Secretary of the Association as to the release or discharge of any such Mortgages. In addition, the holder of any Mortgage encumbering a Condominium within the Project may notify

the Board through the Secretary of the Association of such holder's identity and address and description of the Condominium which such holder's Mortgage encumbers. The Board shall maintain a record of the names and addresses of the holders of Mortgages as to which it receives notice pursuant to the provisions of this Section and shall provide the holders of all such Mortgages as to which it receives notice pursuant to the provisions of this Section with the following written notification:

- a. Written notification at least thirty (30) days prior to the effective date of any change in this Declaration or the Condominium Plans.
- b. Written notification of any default by an Owner of the obligations of such Owner established by this Declaration, the Articles of the By-Laws; provided, however, that such written notification shall be provided only to holders of Mortgages, which encumber the Condominium owned by the Owner in default.
- c. If, at any time, approval of one or more lenders is required for the Association to take some action, the lender(s) shall be deemed to have approved the action if such lender(s) is/are given 30 days notice of the action and fails to object or disapprove.

17.6 Exchange of Information. It is hereby agreed that any Mortgagee of any Condominium is hereby authorized to furnish to the Board, upon the written request by the Board therefor, the amount of any unpaid balance due on any note held by such Mortgagee and the amount and due date of any delinquent payment or payments due in accordance with such note.

17.7 Sale or Transfer. The sale or transfer of any Condominium shall not affect any lien previously created under this Declaration provided, however, the sale or transfer of any Condominium pursuant to a judicial foreclosure, foreclosure by power of sale, or deed in lieu of foreclosure, shall extinguish any such lien created against the Condominium which is the subject of such sale or transfer.

ARTICLE 18 **AMENDMENTS**

18.1 Amendment. This Declaration may be amended by the vote or written consent of Owners comprising 60% of the total voting power of the Association. Any amendment or restatement adopted under this Article shall be recorded in the office of the Los Angeles County Recorder. The Board of Directors by unanimous vote may permit minor amendments to the Declaration which only correct errors associated with the restatement process, typos, internal inconsistencies, and any other technical errors.

18.2 Required Amendments. If any law applicable to the Development or this Declaration is enacted after the date this Declaration is adopted, which directly contradicts, restricts, limits or changes any provision contained herein, this Declaration will be deemed amended by operation of law. Any provision herein to the contrary notwithstanding, if an amendment occurs by operation of law the Board may, by unanimous consent, cause a document describing such amendment to be distributed to the Owners and recorded with the Los Angeles County Recorder's Office as an amendment to this Declaration.

18.3 Confirmation of Approval. A certificate signed and sworn to by two (2) officers of the Association that the requisite number of Owners have either voted or consented in writing to any amendment, when recorded, shall be conclusive evidence of such fact.

ARTICLE 19

MISCELLANEOUS

19.1 Term. The provisions of this Declaration shall continue in effect for a term of fifty (50) years from the date of execution. Thereafter, the Declaration will be automatically extended for a successive periods of ten (10) years each until the Members terminate it by the vote or written consent of Owners constituting 75% of the total voting power. Such termination shall be effective only if the vote occurs within the 12-month period prior to expiration of the term or any extension thereof.

19.2 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the use, operation and maintenance of the Development.

19.3 Number and Gender. Whenever the context so requires, the singular number includes the plural, the plural includes the singular, the masculine gender includes the feminine and/or neuter and the neuter gender includes the masculine and/or feminine.

19.4 Severability. The provisions of this Declaration are severable from one another. If any provision is found to be invalid, illegal or unenforceable it shall not affect the validity, legality and enforceability of the remaining provisions.

19.5 Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority shall be as follows: (i) Articles, (ii) Declaration, (iii) Bylaws, (iv) Rules.

19.6 No Public Rights in the Development. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

19.7 Successors and Assigns. This Declaration shall inure to the benefit of and be binding upon the Owners, and their respective heirs, personal representatives, grantees, lessees, licensees, successors and assigns.

19.8 Reference to Statutes. If, after adoption of this Declaration, the legislature rearranges or renumbers relevant provisions of the Civil Code or the Corporations Code, such that any specific code number referenced herein is changed, the Board, without a vote of the Owners, may amend this Declaration to reflect the change.

19.9 Notices. Any communication or notice permitted or required herein shall be delivered as provided in this Declaration. The notice shall be in writing and if served by mail or personal delivery shall be addressed as follows:

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| To an Owner: | To street address of his or her Unit or such other address as the Owner may from time to time designate in writing to the Association. |
| To the Association: | To the Association at the address of its management office. |
| To the Manager or a Board or Committee Member: | To the person by his or her name and title at the address of the management office of the Association. |

Notices and demands may be served by personal delivery, email, facsimile, or first class regular mail with postage thereon fully prepaid.

IN WITNESS WHEREOF, this Declaration has been executed as of the day and year first written above.

Bel Air Ridge Homeowners Association

President:

Secretary: