

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
NEWPORT HILLS
(TRACT NO. 7027)

THIS AMENDED AND RESTATED DECLARATION ("Declaration") is made by NEWPORT HILLS COMMUNITY ASSOCIATION, a California nonprofit corporation ("Association").

PREAMBLE:

A. The Association is the association of owners of real property ("Properties") in the City of Newport Beach County of Orange, State of California, described on Exhibit "A" attached hereto and incorporated herein by this reference.

B. The Properties are subject to a Declaration of Covenants, Conditions and Restrictions, Tract No. 7027 ("Original Declaration"), which was Recorded on March 5, 1970, in Book 9231, Page 823 et seq., of Official Records of Orange County, California.

C. The Association and its Members desire to amend and restate the Original Declaration in its entirety with this Declaration, so that upon Recordation of this Declaration in the Official Records of Orange County, the Original Declaration will cease to encumber the Properties, and shall be replaced with this Declaration.

D. The Association hereby declares that the Properties shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes contained in this Declaration, all of which are for the purpose of enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Properties or any portion thereof. The covenants, conditions, restrictions, rights, reservations, easements and equitable servitudes set forth herein shall (1) run with and burden the Properties and shall be binding upon all Persons having or acquiring any interest in the Properties or any part thereof their heirs, successors and assigns; (2) inure to the benefit of every portion of the Properties and any interest therein; and (3) inure to the benefit of and be binding upon each Owner and each Owner's successors in interest.

ARTICLE I

1. Definitions

Unless otherwise expressly provided, the following words and phrases when used herein have the following specified meanings.

1.1. ARC.

ARC means the Architectural Review Committee created pursuant to Article VIII hereof.

1.2. Articles.

Articles means the Articles of Incorporation of the Association as amended.

1.3. Assessment Annual.

Annual Assessment means a charge against the Owners and their Lots, representing a portion of the Common Expenses, which is to be levied as provided herein.

1.4. Assessment Special.

Special Assessment means (a) a charge against a particular Owner directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the Restrictions, or a reasonable fine or penalty assessed by the Board, plus interest and other charges on such Special Assessments as provided for herein, or (b) a charge which the Board may levy against the Owners and their Lots, representing a portion of the cost to the Association for installation, construction or reconstruction of any capital Improvement on any of the Common Area or Association Maintenance Areas, to be levied in the same proportion as Annual Assessments.

1.5. Association.

Association means NEWPORT HILLS COMMUNITY ASSOCIATION, a California nonprofit corporation, its successors and assigns. The Association is an "association" as defined in Section 1351(a) of the California Civil Code.

1.6. Association Maintenance Areas.

Association Maintenance Areas means the structural integrity, top surface and surface facing away from the Lots of the (a) walls surrounding the perimeter of the Properties, (b) walls and fences within the Properties that abut or are adjacent to public rights of way, parks, schools or Common Area and (c) walls identified as the Association's maintenance responsibility in the document Recorded on March 14, 1995, as Instrument No. 95-0103631 (the "Tract No. 14533 Notice of Annexation"). Notwithstanding the foregoing, there are no Association Maintenance Areas located on Tract No. 14533 other than as identified on Exhibit "I" to the Tract No. 14533 Notice of Annexation.

1.7. Association Maintenance Funds.

Association Maintenance Funds means the accounts created for Association receipts and disbursements pursuant to Article VI hereof.

1.8. Beneficiary.

Beneficiary means a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust and the assignees of such Mortgagee or Beneficiary.

1.9. Board or Board of Directors.

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

1.10. Budget.

Budget means a written, itemized estimate of the Association's income and Common Expenses prepared pursuant to the Bylaws.

1.11. Bylaws.

Bylaws means the Bylaws of the Association.

1.12. City.

City means the City of Newport Beach, in the County of Orange, State of California, and its various departments, divisions, employees and representatives.

1.13. Common Area.

Common Area means all real property and Improvements which are owned by the Association. The Common Area includes the real property described on Exhibit "B" attached hereto and incorporated herein by this reference.

1.14. Common Expenses.

Common Expenses means those expenses for which the Association is responsible under this Declaration, including the actual and estimated costs of: maintaining, managing, operating, repairing and replacing the Common Area and Association Maintenance Areas; unpaid Special Assessments; any commonly metered utilities and other commonly metered charges for the Properties; managing and administering the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; all utilities, gardening, trash pickup and other services benefiting the Common Area and Association Maintenance Areas; fire, casualty and liability insurance, worker's compensation insurance, and other insurance covering the Properties and the directors, officers and agents of the Association; bonding the members of the Board; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Properties, or portions thereof and all other items incurred by the Association for any reason whatsoever in connection with the Properties, for the common benefit of the Owners.

1.15. Cost Center.

Cost Center means one or more Improvements or maintenance areas located on a portion or portions of the Common Area, the maintenance or use of which Improvements or maintenance areas is fully or partially restricted to Owners of certain Lots, and where the expenses of operating, maintaining and replacing such Improvements or maintenance areas are borne solely or disproportionately by such specified Owners. There are no Cost Centers as of the Recordation of this Declaration.

1.16. Declaration.

Declaration means this instrument as amended.

1.17. Deed of Trust.

Deed of Trust means a Mortgage as defined herein.

1.18. Dwelling Unit

Dwelling Unit means a building located on a Lot designed and intended for use and occupancy as a residence by a single Family.

1.19. Family.

Family means (a) one or more natural persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group not all so related who maintain a common household in a Dwelling Unit on a Lot.

1.20. Fiscal Year.

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

1.21. Improvement.

Improvement means any structure or appurtenance thereto, including, but not limited to, buildings, walkways, sprinkler pipes, carports, recreational facilities, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, the paint on all exterior surfaces, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, storage areas, exterior air conditioning and water-softening fixtures or equipment.

1.22. Lot.

Lot means any residential Lot or parcel of land shown upon any Recorded subdivision map, Recorded parcel map or Recorded lot line adjustment of any portion of the Properties, with the exception of the Common Area.

1.23. Manager.

Manager means the Person employed by the Association to perform functions of the Association as limited by the Restrictions and the terms of the agreement between the Association and said person.

1.24. Member. Membership.

Member means any Person holding a Membership. Membership means the property, voting and other rights and privileges of Members as provided in the Restrictions, together with the correlative duties and obligations contained therein.

1.25. Mortgage.

Mortgage means any Recorded mortgage or deed of trust or other conveyance of one (1) or more Lots or other portion of the Properties to secure the performance of an obligation, which will be reconveyed upon the completion of such performance.

1.26. Mortgagee, Mortgagor.

Mortgagee means a Person to whom a Mortgage is made and includes the Beneficiary of a Deed of Trust. Mortgagor means a Person who mortgages his or her Lot to another (i.e., the maker of a Mortgage), and includes the Trustor of a Deed of Trust. The term "Trustor" is synonymous with the term "Mortgagor" and the term "Beneficiary" is synonymous with the term "Mortgagee."

1.27. Notice and Hearing.

Notice and Hearing means written notice and a hearing before the Board as provided in the Bylaws.

1.28. Owner.

Owner means the Person or Persons holding fee simple interest of record to any Lot. The term "Owner" includes a seller under an executory contract of sale but excludes Mortgagees. A list of Owners as of the date of Recordation hereof is attached hereto as Exhibit "C."

1.29. Person.

Person means a natural individual or any other entity with the legal right to hold title to real property.

1.30. Properties.

Properties means (a) all of the real property described in Paragraph A of the Preamble to this Declaration, and (b) any real property annexed to the Properties pursuant to Article XIII hereof. The Properties are a "common interest development" and a "planned development" as defined in Sections 1351(c) and 1351(k), respectively, of the California Civil Code.

1.31. Record, File, Recordation.

Record, File, or Recordation means, with respect to any document, the recordation or filing of such document in the office of the Orange County Recorder.

1.32. Restrictions.

Restrictions means this Declaration, the Articles, Bylaws and the Rules and Regulations of the Association.

1.33. Rules and Regulation:.

Rules and Regulations means the rules and regulations adopted by the Board pursuant to this Declaration or the Bylaws, as amended.

ARTICLE II

2. Owners' Property Rights.

2.1. Owners' Easements of Enjoyment.

Every Owner has a right and easement of ingress and egress and of enjoyment in, to and over the Common Area, and such easement is appurtenant to and shall pass with title to every Lot, subject to the following:

- (a) The Association's right to reasonably limit the number of guests and tenants of the Owners using the Common Area;
- (b) The Association's right to establish Rules and Regulations for the use of the Common Area;
- (c) The Association's right in accordance with the Restrictions, with the vote or written assent of two-thirds (2/3) of the Association's voting power, to borrow money for the purpose of improving, repairing, or adding to the Common Area, or for improving the Association Maintenance Areas, and in aid thereof; to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;
- (d) Subject to the provisions of Article V hereof; the Association's right to transfer the Common Area for such purposes and subject to such conditions as may be agreed to by the Members. Except for grants of easements, licenses, or rights-of-way in or over the Common Area for purposes not inconsistent with the use of the Properties as a residential development, no such dedication, release, alienation or transfer shall be effective, unless an instrument signed by Members entitled to cast at least two-thirds (2/3) of the voting power of the Association, agreeing to such dedication, release, alienation or transfer, has been Recorded;
- (e) The Association's right to reconstruct, replace or refinish any improvement or portion thereof on the Common Area and Association Maintenance Areas;
- (f) The Association's right to maintain and repair the Common Area, including without limitation the right to replace and plant landscaping Improvements upon any portion of the Common Area;
- (g) The Association's right to reasonably restrict access to portions of the Common Area; and
- (h) The easements, rights and interests identified in Article II of This Declaration.

2.2. Easements for Vehicular/Pedestrian Traffic.

In addition to the general easements for use of the Common Area described herein, each Owner has nonexclusive easements appurtenant to such Owner's Lot for vehicular and pedestrian traffic over any private streets within the Properties, subject to the parking provisions set forth in Section 10.5 hereof.

2.3. Easements for Public Service Use

The City has easements over the Properties for public services, including but not limited to, the right of law enforcement and fire protection personnel to enter upon any part of the Properties for the purpose of carrying out their official duties.

2.4. Easements for Water and Utility Purposes.

In addition to the foregoing easements over the Common Area, the Properties are subject to easements for public and private utility purposes, including but not limited to, the right of any public utility or mutual water district of ingress or egress over the Common Area for purposes of reading and maintaining meters, and using and maintaining fire hydrants located in the Properties.

2.5. Easement-Association Maintenance Areas.

The Board has an easement over the Association Maintenance Areas for maintenance thereof and over the Lots for access, ingress and egress necessary to perform such maintenance. Subject to the procedures described in Article VIII hereof, no Owner may interfere with the Association's exercise of its rights under the easement described in this Section. In addition, no Owner may alter or remove the Improvements on the Common Area or the Association Maintenance Areas.

2.6. Use of Common Area Recreational Facilities.

Any Owner entitled to the right and easement of use and enjoyment of the Common Area is deemed to have delegated those rights and easements to such Owner's tenants, contract purchasers or subtenants who reside in such Owner's Dwelling Unit. An Owner who has delegated his right and easement may not use or enjoy the recreational facilities or equipment on the Common Area for so long as such delegation remains in effect.

2.7. Waiver of Use.

No Owner may exempt himself from the personal liability for assessments duly levied by the Association, nor release his Lot from the liens and charges hereof, by waiving the use and enjoyment of the Common Area or any facilities thereon or by abandonment of such Owner's Lot.

ARTICLE III

3. Newport Hills Community Association.

3.1. Organization of Association.

The Association is incorporated under the name of NEWPORT HILLS COMMUNITY ASSOCIATION, as a corporation not for profit organized under the California Corporation Law.

3.2. Duties and Power.

The Association has the duties and powers set forth in the Restrictions and also has the general and implied powers of a nonprofit corporation, generally to do all things that a corporation organized under the laws of the State of California may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers set forth in the Restrictions.

3.3. Membership.

Every Owner shall automatically be a Member and shall remain a Member until such Owner's Lot ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Lot is the sole qualification for Membership. Every Membership is appurtenant to and may not be separated from the fee ownership of such Lot.

3.4. Transfer.

The Membership of any Owner may not be transferred, pledged or alienated in any way, except upon the transfer or encumbrance of such Owner's Lot, and then only to the transferee or Mortgagee of such Lot. A prohibited transfer is void and will not be reflected upon the books and records of the Association. A Member who has sold his Lot to a contract purchaser under an agreement to purchase may delegate his Membership rights to the contract purchaser. The delegation must be in writing and must be delivered to the Board before the contract purchaser may vote. The contract seller shall remain liable for all charges and agents attributable to the contract seller's Lot which accrue before fee title to the Lot is transferred. If an Owner fails or refuses to transfer his Membership to the purchaser of such Owner's Lot upon transfer of fee title thereto, the Board may record the transfer upon the Association's books. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser will not be entitled to vote at Association meetings.

ARTICLE IV

4. Voting Rights.

4.1. Classes of Voting Membership.

The Association has one (1) class of voting Membership. When more than one (1) Person owns any Lot, all such Persons are Members. The vote for such Lot shall be exercised in accordance with Section 4.2, but no more than one (1) vote may be cast for any Lot.

4.2. Voting Rights.

All voting rights are subject to the Restrictions. Members are entitled to one (1) vote for each Lot in which they hold the interest required for Membership. When more than one (1) Person holds such interest or interests in any Lot ("co-owner"), all such co-owners are Members and may attend Association meetings, but only one (1) such co-owner shall be entitled to exercise the vote to which the Lot is entitled. Co-owners owning the majority interests in a Lot may designate in writing one (1) of their number to vote. Fractional votes are not allowed, and the vote for each Lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation has been revoked, the vote for the Lot shall be exercised as the co-owners owning the majority interests in the Lot agree. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the corresponding voting co-owner is acting with his co-owners' consent. No vote may be cast for any Lot if the co-owners present in person or by proxy owning the majority interests in such Lot cannot agree to said vote or other action. The nonvoting co-owner or co-owners are jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Restrictions are binding on all Owners and their successors.

ARTICLE V

5. Jurisdiction of Association.

The Association has:

- (a) The power and duty to maintain, repair and otherwise manage the Common Area and Association Maintenance Areas in accordance with Articles VI and IX hereof.
- (b) The power and duty to maintain any private sewer systems and any private storm drains or drainage facilities within the Common Area in accordance with Articles VI and IX hereof.
- (c) The power and duty to obtain, for the benefit of the Properties, all commonly metered water, gas and electric services, and the power but not the duty to provide for refuse collection and cable or master television service.
- (d) The power and duty to grant easements and rights of way over portions of the Common Area, to the extent any such grant is reasonably required for utilities and sewer facilities to serve the Common Area and the Lots.
- (e) The power but not the duty to grant or quitclaim easements, licenses or rights of way in, on or over the Common Area for purposes consistent with the intended use of the Properties as a planned residential development.

(f) The power and duty to maintain liability and fire insurance with respect to the Common Area, the Association Maintenance Areas and personal property, if any, owned by the Association as provided herein in furthering the purposes and protecting the interests of the Association and Members and as directed by the Restrictions.

(g) The power but not the duty to employ or contract with a professional Manager to perform all or any part of the Association's duties and responsibilities, and the power to delegate its powers to committees, officers and employees. The maximum term of any contract with a Manager ("Management Contract") shall be one (1) year, unless a longer term is approved either by vote or written assent of a majority of the Association's voting power, in which case the maximum term of the Management Contract shall be three (3) years. Each Management Contract must provide for its termination by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days' written notice to the other party.

(h) The power but not the duty to correct violations occurring on an Owner's Lot so long as the Board has first satisfied the following procedural requirements:

(i) prepare a concise statement ("Complaint") describing the acts or omissions with which the Owner is charged, and identifying the Sections of this Declaration that such acts or omissions violate;

(ii) deliver or mail a copy of the Complaint to the Owner in accordance with Section 14.3 of this Declaration, together with a statement substantially in the form set forth in Section 12.2 of the Bylaws.

(A) If the Owner delivers or mails to the Association a response to the Complaint within fifteen (15) days of the date the Complaint was mailed or delivered to the Owner, then the Board shall schedule a hearing regarding the Owner's alleged violation. The date of the hearing must be at least thirty (30) days following the date on which the Complaint was mailed or delivered to the Owner. The Board shall notify the Owner of the hearing by mailing or delivering a notice substantially in the form set forth in Section 12.3 of the Bylaws. The hearing shall be conducted in executive session. The minutes of the hearing must contain a written statement of the results of the hearing and the sanction, if any, imposed.

(B) If the Owner fails to deliver or mail to the Association a response to the Complaint within fifteen (15) days of the date the Complaint was mailed or delivered to the Owner, then the Owner shall have waived the right to a hearing, and the Board may impose a sanction.

(C) If no hearing is conducted (pursuant to Article V(h)(ii)(B)), or if a hearing is conducted and a majority of the Board determines that the

Owner has violated the Declaration, then the Board may impose one (1) or more of the following sanctions on the Owner:

(1) levy a Special Assessment;

(2) suspend or condition the Owner's right to use any recreational facilities the Association owns, operates or maintains;

(3) suspend the Owner's voting privileges as a Member;

(4) correct the violations on the Lot and charge the Owner the cost thereof as a Special Assessment. If such correction of violations occurs, neither the Association nor the persons who perform such corrections shall be liable to the Owner of the Lot for trespass.

(D) A suspension may not exceed thirty (30) days for a noncontinuing violation. A suspension for a continuing violation may be imposed for so long as the violation continues.

(E) No sanction may become effective prior to five (5) days following (1) the hearing, or (2) if no hearing is conducted, the deadline for the Owner to deliver or mail to the Association a response to the Complaint.

(i) The power but not the duty to reasonably limit the number of guests and tenants of the Owners using the Common Area.

(j) The power but not the duty to establish Rules and Regulations for the use of the Common Area.

ARTICLE VI

6. Covenants for Maintenance Assessments.

6.1. Creation of Assessment Obligation.

Each Owner shall pay to the Association Annual Assessments and Special Assessments; such Assessments to be established and collected as provided herein. The Association may not levy or collect any Annual Assessment or Special Assessment that exceeds the amount necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, are a charge and continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, is also the personal obligation of the Person who was the Owner of the Lot at the time when the assessment fee due. The personal obligation for delinquent assessments may not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser.

6.2. Association Maintenance Funds.

The Board shall establish and maintain an Operating Fund and a Reserve Fund into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the Association's performance of its functions under the Restrictions. The monies in the Operating Fund and the Reserve Fund shall be segregated into the following funds ("Association Maintenance Funds") for internal bookkeeping purposes of the Association:

(a) General Operating Fund.

A General Operating Fund for current expenses of the Association exclusive of current expenses attributable to the Improvements and maintenance responsibilities included within the Cost Centers, if any.

(b) General Reserve Fund.

An adequate General Reserve Fund for the deposit of reserves attributable to Improvements within the Common Area and Association Maintenance Areas, exclusive of reserves attributable to Improvements included in the Cost Centers, if any.

(c) Cost Center Operating Fund.

A Cost Center Operating Fund for current expenses of each Cost Center, if any, which the Association is required to maintain.

(d) Cost Center Reserve Fund.

An adequate Cost Center Reserve Fund for the deposit of reserves attributable to each Cost Center, if any, which the Association is required to maintain.

(e) Miscellaneous Maintenance Funds.

Any other Association Maintenance Funds which the Board deems necessary.

6.3. Disbursements.

All amounts deposited into the Association Maintenance Funds must be used solely for the purposes authorized by the Restrictions. The Board is authorized to transfer interest and other earnings attributable to the General Reserve Fund and Cost Center Reserve Fund into the respective Operating Fund in order to satisfy income taxes payable by the Association attributable to such interest and earnings. The signatures of either two (2) Directors of the Association or one (1) Director and one (1) officer who is not also a Director of the Association are required for the withdrawal of money from the Association's reserve funds. As used in Article VI of this Declaration, "reserve funds" means monies the Board has identified from the Budget for use to defray the future repair and replacement of, or additions to, those major components which the Association is obligated to maintain. Disbursements from the particular Association Maintenance Funds shall be limited to specific purposes as follows:

(a) Cost Center Reserves. Disbursements from each Cost Center Reserve Fund shall be made solely for the purpose of funding reserve expenditures attributable to the Cost Center for which the fund was created.

(b) Cost Center Operations. Disbursements from each Cost Center Operating Fund shall be made solely for the purpose of funding the current operating Common Expenses of the Cost Center for which the fund was created.

(c) General Reserves. Disbursements from the General Reserve Fund shall be made solely for the purpose of funding those reserve expenditures which are not budgeted to a Cost Center.

(d) General Operations. Disbursements from the General Operating Fund shall be made for such purposes as are necessary for the discharge of the Association's responsibilities under the Restrictions, for the common benefit of all Owners, other than those purposes specified in Sections 6.3(a), (b) and (c).

Nothing contained herein precludes the establishment of additional Maintenance Funds by the Association designated for specified purposes authorized by the Restrictions.

6.4. Limitations on Annual Assessment Increases.

The Board may only levy Annual Assessments in accordance with Section 1366 of the California Civil Code.

6.5. Annual Assessments — Allocation.

Each Annual Assessment shall constitute an aggregate of separate assessments for each of the Association Maintenance Funds, reflecting an itemization of the amounts assessed and attributable to prospective deposits into the General Operating and Reserve Funds, the Cost Center Operating and Reserve Funds, and any other Association Maintenance Fund established by the Association.

(a) General Assessment Component.

The Common Expenses exclusive of Common Expenses Budgeted to the Cost Centers ("General Assessment Component") shall be allocated equally among all of the Owners and their Lots.

(b) Cost Center Assessment Component. That portion of the Common Expenses comprising Cost Center Operating and Reserve funds budgeted to any particular Cost Center ("Cost Center Assessment Component") shall be assessed equally to the Owners of Lots designated as Lots to which the exclusive or disproportionate maintenance of such Cost Center has been allocated.

6.6. Annual Assessments.

The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any change in the amount of any Annual Assessment or Special Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due. The due dates shall be established by the Board. The Association shall, upon a reasonable charge, furnish a certificate signed by an Association officer.

or agent setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

Each installment of Annual Assessments may be paid by the Member to the Association in one check or payment or in separate checks as payments attributable to specified Association Maintenance Funds. If any payment of an Annual Assessment installment is (a) less than the amount assessed and (b) does not specify the Association Maintenance Fund or Funds into which it should be deposited, then the amount received shall be credited in order of priority first to the General Operating Fund, until that portion of the Annual Assessment has been satisfied, second to any applicable Cost Center Operating Fund, until that portion of the Annual Assessment has been satisfied, third to the General Reserve Fund, until that portion of the Annual Assessment has been satisfied, and fourth to any applicable Cost Center Reserve Fund.

The Board may determine that funds remaining in the Operating Funds at the end of a Fiscal Year be retained and used to reduce the following Fiscal Year's Annual Assessments. Upon dissolution of the Association incident to the abandonment or termination of the Properties as a planned development, any amounts remaining in any of the Maintenance Funds shall be distributed to or for the benefit of the Members in the same proportions as such monies were collected from the Members.

6.7. Exempt Property.

The following property subject to this Declaration is exempt from the assessments herein:

- (a) All portions of the Properties dedicated to and accepted by a local public authority; and
- (b) The Common Area owned by the Association in fee.

ARTICLE VII

7. Nonpayment of Assessments: Remedies.

7.1. Nonpayment of Assessments: Remedies.

Any installment of an assessment is delinquent if not paid within fifteen (15) days of the due date established by the Board. Any installment of Annual Assessments or Special Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges as provided herein bears interest at the maximum rate permitted by law commencing thirty (30) days from the date the assessment becomes due until paid. The Board may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 1366(d)(2). The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. The Association need not accept any tender of a partial payment of an assessment installment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender does not waive the Association's right to demand and receive full payments thereafter.

7.2. Notice of Assessment

No action may be brought to enforce any assessment lien herein unless at least thirty (30) days has expired following the date a Notice of Assessment is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot, and a copy thereof has been Recorded by the Association. Such Notice of Assessment must recite (a) a good and sufficient legal description of any such Lot, (b) the record Owner or reputed Owner thereof, (c) the amount claimed (which may at the Association's option include interest and late charges on the unpaid assessment as described above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), (d) the Association's name and address, and (e) in order for the lien to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. Recordation of the Notice of Assessment creates a lien on the Lot as provided in Section 1367 of the California Civil Code. The Notice of Assessment must be signed by an authorized Association officer or agent and said lien is prior to any declaration of homestead. The lien continues until paid or otherwise satisfied.

7.3. Foreclosure Sale.

A sale to foreclose an Association lien may be conducted by the Board, its attorneys or other persons authorized by the Board in accordance with the provisions of Sections 2924, 2924a, 2924b, 2924c and 2924f of the California Civil Code, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages, or in any other manner permitted by law, except that a Special Assessment levied as a disciplinary measure for a Member's failure to comply with the Restrictions (except for late payments) may not become a lien enforceable by nonjudicial foreclosure. The Association, through duly authorized agents, may bid on the Lot at foreclosure sale, and acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of the Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner.

7.4. Curing of Default

Upon (a) the timely curing of any default for which the Association Filed a Notice of Assessment, and (b) payment by the defaulting Owner of a reasonable fee to be determined by the Board, the Association's officers shall Record an appropriate Release of Lien. A certificate executed and acknowledged by any two (2) members of the Board stating the indebtedness secured by the liens upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, to be determined by the Board.

7.5. Cumulative Remedies.

The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

7.6. Mortgage Protection.

No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any Deed of Trust made in good faith and for value, but all of said covenants, conditions and restriction shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

7.7. Subordination of Assessment Liens.

If a Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a Deed of Trust (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Deed of Trust; and (2) the foreclosure of the lien of Deed of Trust or the acceptance of the deed in lieu of foreclosure of the Deed of Trust shall not operate to affect or impair the lien thereof, except that the lien hereof for said charges as shall have accrued up to the foreclosure or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the Deed of Trust, with the foreclosure purchaser or deed-in-lieu-taking title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure or deed given in lieu of foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure or deed given in lieu of foreclosure.

7.8. Receivers.

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

ARTICLE VIII

8. Architectural Control.

8.1. Members of Committee.

The Architectural Review Committee, referred to herein as the "ARC," shall be comprised of a minimum of three (3) members. The Board may increase and decrease the size of the ARC in its

discretion (but not below three (3) members), and may appoint and remove all of the members of the ARC. ARC members must be either (a) Members or (b) licensed design professionals (e.g., architects). Board members may also serve as ARC members. The ARC has the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Properties.

8.2. Review of Plans and Specifications.

The ARC shall consider and act upon all plans and specifications submitted for its approval under this Declaration and perform such other duties as the Board assigns to it, including inspection of construction in progress to assure conformance with plans approved by the ARC. No construction, installation or alteration of an Improvement to (a) the exterior of a Dwelling Unit, (b) the front yard portions of a Lot, including landscaping, or (c) the rear yard of a Lot if the Improvement as constructed, installed or altered would generate excessive or annoying odors or noises (e.g., air conditioning compressors, pool or spa equipment, sports courts) or exceeds (or in the case of landscaping Improvements, at maturity would exceed) six feet (6') in height above finished grade level, may be commenced or maintained until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the ARC; provided, however, that any Improvement may be repainted or repaired without ARC approval so long as the Improvement is repainted or repaired, as applicable, (i) with colors, materials and architectural styles as approved in the ARC guidelines, or (ii) to substantially the same color or condition prior to the necessity for the repainting or repair arising. Without limiting the generality of the foregoing, the provisions of this Article VIII apply to the construction, installation and alteration of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714, the City Building Code, applicable zoning regulations, and associated City ordinances. The Owner submitting the plans and specifications ("Applicant") shall obtain a written, dated receipt therefor from an authorized ARC agent. Until changed by the Board, the address for submission of such plans and specifications is the Association's principal office. The ARC shall approve plans and specifications submitted for its approval only if it determines that (a) the installation, construction or alterations contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Properties as a whole, (b) the appearance of any structure affected thereby will be in harmony with the surrounding structures, (c) the installation, construction or alteration thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Area and Association Maintenance Areas or the enjoyment thereof by the Members, and (d) the maintenance thereof will not become a burden on the Association.

The ARC may condition its approval of proposals or plans and specifications for any Improvement upon any of the following: (1) the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Properties as a result of such work, (2) such changes therein as it deems appropriate, (3) the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (4) the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption,

(5) the Applicant's agreement to reimburse the Association for the cost of such maintenance, or
(6) the Applicant's agreement to complete the proposed work within a stated period of time, an may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans for approval, requiring a fee to accompany each application for approval, or stating additional factors which it will consider in reviewing submissions. The ARC may provide that the amount of such fee be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or installation contemplated. The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior material and colors. The ARC may postpone review of any plans submitted for approval until it receives all required plans and specifications. The ARC shall transmit its decision and the reasons therefor to the Applicant at the address set forth in the application for approval within thirty (30) days after the first regularly scheduled and held ARC meeting following the date the ARC receives all materials required. Any application submitted pursuant to this Section 8.2 shall be deemed approved unless the ARC transmits written disapproval or a request for additional information or materials to the Applicant within thirty (30) days alter the first regularly scheduled and held ARC meeting following the date the ARC receives all required materials. The Applicant shall meet any review or permit requirements of the City prior to making any construction, installation or alterations permitted hereunder. Following commencement of construction, installation or alteration of any Improvement approved by the ARC, the Applicant shall diligently prosecute the same to completion.

8.3. Meetings of the ARC.

The ARC shall meet as necessary to perform its duties. The ARC may, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC. In the absence of such designation, the vote or written consent of a majority of the ARC constitutes an act of the ARC.

8.4. No Waiver of Future Approvals.

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

8.5. Compensation of Members.

The ARC's members shall receive no compensation for services rendered, other than (a) reimbursement for expenses incurred by them in performing their duties, and (b) in the case of ARC members who are licensed design professionals, such reasonable compensation as approved by the Board.

8.6. Inspection of Work.

The ARC or its duly authorized representative may inspect any work for which approval of plans is required under this Article VIII ("Work"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the ARC-approved plans for the Work or with the requirements of this Declaration ("Noncompliance").

(a) Time Limit. The Owner shall notify the ARC of completion of the Work within five (5) days of such completion. The ARC'S right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the ARC has received written notice from the Owner that the Work has been completed. If the ARC fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

(b) Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days from the date of notification from the ARC, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board may commence enforcement proceedings pursuant to Section 14.1 hereof

8.7. Scope of Review.

The ARC shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed construction, installation or alteration solely on the basis of aesthetic considerations, consistency with this Declaration, and the overall benefit or detriment which would result to the immediate vicinity and the Properties generally. The ARC shall consider the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features. The ARC's approval or disapproval shall be based solely on the considerations set forth in this Article VIII. The ARC is not responsible for reviewing, nor may its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.

8.8. Appeals.

The Board may adopt policies and procedures for the appeal of ARC decisions to the Board. The Board has no obligation to adopt or implement any appeal procedures, and in the absence of Board adoption of appeal procedures, all ARC decisions are final.

ARTICLE IX

9. Maintenance and Repair Obligations.

9.1. Maintenance Obligations of Owners.

Each Owner shall, at the Owner's sole expense, subject to the provisions of this Declaration requiring ARC approval, maintain, repair, replace and restore all Improvements located on the Owner's Lot and the Lot itself (except for those portions of the Lot which constitute Association Maintenance Areas) in a neat, sanitary and attractive condition. An owner's maintenance obligations include the duty to trim or prune the landscaping Improvements on such Owner's Lot in accordance with Rules and Regulations adopted by the Board.

If any Owner permits any Improvement which such Owner is responsible for maintaining, to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate this Declaration, the Board may seek any remedies at law or in equity which it may have.

9.2. Maintenance Obligations of the Association.

No improvement, excavation or work which in any way alters the Common Area or the Association Maintenance Areas may be made or done by any person other than the Association or its authorized agents. The Association shall maintain, paint, repair and replace the Common Area and Association Maintenance Areas and all Improvements thereon, including, but not limited to, all landscaping, slope plantings, private irrigation systems, sewers, storm drains, driveways, parking areas and recreational facilities, in a safe, sanitary and attractive condition and in good order and repair, and shall provide for the commonly metered utilities serving the Common Area and the Association Maintenance Areas. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Area and Association Maintenance Areas. The Association may add or remove any landscaping Improvements to or from the Common Area and Association Maintenance Areas and shall ensure that the landscaping on the Common Area and Association Maintenance Areas is maintained free of weeds and disease. The Association may enter the Lots in order to maintain portions of an underground drainage system servicing the Common Area. Upon completion of such maintenance, the Association shall restore the entered Lots to as near a condition as existed prior to the Association's entry as is reasonably practical. The Association is not responsible for the maintenance of any portions of the Common Area which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing Association obligations shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate. The Association shall indemnify, defend and hold harmless the Owner of any Lot against whom liability for personal injury or for damage or destruction of property is sought to be imposed as a result of improper or negligent Association acts or omissions in connection with maintenance of Association Maintenance Areas located on such Owner's Lot.

9.3. Party Walls.

Each wall or fence which is placed on the dividing line between the Lots (the "Party Wall") is a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions apply thereto.

(a) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners of the Lots connected by such Party Wall. However, each Owner shall be solely responsible for repainting the side of any Party Wall facing his Lot.

(b) Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Lot is affected thereby may restore it, and the Owner of the other Lot which is affected thereby shall contribute equally to the cost of restoration thereof without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

(c) Right to Contribution Runs With Land. The right of any Owner to a contribution from any other Owner under this Section is appurtenant to the land and passes to such Owner's successors in title.

9.4. Damage to Common Area by Owners.

The Board, after Notice and Hearing, may levy the cost of any maintenance, repairs or replacements by the Association within the Common Area and Association Maintenance Areas arising out of or caused by the willful or negligent act of an Owner, his tenants, or their families, guests or invitees as a Special Assessment against such Owner.

9.5. Damage to Dwelling Units: Reconstruction.

If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, the Owner of such Lot shall rebuild, repair or reconstruct the Lot and the Dwelling Unit thereon in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Lot or Dwelling Unit and the ARC shall proceed with all due diligence, and the Owner shall cause reconstruction to commence within six (6) months after the damage occurs and to be completed within twelve (12) months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. A transferee of the Lot which is damaged or upon which is located a damaged Dwelling Unit shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, no such transferee may be required to commence or complete such reconstruction in less than thirty (30) days from the date such transferee acquired title to the Lot.

9.6. Inspection.

The Board shall have the Common Area, Association Maintenance Areas and all Improvements thereon inspected at least once every three (3) years in order to (a) determine whether the Common Area and Association Maintenance Areas are being maintained adequately in accordance with the standards of maintenance established in Section 9.2 hereof, (b) identify the condition of the Common Area and Association Maintenance Areas and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance refurbishment, replacement, or repair, and (c) recommend preventative actions which may be taken to reduce potential maintenance costs to be incurred in the future. The Board may employ such experts and consultants as necessary to perform the inspection and make the report required by this Section.

The Board shall have a report of the results of the inspection required by this Section prepared. The report must include at least the following:

- (a) a description of the condition of the Common Area and Association Maintenance Areas, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) a description of all maintenance, repair and replacement planned for the ensuing Fiscal Year and included in the Budget;
- (c) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) a summary of all reports of inspections performed by any expert or a consultant employed by the Board to perform inspections;
- (e) a report of the status of compliance with the maintenance, replacement and repair needs set forth in the inspection report for preceding years; and
- (f) such other matters as the Board deems appropriate.

ARTICLE X

10. Use Restrictions.

The Properties shall be held, used and enjoyed subject to the following restrictions.

10.1. Single Family Residence.

Each Lot shall be used as a residence for a single Family and for no other purpose. An Owner may rent his Lot to a single Family provided that the Lot is rented pursuant to a lease or rental agreement which is (a) in writing and (b) subject to all of the provisions of this Declaration. Any failure by the lessee of a Lot to comply with the Restrictions constitutes a default under the lease or rental agreement.

10.2. Business or Commercial Activity.

No part of the Properties may ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including without limitation any activity for which the provider is compensated or receives any consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license. This Section 10.2 does not preclude any of the above-described activities without external evidence thereof, provided that: (a) such activities are conducted in conformance with all applicable governmental ordinances; (b) the patrons or clientele of such activities do not visit the Lot or park automobiles or other vehicles within the Properties; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside the boundaries of the Lot; (d) no such occupation increases the Association's liability or casualty insurance obligation or premium; and (e) such activities are consistent with the residential character of the Properties and conform with the provisions of this Declaration. Notwithstanding the foregoing, as many as two (2) garage or yard sales may be conducted on a Lot per calendar year, so long as such activity does not constitute a nuisance.

10.3. Nuisances.

No noxious or offensive activities may be carried on upon the Properties or on any public street abutting or visible from the Properties. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Dwelling Unit and its contents, may be placed or used on any Lot. Noisy, unsightly, unusually painted or smoky vehicles, large power equipment and large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), off-road motor vehicles or items which may unreasonably interfere with television or radio reception to any Lot, and objects which create or emit loud noises or noxious odors may not be located, used or placed in the Properties or on any public street abutting the Properties, or exposed to the view of other Owners without the Board's prior written approval. The Board is entitled to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner may (a) permit or cause anything to be done or kept on the Properties or on any public street abutting the Properties which may (i) increase the rate of insurance in the Properties, (ii) result in the cancellation of such insurance, or (iii) obstruct or interfere with the rights of other Owners, or (b) commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all requirements of the local or state health authorities and with all other applicable governmental ordinances regarding occupancy and use of a Dwelling Unit. Each Owner is accountable to the Association and other Owners for the conduct and behavior of persons residing in or visiting his Lot. Any damage to the Common Area, personal property of the Association, Association Maintenance Areas or property of another Owner caused by such persons shall be repaired at the sole expense of the Owner of the Lot where such persons are residing or visiting.

10.4. Signs

Subject to the provisions of California Civil Code Sections 712 and 713, no sign, poster, display, billboard or other advertising device may be displayed on any portion of the Properties or on any public street abutting or visible from the Properties without the ARC's prior written consent, except (a) one (1) sign for each Lot, not larger than eighteen inches (18") by twenty-four inches

(24"), advertising the Lot for sale or rent, or (b) traffic and other signs installed by the Association or as part of the original construction of the Properties. All signs or billboards and the conditions promulgated for the regulation thereof must conform to the requirements of all applicable governmental ordinances.

10.5. Parking and Vehicular Restrictions.

(a) Authorized Vehicles. The following vehicles are Authorized Vehicles: standard passenger vehicles, including without limitation automobiles, passenger vans designed to accommodate twelve (12) or fewer people, motorcycles and pickup trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Properties intended for parking of motorized vehicles.

(b) Prohibited Vehicles. The following vehicles are Prohibited Vehicles: (i) recreational vehicles (e.g., motorhomes, travel trailers, camper vans, boats, etc.), (ii) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks, etc.), (iii) buses or vans designed to accommodate more than twelve (12) people, (iv) vehicles having more than two (2) axles, (v) trailers, inoperable vehicles or parts of vehicles, (vi) aircraft, other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Board. Prohibited Vehicles may not be parked, stored or kept on any Lot or on any public or private street within, adjacent to or visible from the Properties except for brief periods for loading, unloading, making deliveries or emergency repairs. Notwithstanding the foregoing, (A) Prohibited Vehicles may be parked within an Owner's fully enclosed garage with the door closed so long as their presence on the Properties does not otherwise violate the provisions of this Declaration, and (B) recreational vehicles may be parked in the Properties for loading, unloading and cleaning purposes for up to forty-eight (48) hours prior to departure on, and following return from, trips.

(c) General Restrictions. No repair, maintenance or restoration of any vehicle may be conducted on the Properties except within an enclosed garage when the garage door is closed, provided such activity is not undertaken as a business, and provided that such activity may be prohibited entirely by the Board if the Board determines that it constitutes a nuisance.

(d) Parking Regulations. The Board may establish additional parking regulations and may enforce all parking and vehicle use regulations applicable to the Properties, including removing violating vehicles from the Properties pursuant to California Vehicle Code Section 22658.2 or other applicable ordinances or statutes. If the Board fails to enforce any of the parking or vehicle use regulations, the City may enforce such regulations in accordance with applicable laws and ordinances.

10.6. Animal Restrictions.

No animals may be raised, bred or kept on the Properties, except that dogs, cats, fish, birds and other usual household pets may be kept on Lots, provided that they are not kept, bred or maintained for commercial purposes, in unreasonable quantities, or in violation of the Restrictions. The Board may limit the size of pets and may prohibit maintenance of any animal which, in the Board's opinion, constitutes a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be either kept within an enclosure or on a leash held by a person capable of controlling the animal. Any Owner shall be liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by such Owner or by such Owner's family, tenants or guests. Each Owner shall clean up after such Owner's animals which have used any portion of the Properties or public street abutting or visible from the Properties.

10.7. Trash.

No trash may be kept or permitted upon the Properties, or on any public street abutting, or visible from the Properties, except in sanitary containers located in appropriate areas screened from view, and no odor may be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers may be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed the day before and after the scheduled trash collection day). No exterior fires are permitted except barbecue fires contained within receptacles therefor and fire pits in enclosed areas and designed in such a manner that they do not create a fire hazard. No clothing, household fabrics or other unsightly articles may be hung, dried, or aired on or over any Lot in such a way as to be visible from any other Lot. No plants or seeds infected with noxious insects or plant diseases may be brought upon, grown or maintained upon the Properties.

10.8. Temporary Buildings and Facilities.

No outbuilding, tent, shack, shed or other temporary building, equipment or Improvement may be placed upon any portion of the Properties either temporarily or permanently. No garage, carport, trailer, camper, motor home, recreation vehicle or other vehicle may be used as a residence in the Properties, either temporarily or permanently.

10.9. Common Area Facilities.

The Common Area and Association Maintenance Areas may not be altered without the Board's prior written consent.

10.10. Antennae.

No radio station or short-wave operators of any kind may operate from any Lot or Dwelling Unit unless approved by the ARC. With the exception of any master antenna maintained by the Association and subject to Section 1376 of the California Civil Code and Federal Communications Commission regulations adopted pursuant to the Telecommunications Act of 1996, no exterior radio antenna, "C.B." antenna, television antenna, earth receiving station,

satellite dish or other antenna of any type may be erected or maintained in the Properties unless approved by the ARC.

10.11. Drilling.

No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted upon the Properties, nor are oil wells, tanks, tunnels or mineral excavations or shafts permitted upon the surface of any Lot or within five hundred feet (500') below the surface of the Properties. No derrick or other structure designed for use in boring for water, oil, geothermal heat or natural gas may be erected, maintained or permitted upon any Lot.

10.12. Further Subdivision.

Except as otherwise provided herein, no Owner may further partition or subdivide such Owner's Lot, including without limitation any division of such Owner's Lot into time-share estates or time-share uses. This provision does not limit the right of an Owner to (a) rent or lease his entire Lot by means of a written lease or rental agreement subject to this Declaration; (b) sell such Owner's Lot; or (c) transferor sell any Lot to more than one (1) Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property.

10.13. Drainage.

No one may interfere with or alter the established drainage pattern over any Lot unless an adequate alternative provision is made for proper drainage with the ARC's prior written approval. For the purpose hereof, "established" drainage means the drainage which existed at the inception of the Properties as a planned development, and includes drainage from the Lots onto the Common Area and from the Common Area onto the Lots. No Owner may alter, modify, remove or replace any underground drainage Improvements located within such Owner's Lot without receiving prior written approval from the ARC. In connection with obtaining such approval, the Owner must submit a plan to the ARC for alternative drainage acceptable to the ARC. Drainage from Lots must flow into adjacent streets and not onto other Lots. Slopes and terraces on Lots must be maintained so as to avoid erosion onto streets and other Lots.

10.14. Water Supply Systems.

No individual water supply, sewage disposal, or water softener system is permitted on any Lot unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any applicable water district, the City, the ARC, and all other applicable governmental authorities.

10.15. View Obstructions.

Each Owner acknowledges that the Restrictions do not create any protected views for any Lots in the Properties.

10.16. Inside Installations.

No window in any Dwelling Unit may be partially or completely covered, inside or outside, with aluminum foil, newspaper, paint, reflective tint or any other material the ARC deems inappropriate for such use.

10.17. Solar Energy Systems.

Each Owner may install a solar energy system on his Lot which serves his Dwelling Unit so long as (a) the design and location of the solar energy system meet the requirements of all applicable ordinances, and (b) said design and location receive the prior written approval of the ARC.

10.18. Rights of Handicapped.

Subject to the provisions of Article VIII hereof, each Owner may modify his Dwelling Unit and the route over the Lot leading to the front door of his Dwelling Unit, at his sole expense, in order to facilitate access to his Dwelling Unit by persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such persons.

10.19. Lot Improvement Restrictions.

(a) Fence and Hedge Heights. No fence or hedge over three feet (3') in height may be erected or permitted between the street and front setback line established by applicable City ordinances. Other walls or fences may not exceed a height of eight feet (8') from ground level.

(b) Wall and Fence Composition. Any wall or fence installed by an Owner may only be composed of the following: redwood grape stake, tristake, board-on-board design, cement block, split block, slump stone, brick or wrought iron.

ARTICLE XI

11. Damage and Condemnation.

Damage to or destruction of all or any portion of the Common Area, of the Association Maintenance Areas and condemnation of all or any portion of the Common Area shall be handled in the following manner:

(a) If the Common Area or such Association Maintenance Areas are damaged or destroyed, the Association shall cause the Common Area and such Association Maintenance Areas to be repaired and reconstructed. Any restoration or repair of the Common Area and such Association Maintenance Areas shall be performed substantially in accordance with the original plans and specifications or pursuant to such modifications as may be approved by the ARC. If the cost of effecting total restoration of the Common Area and such Association Maintenance Areas exceeds the amount of insurance proceeds, then the Association shall levy a Special Assessment against the Lots and their respective Owners equal to the difference between the total restoration cost and the insurance proceeds.

(b) Each Owner is liable to the Association for any damage to the Common Area or the Association Maintenance Areas not fully reimbursed to the Association by insurance proceeds (including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) which

may be sustained due to the negligence or willful misconduct of said Owner or the persons deriving their right and easement of use and enjoyment of the Common Area from said Owner, or of such Owner's Family and guests. The Association may, after Notice and Hearing, (i) determine whether any claim shall be made upon the insurance maintained by the Association and (ii) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner or the persons for whom such Owner may be liable as described herein. If a Lot is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. After Notice and Hearing, the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against such Owner.

(c) If all or any portion of the Common Area is taken by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association and deposited in the Operating Fund. No Owner may participate as a party, or otherwise, in any proceedings relating to such condemnation.

ARTICLE XII

12. Insurance.

12.1. Casualty Insurance.

The Board shall obtain and maintain fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements on the Common Area and the Association Maintenance Areas for the full replacement cost thereof without deduction for depreciation or coinsurance, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The casualty insurance shall include earthquake coverage unless the Board is directed not to obtain earthquake coverage by a majority of the Association's voting power. The Association may also insure any other real or personal property it owns against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The policies insuring the Common Area and the Association Maintenance Areas must be written in the name of, and the proceeds thereof must be payable to, the Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made. Subject to Article XI(b) hereof, the Association shall use insurance proceeds to repair or replace the property for which the insurance was carried. Premiums for all insurance carried by the Association are a Common Expense.

12.2. Insurance Obligations of Owners.

The Association is not responsible for insuring any real or personal property of any Owner, nor is the Association responsible for obtaining public liability insurance related to the activities or property of any Owner. If any loss intended to be covered by insurance carried by or on behalf of the Association occurs and the proceeds payable thereunder are reduced due to insurance

carried by any Owner, such Owner shall assign the proceeds of such insurance to the Association, to the extent of such reduction, for application by the Board to the same purposes-as the reduced proceeds are to be applied.

12.3. Waiver of Subrogation.

All policies of physical damage insurance the Association maintains must provide, if reasonably possible, for waiver of (a) any defense based on coinsurance; (b) any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association; (c) any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured; (d) any rights of the insurer to repair, rebuild or replace, and, if any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; (e) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Lot; (f) any denial of an Owner's claim because of negligent acts by the Association or other Owners; and (g) prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control. As to each policy of insurance the Association maintains which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, the Manager, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by such persons, but only to the extent that insurance proceeds are received in compensation of such loss.

12.4. Liability and Other Insurance.

The Association shall obtain comprehensive public liability insurance, including medical payments and malicious mischief in such limits as it deems desirable and as set forth in Section 1365.9 of the California Civil Code, insuring against liability for bodily injury, death and property damage arising from the Association's activities or with respect to property the Association maintains or is required to maintain including, if obtainable, a cross-liability endorsement insuring against liability to each other insured. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, Board and Manager, against liability in connection with the Common Area and Association Maintenance Areas, the premiums for which are a Common Expense. The Board shall review all insurance policies at least annually and increase the limits in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board, the Association's officers and the Manager against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or any committee thereof. However, fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling Association funds, including, but not limited to, Association officers, directors, trustees, employees and agents and Manager employees, whether or not such persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the Association's or Manager's custody during the term of each bond. The aggregate

amount of such bonds may not be less than one-fourth (1/4) of the Annual Assessments on all Lots in the Properties, plus reserve finds. The Association shall annually provide the Owners with information regarding the Association's insurance policies as required by Section 1365 of the California Civil Code within sixty (60) days preceding the beginning of the Fiscal Year.

ARTICLE XIII

13. Annexation of Additional Property

13.1. Required Approvals.

Additional real property may be annexed to the Properties and brought within the general plan of this Declaration upon the approval by vote or written consent of Members entitled to exercise no less than two-thirds (2/3) of the Association's voting power.

13.2 Rights of Added Territory Members.

Subject to the provisions of Section 13.3, upon the recording of a Notice of Addition containing the provisions as set forth in this Section, all provisions contained in this Declaration will apply to the real property described in such Notice of Addition (the "added territory") in the same manner as if it were originally covered by this Declaration. Thereafter, the rights, powers and responsibilities of the parties to this Declaration with respect to be added territory will be the same as with respect to the property originally covered hereby, and the rights, powers and responsibilities of the Owners, lessees and occupants of Lots within the added territory, as well as within the property originally subject to this Declaration, will be the same as if the added territory were originally covered by this Declaration. From and after the first day of the first month following Recordation of the Notice of Addition for the added territory, the Owners of Lots located in the added territory shall share in the payment of assessments to the Association to meet Common Expenses of the entire Properties as provided in Article VI hereof Voting rights attributable to the Lots in the added territory do not vest until Annual Assessments have commenced as to such Lots.

13.3. Notice of Addition.

The additions authorized under Section 13.1 must be made by Recording a Notice of Addition, or other similar instrument with respect to the added territory ("Notice of Addition") which will extend the general plan of this Declaration to such added territory. The Notice of Addition must be signed by at least two (2) officers of the Association to certify that the requisite Member approval was obtained. The Recordation of said Notice of Addition effectuates the annexation of the added territory described therein, and thereupon said added territory will constitute a part of the Properties, become subject to this Declaration and encompassed within the general plan of covenants, conditions, restrictions, reservation of easements and equitable servitudes contained herein, and become subject to the Association's functions, powers and jurisdiction; and the Owners of Lots in the added territory will automatically become Members. Such Notice of Addition may contain a Supplemental Declaration with such additions and modifications of the covenants, conditions, restrictions, reservation of easements and equitable servitudes contained in this Declaration as may be necessary to reflect the different character, if any, of the added territory, and as are not inconsistent with the general plan of this Declaration, and must identify

any Cost Centers in the added territory and the Lots the Owners of which will bear the Common Expenses attributable to such Cost Centers. In no event, however, may such Notice of Addition or Supplemental Declaration revoke, modify or add to the covenants, conditions, restrictions, reservation of easements, or equitable servitudes established by this Declaration as the same pertain to the real property originally covered by this Declaration.

ARTICLE XIV

14. General Provisions.

14.1. Enforcement of Restrictions

All disputes arising under the Restrictions shall be resolved as follows:

(a) Violations Identified by the Association. If the Board determines that there is a violation of the Restrictions, or the ARC determines that an Improvement which is the maintenance responsibility of an Owner needs installation, maintenance, repair, restoration or painting, then the Board shall give written notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) the length of time the Owner has to remedy the violation including, if applicable, the length of time the Owner has to submit plans to the ARC and the length of time the Owner has to complete the work proposed in the plans submitted to the ARC.

If an Owner does not perform such corrective action as is required by the Board and the ARC within the allotted time, the Board, after Notice and Hearing, may remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment.

If the violation involves nonpayment of any type of Assessment, then the Board may collect such delinquent Assessment pursuant to the procedures set forth in Article VII.

(b) Violations Identified by an Owner. If an Owner alleges that another Owner, his family, guests or tenants, is violating the Restrictions (other than nonpayment of any type of Assessment), the complaining Owner must first submit the matter to the Board for Notice and Hearing before the complaining Owner may resort to arbitration pursuant to Subsection (c) below for relief.

(c) Alternative Dispute Resolution. If a dispute exists between or among (i) any Owner and another Owner, or (ii) the Association and any Owner, including any claim based on contract, tort, or statute, arising out of or relating to the rights or duties of the parties under the Restrictions, or relating to the validity or enforceability of this alternative dispute resolution provision, the applicability of any statute of limitations or other defense relating to the timeliness of the assertion of any claim or any matter relating to the arbitrability of such claim (excluding disputes relating to the payment of any type of Assessments or a claim for damages not in excess of the jurisdiction of the Small

Claims Court), the matter will be submitted to binding arbitration to be conducted by a single arbitrator familiar with California law regarding common interest developments selected from the panels of arbitrators of either the American Arbitration Association ("AAA") or J.A.M.S./Endispute. The arbitration shall be conducted in Orange County, California, in accordance with AAA's Real Estate Dispute Resolution rules, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

Notwithstanding the foregoing, a party to a dispute may file with a court of competent jurisdiction an application for temporary or preliminary injunctive relief, writ of attachment, writ of possession, temporary protective order and/or appointment of a receiver on the grounds that the arbitration award to which the applicant may be entitled may be rendered ineffectual in the absence of such relief.

The parties to a dispute may obtain discovery in aid of the arbitration in accordance with California Code of Civil Procedure Section 1283.05.

The arbitrator shall have the authority to award any remedy or relief that a court of this state could order or grant, including without limitation, specific performance of any obligation created under this Declaration, the awarding of punitive damages, the issuance of an injunction, or the imposition of sanction for abuse or frustration of the arbitration process. The arbitration award shall be in writing and shall specify the factual and legal bases for the award.

(d) Schedule of Fines. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner for the failure of such Owner, or of a resident of or visitor to such Owner's Lot, to comply with the Restrictions. Such fines or penalties may only be assessed after Notice and Hearing.

(e) No Waiver. Failure to enforce any provision hereof does not waive the right to enforce that provision, or any other provision hereof.

S(f) Right to Enforce. The Board or any Owner (not at the time in default hereunder) may enforce the Restrictions as described in this Article XIV. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

(g) Attorneys' Fees. Any award rendered in any proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the court or arbitrator, as applicable, may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and costs of court or alternative dispute resolution, as applicable.

14.2. Severability.

The provisions hereof are independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction does not affect the validity or enforceability of any other provision hereof.

14.3. Term.

This Declaration continues in full force unless a Declaration of Termination satisfying the requirements of an amendment to the Declaration as set forth in Section 14.5 is Recorded.

14.4. Interpretation.

This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area and Association Maintenance Areas, and any violation of this Declaration is a nuisance. The Article and Section headings have been inserted for convenience only, and may not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular includes the plural and the plural the singular; and the masculine, feminine and neuter each include the other, unless the context dictates otherwise.

14.5. Termination and Amendment.

(a) Notice of the subject matter of a proposed amendment to, or termination of this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association at which a proposed amendment or termination is to be considered. The resolution can only be adopted by the vote, in person or by proxy, or written consent of Members representing not less than seventy-five percent (75%) of the Association's voting power; provided that the specified percentage of the Association's voting power necessary to amend a specified Section or provision of this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision. Notwithstanding the foregoing, this Section 14.5(a) may not be amended to permit amendments to the Declaration with the approval of less than seventy-five percent (75%) of the Association's voting power.

(b) Sections 7.6 and 7.7 of this Declaration may not be amended without the consent of the Beneficiaries of all first Deeds of Trust (i.e., Deeds of Trust with first priority over other Deeds of Trust).

(c) A copy of each amendment shall be certified by at least two (2) Association officers, and the amendment will be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) officers of the Association that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, is conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the

Beneficiaries of first Mortgagees must include a certification that the requisite approval of such first Mortgagees has been obtained.

14.6. No Public Right or Dedication.

Nothing contained in this Declaration constitutes a gift or dedication of all or any part of the Properties to the public, or for any public use.

14.7. Constructive Notice and Acceptance.

Every person who owns, occupies or acquires any interest in or to any Lot or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties or any portion thereof.

14.8. Notices.

Except as otherwise provided herein, notice to be given to an Owner must be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one (1) or more co-owners of a Lot or to any general partner of a partnership owning a Lot constitutes delivery to all co-owners or to the partnership, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation constitutes delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address has been furnished, to the street address of such Owner's Lot. Such notice is deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Board, in which case the notice provisions of the Bylaws control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed from time to time and circulated to all Owners.

14.9. Nonliability and Indemnification.

(a) General Limitation. Except as specifically provided in the Restrictions or as required by law, no right, power or responsibility conferred on the Board or the ARC by the Restrictions may be construed as a duty, obligation or disability charged upon the Board, the ARC, any member of the Board or of the ARC, or any other Association officer, employee or agent. No such person is liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such person's acts or omissions within what such person reasonably believed to be the scope of such person's Association duties ("Official Acts"), except to the extent that such injuries or damage result from such person's willful or malicious misconduct. No such person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such person's Official Acts, except to the extent that such injuries or damage result from such person's negligence or willful or malicious misconduct. The Association is not liable for damage

to property in the Properties unless caused by the negligence of the Association, the Board, the Association's officers, the Manager or the Manager's staff.

(b) Damages Limitation. A volunteer Board member or volunteer Association officer shall not be personally liable in excess of the coverage of insurance specified below to any person who suffers injury, including without limitation bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all of the following conditions are satisfied:

(i) The Board member or officer is a tenant of a Lot or an Owner of no more than two (2) Lots;

(ii) The act or omission was performed within the scope of the Board member's or officer's Association duties;

(iii) The act or omission was performed in good faith;

(iv) The act or omission was not willful, wanton or grossly negligent; and

(v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim was made one (1) or more policies of insurance which include coverage for (A) general liability of the Association and (B) individual liability of officers and Board members for negligent acts or omissions in that capacity; provided, that both types of coverage are in the minimum amount specified in Section 1365.7(a)(4) of the California Civil Code.

A Board member or Association officer who at the time of the act or omission was the developer of the Properties or received direct or indirect compensation as an employee from the developer of the Properties or from a financial institution that purchased a Lot at a judicial or nonjudicial foreclosure of a Mortgage is not a volunteer for purposes of this Section 14.9(b). The payment of actual expenses incurred by a Board member or Association officer does not affect the member's or officer's status as a volunteer for purposes of this Section 14.9(b).

(c) Indemnification. The Association shall pay all expenses incurred by, and satisfy any judgment or fine levied against, any person as a result of any action or threatened action against such person to impose liability on such person for his Official Acts, provided that:

(i) The Board determines that such person acted in good faith and in a manner such person reasonably believed to be in the Association's best interests;

(ii) In the case of a criminal proceeding, the Board determines that such person had no reasonable cause to believe his conduct was unlawful; and

(iii) In the case of an action or threatened action by or in the right of the Association, the Board determines that such person acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Any determination of the Board required under this Section 14.9(c) must be approved by a majority vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, such determination may be made by the vote of a majority of a quorum of the Members voting at a meeting called for such purpose, provided that the person to be indemnified may not vote. Payments made hereunder shall include amounts paid and expenses incurred in settling any such action or threatened action. This Section 14.9(c) is intended to authorize payments and indemnification to the fullest extent permitted by applicable law. The entitlement to indemnification hereunder inures to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any person entitled to such indemnification.

14.10. Priorities and Inconsistencies.

If there are conflicts or inconsistencies between this Declaration and either the Articles or the Bylaws, then the provisions of this Declaration shall prevail.

14.11. Mergers or Consolidations.

Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Properties, together with the covenants and restrictions established upon any other property, as one (1) plan. If another association is merged into the Association, those items maintained by the merged association shall be a Cost Center, the Common Expenses of which shall be charged to the owners of the real property which had been subject to the jurisdiction of the merged association.

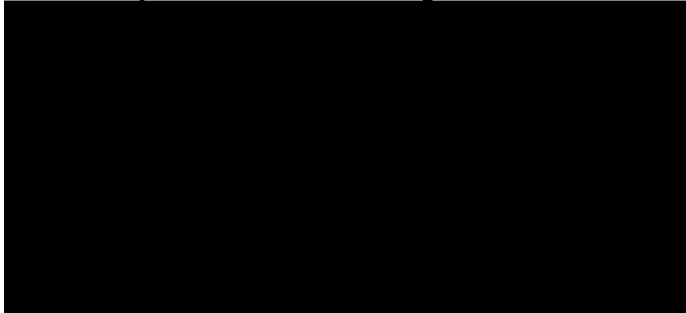
14.12. Additional Provisions.

Notwithstanding the provisions contained in the Restrictions, the Association and the Owners should be aware that there may be provisions of various laws, including without limitation the Davis-Stirling Common Interest Development Act codified at Section 1350 *et seq.* of the California Civil Code, and the federal Fair Housing Act codified at Title 42 United States Code, Section 3601 *et seq.*, which may supplement or override the Restrictions.

This Declaration is dated for identification purposes AUGUST 17, 1998.

The undersigned officers of the Association hereby certify that this Declaration has been approved by all necessary parties pursuant to the Order Granting Petition to Reduce Required Voting Percentage (attached hereto as Exhibit "D") made by the Orange County Superior Court on July 28, 1998.

NEWPORT HILLS COMMUNITY ASSOCIATION,
a California nonprofit corporation



Its: TREASURER _____

"Association"

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On AUGUST 17, 1998, before me, J. CARTER
personally appeared JAMES SCHMIESING and ROBERT ATTYAH
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)
whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (he) (she)
(they) executed the same in-this) (her) (their) authorized capacity(ies), and that by (his) (her) (their)
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

WITNESS my hand official seal.



J. Carter
Notary Public in and for said State

(SEAL)

EXHIBIT "A"
PROPERTIES

Lots 1 to 69, inclusive, of Tract No. 6938, as shown on a Subdivision Map filed in Book 280, Pages 5 to 8, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 84, inclusive, of Tract No. 7027, as shown on a Subdivision Map filed in Book 264, Pages 9 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 79, inclusive, of Tract No. 7028, as shown on a Subdivision Map filed in Book 266, Pages 43 to 47, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 71, inclusive, of Tract No. 7029, as shown on a Subdivision Map filed in Book 267, Pages 21 to 24, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 71, inclusive, of Tract No. 7030, as shown on a Subdivision Map filed in Book 269, Pages 18 to 22, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 76, inclusive, of Tract No. 7031, as shown on a Subdivision Map filed in Book 277, Pages 21 to 24, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 75, inclusive, of Tract No. 7032, as shown on a Subdivision Map filed in Book 278, Pages 26 to 29, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 12, inclusive, and Lots A, B, C, D, E, F and H of Tract No. 14533. as shown on a Subdivision Map filed in Book 710, Pages 34 to 37, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

The real property described on Exhibit "A-1" attached hereto and incorporated herein by this reference.

EXHIBIT "A-1"

All that certain land situated in the City of Newport Beach, County of Orange, State of California, being a portion of Block 92 of Irvine's Subdivision, as shown on a Map, Recorded in Book 1, Page 88, of Miscellaneous Record Maps, Records of said Orange County, California, described as follows:

Beginning at the most Southerly corner of Tract No. 7029, as per Map of said Tract, Recorded in Book 267, Pages 21 through 24, inclusive, of Miscellaneous Maps, Records of said Orange County, California; thence along the Southerly prolongation of the Southeasterly line of said Tract 7029 South 45° 23' 00" West 95.00 feet to the beginning of a tangent curve, concave Northwesterly, and having a radius of 56.00 feet, said point being also the True Point of Beginning of this description; thence Southwesterly along said curve through a central angle of 57° 38' 06", an arc distance of 56.33 feet, a radial line from said point bears North 13° 01' 06" East; thence along the Southerly prolongation of said radial line South 13° 01' 06" West 28.06 feet; thence South 45° 23' 00" West 86.00 feet; thence North 44° 37' 00" West 12.00 feet; thence South 45° 23' 00" West 92.39 feet; thence South 44° 37' 00" East 150.50 feet to a point hereinafter referred to as Point "A"; thence North 45° 23' 00" East 72.00 feet; thence North 44° 37' 00" West 4.75 feet; thence North 45° 23' 00" East 55.16 feet; thence North 44° 37' 00" West 1.17 feet; thence South 45° 23' 00" West 2.00 feet; thence North 44° 37' 00" West 25.08 feet; thence North 45° 23' 00" East 37.17 feet; thence South 44° 37' 00" East 2.00 feet; thence North 45° 23' 00" East 2.00 feet; thence North 44° 37' 00" West 94.50 feet; thence North 42° 41' 31" East 85.16 feet to the True Point of Beginning.

EXCEPTING THEREFROM, an easement for park maintenance purposes over that portion of the above-described land, more particularly described as follows:

Beginning at a point hereinbefore designated as Point "A"; thence North 45° 23' 00" East 72.00 feet; thence North 44° 37' 00" West 4.75 feet; thence South 45° 23' 00" West 59.00 feet; thence North 44° 37' 00" West 1.17 feet; thence North 45° 22' 00" East 2.0 feet; thence North 44° 37' 00" West 51.16 feet; thence South 45° 23' 00" West 2.30 feet; thence North 44° 37' 00" West 7.52 feet; thence North 45° 23' 00" East 2.30 feet; thence North 44° 37' 00" West 24.40 feet; thence South 45° 23' 00" West 8.67 feet; thence North 44° 37' 00" West 10.00 feet to the beginning of a tangent curve, concave Southerly, and having a radius of 5.0 feet; thence Northwesterly and Southwesterly along said curve through a central angle at 105° 25' 18", an arc distance of 9.20 feet, a radial line from said point bears South 60° 02' 18" East; thence non-tangent to said curve South 44° 37' 00" East 103.82 feet to the point of beginning.

EXHIBIT "B"
COMMON AREA

Lots 84 of Tract No. 7027, as shown on a Subdivision Map filed in Book 264, Pages 9 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 79 of Tract No. 7028, as shown on a Subdivision Map filed in Book 266, Pages 43 to 47, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 71 of Tract No. 7030, as shown on a Subdivision Map filed in Book 269, Pages 18 to 22, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 76 of Tract No. 7031, as shown on a Subdivision Map filed in Book 277, Pages 21 to 24, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots A, B, C, D, E and F of Tract No. 14533, as shown on a Subdivision Map filed in Book 710, Pages 34 to 37, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

The real property described on Exhibit "B-1" attached hereto and incorporated herein by this reference.

EXHIBIT "B-1"

All that certain land situated in the City of Newport Beach, County of Orange, State of California, being a portion of Block 92 of Irvine's Subdivision, as shown on a Map, Recorded in Book 1, Page 88, of Miscellaneous Record Maps, Records of said Orange County, California, described as follows:

Beginning at the most Southerly corner of Tract No. 7029, as per Map of said Tract, Recorded in Book 267, Pages 21 through 24, inclusive, of Miscellaneous Maps, Records of said Orange County, California; thence along the Southerly prolongation of the Southeasterly line of said Tract 7029 South 45° 23' 00" West 95.00 feet to the beginning of a tangent curve, concave Northwesterly, and having a radius of 56.00 feet, said point being also the True Point of Beginning of this description; thence Southwesterly along said curve through a central angle of 57° 38' 06", an arc distance of 56.33 feet, a radial line from said point bears North 13° 01' 06" East; thence along the Southerly prolongation of said radial line South 13° 01' 06" West 28.06 feet; thence South 45° 23' 00" West 86.00 feet; thence North 44° 37' 00" West 12.00 feet; thence South 45° 23' 00" West 92.39 feet; thence South 44° 37' 00" East 150.50 feet to a point hereinafter referred to as Point "A"; thence North 45° 23' 00" East 72.00 feet; thence North 44° 37' 00" West 4.75 feet; thence North 45° 23' 00" East 55.16 feet; thence North 44° 37' 00" West 1.17 feet; thence South 45° 23' 00" West 2.00 feet; thence North 44° 37' 00" West 25.08 feet; thence North 45° 23' 00" East 37.17 feet; thence South 44° 37' 00" East 2.00 feet; thence North 45° 23' 00" East 2.00 feet; thence North 44° 37' 00" West 94.50 feet; thence North 42° 41' 31" East 85.16 feet to the True Point of Beginning.

EXCEPTING THEREFROM, an easement for park maintenance purposes over that portion of the above-described land, more particularly described as follows:

Beginning at a point hereinbefore designated as Point "A"; thence North 45° 23' 00" East 72.00 feet; thence North 44° 37' 00" West 4.75 feet; thence South 45° 23' 00" West 59.00 feet; thence North 44° 37' 00" West 1.17 feet; thence North 45° 22' 00" East 2.0 feet; thence North 44° 37' 00" West 51.16 feet; thence South 45° 23' 00" West 2.30 feet; thence North 44° 37' 00" West 7.52 feet; thence North 45° 23' 00" East 2.30 feet; thence North 44° 37' 00" West 24.40 feet; thence South 45° 23' 00" West 8.67 feet; thence North 44° 37' 00" West 10.00 feet to the beginning of a tangent curve, concave Southerly, and having a radius of 5.0 feet; thence Northwesterly and Southwesterly along said curve through a central angle at 105° 25' 18", an arc distance of 9.20 feet, a radial line from said point bears South 60° 02' 18" East; thence non-tangent to said curve South 44° 37' 00" East 103.82 feet to the point of beginning.

EXHIBIT "C"

OWNERS

Due to copying costs the Association elected to not reproduce the membership Roster. A copy of the roster may be reviewed at Villageway Management Inc. 1 Corporate Park, Suite 200, Irvine California.

EXHIBIT "D"

ORDER GRANTING PETITION TO REDUCE REQUIRED VOTING PERCENTAGE

1 JAKOB S. HARLE, ESQ. - SBN 131901
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FILED
ORANGE COUNTY SUPERIOR COURT

JUL 28 1998

ALAN SLATER, Executive Officer/Clerk
T. Gonzales
BY T. GONZALES

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

10
11 In the Matter of
12 NEWPORT HILLS COMMUNITY
13 ASSOCIATION, a California nonprofit
14 corporation,
15 Petitioner

Case No. 795181

ORDER GRANTING PETITION
TO REDUCE REQUIRED
VOTING PERCENTAGE
(CC §1356)

Date: July 28, 1998
Time: 9:30 a.m.
Department: 62

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18 Petitioner Newport Hills Community Association's Petition to Reduce the Required Voting
19 Percentage to approve an amendment to the association's declaration of covenants, conditions, and
20 restrictions under Civil Code Section 1356 came on regularly for hearing before Commissioner
21 F. Latimer Gould on July 28, 1998, in Department 62 of the above-titled Court at 9:30 a.m. Petitioner
22 appeared by and through its counsel, Jakob S. Harle of Harle, Janics & Kannen.

23 The Court having considered the petition, the declarations filed herein, the records on file herein,
24 and the oral and documentary evidence adduced at the hearings in this matter, the Court finds:

- 25 1. The allegations of petitioner's Petition To Reduce Required Voting Percentage to be true
26 and accurate.
- 27 2. Petitioner gave at least 15 days' written notice of the hearing to all association members
28 and to all others entitled to such notice.

1 3. The balloting on the proposed restated declaration was conducted in accordance with all
2 applicable provisions of the governing documents.

3 4. Petitioner made a reasonably diligent effort to permit all eligible members to vote on the
4 restated declaration.

5 5. Owners with more than 50 percent of the votes voted in favor of approving the restated
6 declaration.

7 6. Of petitioner's total membership of 532 members, 366 ballots were cast, comprising 68.7
8 percent of petitioner's total membership. Of the members who voted, 336 voted in favor of adopting the
9 restated declaration, while 27 members voted in opposition. A total of 267 affirmative votes were
10 required to satisfy the majority approval requirement of Civil Code Section 1356.
11

12 7. Petitioner's first restated declaration is reasonable.

13 8. The granting of the within petition is not improper for any reason stated in California
14 Civil Code Section 1356(e).

15 Good cause appearing,

16 IT IS ORDERED that:

17 1. Petitioner's Petition To Reduce the Required Voting Percentage for approval of the
18 restated declaration of covenants, conditions, and restrictions of Newport Hills is granted.
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20 2. Before recordation, true and correct copies of all exhibits to the restated declaration shall
21 be attached.

22 3. The restated declaration shall not be effective until recorded in the Official Records of
23 Orange County, together with a copy of this order. Within 60 days after its recordation, petitioner shall
24 mail a copy of the restated declaration to each member of the association, together with a statement that
25 the restated declaration has been recorded. On such recordation, the restated declaration shall have the
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4. same force and effect as if it had been adopted in compliance with every requirement for amendment imposed by the governing documents of the Newport Hills common interest development.

Date: July 28, 1998

~~COMMISSIONER E. LATIMER GOULD~~
JUDGE OF THE SUPERIOR COURT

