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AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SUTTER BROWNSTONES

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**AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SUTTER BROWNSTONES**

This Amended and Restated Declaration is made by Loftworks Sutter Townhomes Partners, LP, a California limited partnership (the "Declarant").

RECITALS

A. The Declarant is the owner of certain real property located in the City of Sacramento, County of Sacramento, State of California, more particularly described as Lots 1 through 28, inclusive, and Parcels A and B, as shown on the Subdivision Map of Sutter Townhomes, filed on February 22, 2007, in Book 364 of Maps, At Page 9, Official Records of Sacramento County, California (the "Property"). The Property is commonly known as Sutter Brownstones and will be a planned development, as defined in California Civil Code section 1351(k), consisting of twenty-eight (28) three story townhome Residences. At times in this Declaration, Sutter Brownstones is referred to by that name and at other times, depending on the context, the development is simply referred to as the "Development".

B. Previously, the real property comprising the Development was subjected to that certain Declaration of Covenants, Conditions and Restrictions for Sutter Brownstones that was recorded in the Official Records of Sacramento County, California on March 6, 2008, in Book 20080306, Page 0631 (the "Original Declaration"). Pursuant to the authority conferred on the Declarant pursuant to Section 18.01 of the Original Declaration, the Declarant intends that this Amended and Restated Declaration amend and restate the Original Declaration in its entirety, without, however, altering in any way the priority of the Original Declaration, as amended and restated herein, in the chain of title to the Development.

C. The Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, associations, reservations, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a common interest planned development. These covenants, easements, restrictions, conditions, associations and reservations: (i) create a general plan and scheme for the subdivision development, sale and use of the Property as a "planned development" as that term is defined in California Civil Code section 1351(k); (ii) are for the benefit and protection of the Property and for the protection and enhancement of the desirability, value and attractiveness of all Lots, Common Areas and other improvements located therein; (iii) shall run with the Property and bind all parties having or acquiring any right, title or interest in the Property or any part thereof; and (iv) shall inure to the benefit of the successors and assigns of each Owner of a Lot and Residence within the Development

D. It is the further intention of the Declarant to sell and convey residential Lots improved by townhouse Residences originally constructed by the Declarant to Owners, subject

to the protective covenants, conditions, restrictions, limitations, reservations, liens, grants of easements, rights, rights-of-way, charges and equitable servitudes between the Declarant and such Owners as set forth in this Declaration and any duly adopted amendments thereto.

E. Finally, it is the intention of the Declarant to convey to the Association the "Common Area" and "Common Facilities" within the Development. Those Common Areas and Common Facilities shall be owned and maintained by the Association and reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, subject to the terms and conditions of this Declaration and the other Governing Documents.

F. Notwithstanding the anticipated development of Sutter Brownstones in accordance with the plan of development contemplated by this Declaration, nothing in this Declaration shall be construed or interpreted to obligate the Declarant to refrain from the further subdivision or resubdivision of the lands comprising the Property, and the Declarant shall be free to so further subdivide or resubdivide. Nothing contained herein shall obligate the Declarant to refrain from the further subdivision, resubdivision or reversion to acreage of portions of the Property not theretofore annexed, and Declarant shall be free to so further subdivide or resubdivide, or revert those portions of the Property.

ARTICLE I DEFINITIONS

Section 1.01. "Architectural Review Committee" means the committee created in accordance with Article V, below.

Section 1.02. "Articles" means the Articles of Incorporation of the Association, which are filed in the Office of the California Secretary of State, as such may be amended from time to time.

Section 1.03. "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Lot in accordance with the provisions of Article IV, below.

Section 1.04. "Association" means and refers to Sutter Brownstones Association, a California nonprofit mutual benefit corporation, its successors and assigns. The Association is an "association" as defined in California Civil Code section 1351(a).

Section 1.05. "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to Section 3.08, below, as the same may be in effect from time to time.

Section 1.06. "Auto Court Areas", "Pedestrian Courtyard Areas" and "Walkway Areas" means and refers to those areas shown on the Subdivision Map and designated as "18' P.U.E. reciprocal vehicular ingress/egress, access and private utility and drainage easement" ("Auto Court Areas"), those areas shown on the Subdivision Map and designated as "8' reciprocal

access, private utility and drainage easement" ("Pedestrian Courtyard Areas") and those areas shown on the Subdivision Map and designated as 6' reciprocal access Easement, 4' PUE, 5' PUE and 7.5 PUE ("Walkway Areas"). The Map identifies the Pedestrian Courtyard Areas as "East Sutter Walk" and "West Sutter Walk".

Section 1.07. "Board of Directors" or "Board" means the Board of Directors of the Association.

Section 1.08. "Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.09. "City" means the incorporated municipal City of Sacramento, in the County of Sacramento, State of California, and its various departments, divisions, employees and representatives.

Section 1.10. "Common Area" means all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area of the Development consists of Parcels A and B, as shown on the Subdivision Map. Unless the context clearly indicates a contrary intent, any reference herein to the "Common Areas" shall also include any Common Facilities located thereon.

Section 1.11. "Common Expense" means any use of Common Funds authorized by Article IV hereof and Article IX of the Bylaws and includes, without limitation: (a) All expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area and Common Facilities and the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas of the Development; (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors to the extent required by Article X, below; (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and Common Facilities, and for nonpayment of any Assessments; and (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.

Section 1.12. "Common Facilities" means the carports located on Lots A and B, trash disposal areas on Lots A and B, hedges, plantings, lawns, shrubs, landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area and owned by the Association. For purposes of maintenance, repair and eventual replacement by the Association and for purposes of ingress and egress by Owners and residents of the Development, the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas of the Development, and any common utility lines or drainage structures located therein, are also Common Facilities.

Section 1.13. "Cost Center" shall be a designation assigned by the Association to a discrete portion of the Development (and to the Owners of Lots located therein) for the purpose of Common Expense accounting and Assessment, all as more particularly provided in Sections 4.01(e) and 4.02(b), below and in Exhibit "B", attached hereto.

Section 1.14. "County" means the County of Sacramento, State of California, and its various departments, divisions, employees and representatives.

Section 1.15. "Declarant" means Loftworks Sutter Townhomes Partners, LP, a California limited partnership, and the successors and assigns of such Declarant if such successors-in-interest should acquire or hold record title to more than one undeveloped Lot for the purpose of development and resale and the successors or assigns are designated as a successor Declarant in an instrument executed and acknowledged by the current Declarant and that instrument is recorded in the Official Records of the County.

Section 1.16. "Declaration" means this instrument as it may be amended from time to time. "Original Declaration" shall mean and refers to the instrument identified in Recital "B", above.

Section 1.17. "Development" means the plan of development that is being pursued with respect to the Property identified in Recital "A", above in accordance with this Declaration and the other Governing Documents of the Association. At times herein, where the context is appropriate, the "Development" is referred to by its common name which is "Sutter Brownstones".

Section 1.18. "Governing Documents" is a collective term that means and refers to this Declaration and to the Articles, the Bylaws and the Association Rules.

Section 1.19. "Improvement" means and includes, without limitation, the construction, installation, alteration or remodeling by any Owner other than the Declarant of any buildings, walls, fences, landscaping, porches, patio awnings, solar heating equipment, antennas, utility lines or any other structure of any kind. The term "Improvement" shall not include any work that is confined entirely to the interior of a Residence.

Section 1.20. "Lot" means any parcel of real property designated by a number on the Subdivision Map, excluding the Common Area. When appropriate within the context of this Declaration, the term "Lot" shall also include the Residence and other Improvements constructed or to be constructed on a Lot.

Section 1.21. "Maintenance Manual" refers to the manual which may be prepared by the Declarant or its agents and provided to the Association and to each Owner specifying obligations for maintenance of the maintenance of Lots and Residences by the Owners, as updated and amended from time to time.

Section 1.22. "Maintenance Obligations" means the obligations imposed by Civil Code Section 907 on each Owner to perform, which shall include: (i) all reasonable maintenance obligations and schedules identified in the Maintenance Manual that pertain to the Owner's Lot and Residence at the times and in a manner consistent with the terms, recommendations and requirements of the Maintenance Manual; (ii) any maintenance obligations and schedules contained in any warranty offered by the Declarant or any manufacturer of any products or components originally installed in a Residence; and (iii) any maintenance obligations and/or schedules otherwise provided, in writing, by the Declarant or a manufacturer to the Owners. "Maintenance Obligations" shall also include and refer to any commonly accepted maintenance

practices to prolong the useful life of the materials and construction of the Residences within the Development.

Section 1.23. "Majority of a Quorum" means the vote of a majority of the votes cast at a meeting or by written ballot when the number of Members attending the meeting in person or by proxy or casting written ballots equals or exceeds the quorum requirement for Member action, as specified in the Bylaws or otherwise by statute.

Section 1.24. "Member" means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Section 13.06, below.

Section 1.25. "Mortgage" means any security device encumbering all or any portion of the Development, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

Section 1.26. "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot. The term "Owner" shall include the Declarant for so long as the Declarant possesses any Lot within the Development. If a Lot is transferred or conveyed to a trust, the Owner is the trustee or the co-trustee of such trust.

Section 1.27. "Owner of Record" refers to the Owner (whether a natural person, firm, corporation or other entity) in which title to a Lot is vested as shown by the Official Records of the Office of the County Recorder.

Section 1.28. "Property" means the real property more particularly described in Recital "A" thereon. The Property is being developed in accordance with this Declaration as Sutter Brownstones, a common interest development.

Section 1.29. "Record" means, with respect to any document, the recordation or filing of such document in the Office of the Sacramento County Recorder.

Section 1.30. "Regular Assessment" means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.02, below.

Section 1.31. "Reserves" means those Common Expenses for which Association funds are set aside pursuant to Article IV of this Master Declaration and California Civil Code section 1365.5 for funding the periodic painting, maintenance, repair and replacement of the major components of the Common Areas and those portions of any Lot which the Association is obligated to maintain, repair and/or replace which would not reasonably be expected to recur on an annual or less frequent basis. The amounts required to properly fund Reserves shall be determined annually by the Board in accordance with the standards prescribed by maintenance cost guidelines prepared in accordance with California Civil Code sections 1365(a) and 1365.5(e) and prudent property management practices generally applied in "common interest developments" (as that term is defined in California Civil Code section 1351(c)) in the geographic region in which the Development are located.

Section 1.32. "Residence" means a private, single-family dwelling of townhouse design constructed or to be constructed on any Lot.

Section 1.33. "Single Family Residential Use" means occupation and use of a Residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

Section 1.34. "Special Assessment" means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.03, below.

Section 1.35. "Special Individual Assessment" means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.04, below.

Section 1.36. "Subdivision Map" means the final subdivision map for the Development.

Section 1.37. "Voting Power" means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at any time a determination of voting rights is made. To be part of the Voting Power, a Member must be in good standing, as defined in the Bylaws and/or the Association Rules.

ARTICLE II PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

Section 2.01. Declaration Regarding The Property.

(a) Imposition of the Plan of Development on the Property. The real property comprising the Development shall be held, conveyed, divided, encumbered, hypothecated, leased, rented, used, occupied and improved only upon compliance with and subject to the provisions of this Declaration, which is hereby declared to: (i) be in furtherance of a plan for the subdivision of the real property comprising the Development and the sale of residential Lots and Residences within the Development; (ii) be for the benefit and protection of the Residences and Common Areas and Common Facilities within the Development and to enhance the desirability, value and attractiveness of the Development; (iii) be for the benefit of the Owners; (iv) run with the land and be binding upon all parties having or acquiring any right, title or interest in the Development or any portion thereof; (v) inure to the benefit of every portion of the Development and any interest therein; and (vi) inure to the benefit of and be binding upon each Owner, the Declarant and each successor in interest of the Declarant as long as the Declarant or any successor shall hold an interest in any portion of the real property comprising the Development.

(b) Binding Effect on Successors In Interest. Each conveyance, transfer, sale, assignment, lease or sublease made by the Declarant of the Common Area and of any Lot shall be deemed to incorporate by reference all of the provisions of this Declaration. All present and future Owners, tenants and occupants of Lots and Residences within the Development shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same shall be amended from time to time unless a particular provision of the Governing Documents is specifically restricted to one or more classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot, the execution of a lease, sublease or contract

of sale with respect to any Residence or the entering into occupancy of any Residence shall make the provisions of this Declaration binding upon said persons and they shall thereafter be obligated to observe and comply with all Governing Documents.

Section 2.02. Property Rights in Common Area.

(a) Fee Title in Association. Declarant shall convey fee simple title to the Common Areas of the Development to the Association, free of all encumbrances and liens, with the exception of current real property taxes (which shall be prorated as of the date of such conveyance) and any easements, conditions and reservations then of record, including those set forth in this Declaration. Such conveyance shall be made prior to, or concurrently with, the first transfer or conveyance by the Declarant of a Lot in the Development to an Owner pursuant to a California Department of Real Estate Public Report.

(b) Rights of Owners in Common Areas and Common Facilities. The interest of each Lot Owner in and to the use and benefit of the Common Area and the Common Facilities of the Development shall be appurtenant to the Lot owned by the Owner and shall not be sold, conveyed or otherwise transferred by the Owner separately from the ownership interest in the Lot. Any sale, transfer or conveyance of such Lot shall transfer the appurtenant right to use and enjoy the Common Area and Common Facilities, subject to the limitations set forth in Section 2.03, below. There shall be no judicial partition of the Common Area or any part thereof, and each Owner, whether by deed, gift, devise, or operation of law for his or her own benefit and for the benefit of all other Owners specifically waives and abandons all rights, interest and causes of action for a judicial partition of any ownership interest in the Common Area and does further covenant that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The rights of all Owners in the Common Area shall be further subject to the requirements and restrictions set forth in Section 2.03, below.

Section 2.03. Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas of the Development and the Auto Court Areas, Pedestrian Courtyard Areas, and Walkway Areas of the Development, including ingress and egress to and from his or her Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Right of Association to Adopt Rules. The right of the Association to adopt Association Rules in accordance with Section 3.08, below, regulating the use and enjoyment of the Development for the benefit and well-being of the Owners and residents in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to initiate disciplinary action against the violating Owner or tenant in accordance with Section 13.06, below. Such action may include the levying of fines and/or the temporary suspension of the voting rights.

(b) Right to Borrow Funds for Common Area Improvements. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and Common Facilities, subject to whatever requirements may be imposed by the lender to secure the indebtedness by a pledge of future assessment revenue in

accordance with Section 4.09(e), below. In some instances described in Sections 4.02 and 4.03, below, such a pledge of assessments will require prior approval of the Members.

(c) Rights to Dedicate for Public Purposes; Owner Approval Requirements. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at least two-thirds of the voting power of each class of Members and their first Mortgagees consenting to such dedication or transfer, has been Recorded. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Lot. The instrument effecting the dedication may be executed in counterparts, so long as each counterpart is in recordable form.

(d) Rights Reserved to the Declarant. The right of Declarant and its employees, sales agents, prospective purchasers, customers and representatives, to enter upon and to use the Common Areas and the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas for development and sales activities in accordance with Section 15.03, below. Such use shall not unreasonably interfere with the rights of use and enjoyment of the other Owners as provided herein.

(e) Easements Affecting the Common Area. All easements affecting the Common Area and the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas of the Development which are described in Article IX, below.

(f) Rights of Entry for Drainage and Utility Access. The right of the Association and Owners (or their representatives) of adjoining Lots or Common Areas of entry upon and access to drainage ways and utility lines located upon the Auto Court, Pedestrian Courtyard and Walkway Areas of Lots which such access is essential for the maintenance of drainage or utility lines, or both, on such adjoining Lots or Common Areas.

Section 2.04. Delegation of Use.

(a) Delegation of Use and Leasing of Residences. Subject to the limitation stated in subparagraph (b), below, any Owner may delegate his or her rights to use and enjoy the Common Area and Common Facilities to his or her family members or tenants, lessees or contract purchasers who reside in the Owner's Residence; provided, however, that any rental or lease of a Residence in the Development may only be to a single family for Single Family Residential Use or home office use for Residences that include an apartment unit (commonly referred to as a "granny unit" or "studio"). Any rental or lease of a Residence shall be subject to the provisions of the Governing Documents all of which shall be deemed incorporated by reference in the lease or rental agreement. Each Owner-lessor shall provide any tenant or lessee with a current copy of all Governing Documents and shall be responsible for compliance by the tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the Residence.

(b) Lease and Resale Restriction for Initial Buyers. In accordance with the Purchase and Sales Agreement, Earnest Money Receipt and Escrow Instructions ("Purchase Agreement") between Declarant and the initial buyers of Residences in the Development, the leasing or resale of Residences within the first year after the Close of Escrow in the first sale of each Residence by the Declarant to a third party purchaser pursuant to a Public Report issued by the California Department of Real Estate is prohibited (the "Required Occupancy Period"), subject to these four exceptions:

(i) Owners who are within the Required Occupancy Period may rent or lease their Residence to any relative of the Owner within the first or second degree of familial relationship (i.e., mother, father, grandparents, aunts, uncles, or children of the Owner);

(ii) For so long as the Declarant, or any officer, director or member of the Declarant (collectively, "Declarant Parties") owns any Residence within the Development, the Declarant Parties shall have the right to lease Residences that they continue to own free of this Required Occupancy Period restriction;

(iii) The Residences constructed by the Declarant on Lots 8, 9, 20 and 21 include an apartment unit (commonly referred to as a "granny unit") and that unit in those Residences can be leased or rented by the Owner free of the Required Occupancy Period restriction; and

(iv) The Purchase Agreement sets forth other hardship exceptions to the Required Occupancy Period that may apply to particular Owners under the stated hardship circumstances.

(c) Requirements That Must Be Observed In All Residential Leases Following the Expiration of the Required Occupancy Period. The following specific limitations shall apply to all leases or tenancies of a Residence within the Development following the Required Occupancy Period: (i) no Residence may be leased or rented for a period of less than one hundred twenty (120) days; (ii) the rental shall apply to not less than an entire Residence (except that Residences containing apartment units may be leased separately) including its appurtenant rights (except voting rights in the Association which may not be transferred to a tenant or lessee); and (iii) any rental shall be evidenced by a written lease or rental agreement which shall provide that the tenancy is subject to the terms of the Governing Documents and that any failure of the tenant to comply with the terms of any Governing Document relating to residential leases, property use restrictions or the use and enjoyment of any portion of the Common Areas and Common Facilities shall constitute a default under the lease or rental agreement and shall entitle the Owner to terminate the tenancy upon thirty (30) days' written notice. The Owner-lessor's right to terminate a lease or rental agreement on account of the tenant's violation of the Governing Documents shall in no way restrict the right of the Association, the Declarant, or any Owner to enforce the Governing Documents in accordance with Article XIII, below, when the Owner's tenant is violating the Governing Documents.

(d) Discipline of Lessees. Subject to subparagraph (e) below, in the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the

circumstances in order to preserve the quiet enjoyment of other Owners and residents within the Development. Without limiting, the foregoing, the Association's actions in response to a tenant's violation of the Governing Documents may include: (i) suspension of the tenant's privileges to use the Association's Recreational Facilities, or (ii) the imposition of fines and penalties against the Owner-lessor of the Residence.

(e) Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to the Development or to preserve the rights of quiet enjoyment of other Owners, the Association shall have no right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee or tenant) on account of the misconduct of the Owner's lessee or tenant unless and until the following conditions have been satisfied: (i) the Owner has received written notice from the Board, the Association's property manager or an authorized committee of the Board detailing the nature of the lessee's/tenant's alleged infraction or misconduct and advising the Owner of his or her right to a hearing on the matter in the event the Owner believes that remedial or disciplinary action is unwarranted or unnecessary; (ii) the Owner has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing, if one is requested by the Owner; and (iii) the Owner has failed to prevent or correct the tenant's objectionable actions or misconduct. Any hearing requested hereunder shall be conducted in accordance with Section 13.06, below.

Section 2.05. Obligations of Owners. Owners of Lots within the Development shall be subject to the following:

(a) Owner's Duty to Notify Association of Tenants and Contract Purchasers. Each Owner shall notify the secretary of the Association or the Association's property manager, if any, of the names of any contract purchaser or tenant residing in the Owner's Lot.

(b) Contract Purchasers. A contract seller of a Lot must delegate his or her voting rights as a Member of the Association and his or her right to use and enjoy the Common Area and Common Facilities to any contract purchaser in possession of the property. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) Notification to Prospective Purchasers Regarding Governing Documents.

(i) As more particularly provided in California Civil Code section 1368, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot, the Owner thereof must give the prospective purchaser:

(A) a copy of the Governing Documents;

(B) a copy of the most recent documents distributed by the Association pursuant to California Civil Code section 1365 (see Article XII of the Bylaws);

(C) a true statement ("delinquency statement") in writing from an authorized representative of the Association as to: (1) the amount of the Association's current

regular and special assessments and fees; (2) the amount of any assessments levied upon the Owners Lot that remain unpaid as of the date of the delinquency statement and any monetary fines or penalties levied upon the Owner's Lot an unpaid as of the date of the delinquency statement. The delinquency statement shall also include true information on late charges, interest, and costs of collection that, as of the date of the delinquency statement, are or may become a lien against the Owner's Lot pursuant to Civil Code sections 1367 and 1367.1;

(D) a copy or a summary of any notice previously sent to the Owner pursuant to Civil Code section 1363(h), that sets forth any alleged violations of the Governing Documents that remain unresolved at the time of the request; and

(E) a statement disclosing any change in the Association's current Regular and Special Assessments and fees which have been approved by the Board but have not become due and payable as of the date the information is provided.

(ii) Within ten (10) days of the mailing or delivery of a request for the information described in subparagraph (c)(i), above, the Association shall provide the Owner with copies of the requested items. The items that the Association is obligated to provide pursuant to this subparagraph (c) may be maintained in electronic form and requesting parties shall have the option of receiving them by electronic transmission or machine readable storage media if the Association maintains these items in electronic form. The Association may charge a reasonable fee for these serve based upon the Association's actual cost to procure, prepare, and reproduce the requested items.

(iii) The provisions of this subparagraph (c), except for those provisions relating to the furnishing of a delinquency statement, shall not apply to any Owner who is subject to the requirements of California Business and Professions Code section 11018.1 (i.e., the obligation to provide prospective purchasers with a California Department of Real Estate Public Report in connection with the sale of a Lot).

(d) Payment of Assessments and Compliance with Rules. Each Owner shall pay when due each Regular, Special and Special Individual Assessment levied against the Owner and his or her Lot and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to, any Governing Document for the purpose of protecting the interests of all Owners or protecting the Common Area and Common Facilities.

(e) Discharge of Assessment Liens. Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Lot in accordance with Section 4.10(b), below.

(f) Joint Ownership of Lots. In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (f) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration including, without limitation, the payment of all Assessments.

Section 2.06. Use of Covered Parking Areas.

(a) Covered Parking. The Declarant has assigned covered parking spaces that are located within the Association Common Area of the Development to the Owners of Lots 1 through 5, 8, 9, 20, 21 and Lots 24 through 28 for their exclusive use as shown on Exhibit "A" ("Assignment of Covered Parking Spaces"). The Association shall have the right to modify the assignment of covered parking spaces that are located within the Association Common Area of the Development to Owners of such Lots for their exclusive use in accordance with the Association Rules.

(b) Guest Parking. Unassigned uncovered parking spaces, if any, that are located within the Association Common Area of the Development may be used only by guests, pursuant to Association Rules adopted by the Board in accordance with Section 3.08, below.

**ARTICLE III
SUTTER BROWNSTONES ASSOCIATION**

Section 3.01. Formation of the Association. Sutter Brownstones Association is a California nonprofit mutual benefit corporation that has been formed by the Declarant as part of the implementation of the common plan of development contemplated by this Declaration. On or before the first close of escrow for the sale of a Lot to an Owner, the Declarant shall convey fee simple title to the Common Area to the Association as provided in Section 2.02(a), above, and thereupon the Association shall be charged with the duties and invested with the powers set forth in the Governing Documents including, but not limited to, the ownership, control, maintenance and repair of the Common Areas and Common Facilities of the Development.

Section 3.02. Association Action; Board of Directors and Officers. With the exception of those matters requiring approval of Members under the Governing Documents or California law, the affairs of the Association shall be conducted by the Board of Directors and such officers as the Board may elect or appoint. Except as otherwise provided in the Governing Documents or California law, all matters requiring the approval of Members shall be deemed approved if approved by a Majority of a Quorum of the Members.

Section 3.03. Membership.

(a) Qualifications. Each Owner of a Lot, including the Declarant, shall be a Member of the Association. An Owner shall hold one membership in the Association for each Lot he or she owns. Sole or joint ownership of a Lot shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his or her ownership of, or ownership interest in, all Lots in the Development ceases, at which time the Owner's membership in the Association shall automatically cease. Persons or entities who hold an interest in a Lot merely as security for performance of an obligation are not Members.

(b) Members' Rights and Duties. Membership in the Association shall give rise to the rights, duties, and obligations set forth in the Governing Documents and any amendments thereto.

Section 3.04. Membership Voting.

(a) Commencement of Voting Rights. Unless the sale of Lots within the Development is subject to a subsidization plan, approved by the California Commissioner of Real Estate which provides otherwise, voting rights attributable to the ownership of Lots shall not vest until Assessments against those Lots have been levied by the Association.

(b) Classes of Membership. The Association shall have two (2) classes of voting membership, namely Class A Members which shall initially consist of all Owners of Lots except the Declarant, and a Class B Membership which shall be held by the Declarant. The voting rights and other privileges of the two (2) classes of membership and the conversion of the Declarant's Class B membership into Class A membership shall be as set forth in Article IV of the Bylaws.

(c) Suspension of Voting Rights. Voting rights may be temporarily suspended under those circumstances described in Section 13.06, below.

(d) Intent of Provisions Imposing Limitations on the Declarant Voting Rights. With the exception of any membership vote pursuant to Section 3.11, below (relating to the enforcement of bonded obligations), no provision of any Governing Document requiring approval of a prescribed majority of the voting power of the Association other than the Declarant is intended to preclude the Declarant from casting votes attributable to any Lots owned by the Declarant. Instead, what is required is the approval of a bare majority of the Class B voting power as well as the approval of the prescribed majority of the Class A voting power. Once the Class B membership has been converted to Class A membership, the intent is to require the approval of a bare majority of the total voting power of the Association as well as the approval of the prescribed majority of the total voting power of the Association other than the Declarant.

Section 3.05. Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Lots within the Development and to enforce payment of such Assessments as more particularly provided in Article IV, below. Any Assessments levied by the Association against its Members shall be levied in accordance with, and pursuant to, the provisions of this Declaration.

Section 3.06. Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale of the Lot to which it is appurtenant, and then, only to the purchaser. In the case of a sale, the membership appurtenant to the transferred Lot shall pass automatically to the purchaser upon the Recordation of a deed evidencing the transfer of title. In the case of an encumbrance Recorded with respect to any Lot, the Mortgagee shall not possess any membership rights until the Mortgagee becomes an Owner by foreclosure or acceptance of a deed in lieu thereof. Tenants who are delegated rights of use pursuant to Section 2.04, above, do not thereby become Members, although the tenant and his or her family and guests shall at all times be subject to the property use restrictions and enforcement/disciplinary provisions of the Governing Documents. If any Owner fails or refuses to transfer the membership registered in his or her name to the purchaser of his or her Lot, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

Section 3.07. Powers and Authority of the Association.

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

(b) Association's Limited Right of Entry.

(i) Right of Entry, Generally. Without limiting the foregoing description of powers, but in addition thereto, the Association and its agents shall have the right and power to enter any Lot to perform the Association's obligations under this Declaration, including: (A) exterior maintenance or obligations with respect to individual Residences; (B) obligations to enforce the architectural and land use restrictions of Articles V and VI hereof; (C) any obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or (D) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, any portion of the Development or the Owners in common.

(ii) Limitations on Exercise of Right. The Association's right of entry pursuant to this subparagraph (b) shall be subject to the following:

(A) The right of entry may be exercised immediately and without prior notice to the Owner or resident in case of an emergency originating in or threatening the Lot where entry is required or any adjoining Lots or Common Area. The Association's work may be performed under such circumstances whether or not the Owner or his or her lessee is present.

(B) In all non-emergency situations involving routine repair and/or maintenance activities, the Association, or its agents, shall furnish the Owner or his or her lessee with at least twenty-four (24) hours prior written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing on the Lot.

(C) In all non-emergency situations involving access by the Association for purposes of enforcing the Governing Documents against an Owner in default, the Association's entry shall be subject to observance of the notice and hearing requirements imposed by Section 13.06, below.

(D) In no event shall the Association's right of entry hereunder be construed to permit the Association or its agents to enter any Residence without the express permission of the Owner or tenant.

(c) Establishment and Authority of Claims Committee Established for Civil Code Section 896 Claims. The Association Board shall establish a Claims Committee that has the sole and exclusive authority to initiate claims on behalf of the Association solely in connection with Improvements or landscaping maintained by the Association for violations of the construction standards set forth in Civil Code Sections 896 and 897. As long as the Declarant has the authority to appoint or elect a majority of the members of the Board of Directors of the Association, the Claims Committee shall consist of the Board members not appointed by the Declarant or not elected by votes cast by the Declarant (the "Non-Declarant Member(s)") and one (1) Board member that was appointed by the Declarant or elected by votes cast by the Declarant (the "Declarant Member"). The Declarant shall appoint the Declarant Member, who shall serve at the will of the Declarant. If Declarant fails to appoint a Declarant Member within ten (10) days after receipt of written request from the Non-Declarant member(s) of the Board to do so, the Claims Committee shall have full power and authority to act without the Declarant Member. The decision of a majority of the Claims Committee members shall control, provided that if the Claims Committee has only one Non-Declarant Member and one Declarant Member, the decision of the Non-Declarant Member shall control. If the Claims Committee elects to initiate a claim, the authority to initiate a claim also shall require the approval of the votes cast by a majority of the Class A Members of the Association present in person or by proxy at a duly-held meeting. Any Non-Declarant Member of the Committee may call a special meeting of the Members for this purpose. The claim is subject to the provisions and procedures set forth in Section 13.09, below.

If the initiation of a claim is duly approved, the Association shall provide the necessary funds to pursue the claim on behalf of the Association, subject to the applicable requirements and procedures set forth in Section 9.02(c) of the Bylaws (Notice of Significant Legal Proceedings) and Section 13.09, below. At such time as the Board no longer has a majority of its members appointed or elected by the Declarant, the provisions of this subparagraph (c) shall be null and void and the Board shall have the authority to initiate these claims on behalf of the Association, subject to the applicable requirements and procedures set forth in Section 9.02(c) of the Bylaws and Section 13.09, below.

Section 3.08. Association Rules.

(a) Rule Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners ("Association Rules"). The Association Rules may concern, but need not be limited to: (i) matters pertaining to use of the Common Area and Common Facilities; (ii) architectural control and the rules of the Architectural Review Committee under Article V, below (iii) regulation of pet ownership, parking, signs, collection and disposal of refuse and other matters subject to regulation and restriction under Article VIII, below; (iv) collection of delinquent Assessments; (v) minimum standards of maintenance of landscaping or other Improvements on any Lot; (vi) the conduct of disciplinary proceedings in accordance with Section 13.06, below, (vii) and any other subject or matter within the jurisdiction of the

Association as provided in the Governing Documents. Once the authority to appoint members of the Architectural Review Committee is vested solely in the Board of Directors of the Association, the Association Rules shall also include the Architectural Rules.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights, preferences and privileges of the Owners thereunder. In the event of any material conflict between any Association Rule and the provisions of any other Governing Document, the conflicting provisions contained in the other Governing Document shall prevail. All Association Rules shall be adopted, amended and repealed (as the case may be) in good faith and in substantial compliance with this Declaration and California Civil Code sections 1357.100 through 1357.150.

(b) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner.

(c) Adoption and Amendment of Rules.

(i) Requirement of Prior Notice to the Members of Certain Operating Rules or Amendments Thereto. California Civil Code section 1357.100 defines an “Operating Rule” as an Association Rule or regulation that applies generally to the management and operation of the Development or to the conduct of the business and affairs of the Association. That Civil Code section further defines a “Rule Change” as any adoption, amendment, or repeal of an Operating Rule by the Board of Directors. Civil Code section 1357.120 identifies seven (7) types of Operating Rules (and Rule Changes involving such Operating Rules) that must first be provided to the members in writing at least thirty (30) days prior to the Board taking action to implement the Rule Change. The notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change. This requirement of prior notice to the Members applies only to Operating Rules that relate to one or more of the following subjects:

- (A) Use of the Common Areas of the Development;
- (B) Use of any Lot in the Development (including Architectural Rules);
- (C) Member discipline, including any schedule of monetary penalties for violation of the Governing Documents and any procedure for the imposition of penalties;
- (D) Any standards for delinquent assessment payment plans; and
- (E) Any procedures adopted by the Association for resolution of assessment disputes;
- (F) Any procedures for reviewing and approving or disapproving a proposed physical change to an Owner’s Lot or Residence, from and after the time when the Association is solely responsible for

appointing all members of the Architectural Review Committee;
and

(G) Any procedures for the conduct of elections.

Specifically excluded by Civil Code section 1357.120 from the requirement of prior notice to Members are the following actions of the Board, regardless of whether those actions may be construed as being Association Rules or "Operating Rules", as defined in the Civil Code: (i) any Rule Change that the Board adopts to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the Association (such "emergency rules" can be adopted and remain in effect for up to one hundred and twenty (120) days); (ii) decisions regarding maintenance of the Common Areas or Common Facilities; (iii) a decision on a specific matter that is not intended to apply to all Members, generally; (iv) establishing the amount of an assessment; (v) adoption of a Rule Change that is required by law (if the Board of Directors has no discretion regarding the substantive effect of the Rule Change); and (vi) issuance of a document that merely repeats existing law or the Governing Documents.

With respect solely to Operating Rules and/or Rule Changes listed in subparagraphs (A) through (G), of paragraph (c)(i) above, Civil Code section 1357.140 gives Members owning five percent or more of the Lots in the Development the right to demand that a special meeting of the Members be called to reverse a proposed Rule Change, so long as the request for the special meeting is delivered to the Association not more than thirty (30) days after the Members are given notice of the Rule Change. If a proper and timely demand for a special meeting to vote to rescind an Operating Rule or Rule Change is tendered to the Association, the Board shall establish the date, time and location of the meeting and provide notice thereof to the Members in accordance with Corporations Code Section 7511(c).

So long as a quorum of the Members is present at any such meeting, the Rule Change can be reversed on the affirmative vote of a Majority of a Quorum of the Members, with each Member having one vote on the matter for each Lot owned. If the Members vote to reverse an Operating rule or a Rule Change, the Board may not take action to readopt the Operating Rule or Rule Change for a period of one year after the date of the special meeting where reversal of the Operating Rule or Rule Change was approved; provided, however, that this provision is not intended to preclude the Board from adopting a different Operating Rule or Rule Change on the same subject as the Rule Change that was successfully reversed. As soon as possible following the close of voting on any proposal to reverse an Operating Rule or Rule Change, but not more than fifteen (15) days after the close of voting, the Board shall provide notice to each Member of the results of the Member vote by personal delivery or first-class mail.

(ii) Minimum Content for Election Rules. Civil Code section 1363.03 requires associations to adopt rules regarding the conduct of elections that do all of the following:

(A) Ensure that any candidate or member advocating a point of view is provided access to Association media, newsletters, or Internet Web sites during a campaign so long as the access is reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view (whether or not endorsed by the Board). The

Association may not edit or redact any content from these campaign communications, but may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content.

(B) Ensure access to the Common Area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all Members advocating a point of view (whether or not endorsed by the Board) so long as use of the space is for a purpose that is reasonably related to the election.

(C) Specify the qualifications for candidates for election to the Board of Directors and any other elected position, and procedures for the nomination of candidates. A nomination or election procedure shall not be deemed reasonable if it disallows any Member of the Association from nominating himself or herself for election to the Board.

(D) Specify the qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close.

(E) Specify a method of selecting one or three inspectors of election by the Board of Directors.

(iii) Adoption of Other Association Rules. Except as provided in subparagraph (c)(i), above, with respect to certain Operating Rules and Rule Changes that must first be distributed to the Members, any other Association Rules may be adopted or amended from time to time by majority vote of the Board; provided, however, that no Association Rule or amendment thereto shall be adopted by the Board until at least thirty (30) days after the proposed rule or rule amendment has been distributed in writing to each Member, along with a description of the purpose and effect of the proposed Association Rule or amendment thereto. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to be taken. Any duly adopted rule or amendment to the Association Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Any duly adopted rule or rule amendment shall be distributed to the Owners by mail or personal delivery.

(iv) Prohibition on Adoption of Certain Rules. In accordance with Civil Code section 1368.1, any rule or regulation of an association that arbitrarily or unreasonably restricts an Owner's ability to market his or her Lot or Residence is void. Without limiting the foregoing, in no event shall the Association be entitled to impose an Assessment or fee in connection with the marketing of an Owner's Lot in an amount that exceeds the Association's actual and direct costs (see also, Section 4.01(f), below).

Section 3.09. Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article XIII, below.

Section 3.10. Limitation on Liability of the Association's Directors and Officers.

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

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

(b) Other Claims Involving Tortious Acts and Property Damage. No person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) as a result of the tortious act or omission of a volunteer director or volunteer officer of the Association shall recover damages from such director or officer if all of the following conditions are satisfied:

- (i) The director or officer owns no more than two (2) Lots;
- (ii) The act or omission was performed within the scope of the volunteer director'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;
- (v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance with coverage of at least Five Hundred Thousand Dollars (\$500,000).

The payment of actual expenses incurred by a director or officer in the execution of such person's Association duties shall not affect such person's status as a volunteer director or officer for the purposes of this Section. The provisions of this subparagraph (b) are intended to reflect the protections accorded to volunteer directors and officers of community associations pursuant to California Civil Code section 1365.7. In the event said Civil Code section is amended or superseded by another, similar provision of the California statutes, this subparagraph (b) shall be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

Section 3.11. Enforcement of Bonded Obligations. If any of the Common Area improvements within the Development have not been completed when the California Real Estate Commissioner issues a final subdivision public report for the Development, and if the Association is the obligee under a bond or other arrangement ("bond") to secure performance of a commitment of the Declarant to complete such Common Area improvements, then the Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvements for which a notice of completion has not been filed within sixty (60) days after the completion date specified for that improvement in the "planned construction statement" appended to the bond. However, if the Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the action to enforce the obligations under the bond only if a notice of completion has not been filed within thirty (30) days after the expiration of the extension.

If the Board fails to consider and vote on the action to enforce the obligations under the bond or decides not to initiate action to enforce the obligations under the bond, then on the petition in writing to the Board signed by Members representing not less than five (5%) percent of the total voting power of the Association other than the Declarant, the Board shall call a special membership meeting for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the bond.

The meeting shall be called by the Board by fixing a date not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of said petition. Notice of the meeting shall be given to all Owners entitled to vote in the manner provided in Section 5.04 of the Bylaws for notices of special membership meetings. At the meeting, the vote in person or by proxy of a majority of the Owners entitled to vote (other than the Declarant) in favor of taking action to enforce the obligations under the bond shall be deemed to be the decision of the Association and the Board shall then implement the Owners' decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE IV ASSESSMENTS

Section 4.01. Assessments Generally.

(a) Covenant to Pay Assessments. The Declarant for each Lot owned within the Development, and each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), covenants and agrees to pay to the Association: (i) Regular Assessments; (ii) Special Assessments; (iii) Emergency Assessments; and (iv) Special Individual Assessments. Each such Assessment shall be established and collected as hereinafter provided.

(b) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the person who is the Owner of the Lot at the time the Assessment is levied. Each Owner who acquires title to a Lot (whether by conventional conveyance, at a judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot which become due and payable

after the date that the person acquires title. Accordingly, when a person acquires title to a Lot, he or she shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. However, if the acquired Lot is conveyed subject to a valid lien for delinquent Assessments (and related costs of collection), the Association may continue to exercise its foreclosure remedies against the Lot, regardless of the change of ownership, and/or the Association may pursue its collection remedies against the prior Owner, individually.

(c) Creation of Assessment Lien. Except with respect to the limitations on collection of certain Special Individual Assessments through the use of lien and foreclosure remedies (see Sections 4.04(c) and 4.10(b)(ix), below), all Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such Assessment is made. Any lien for unpaid Assessments created pursuant to the provisions of this Section may be subject to foreclosure to the extent provided in Section 4.10(b), below.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself or the Owner's Lot from liability or charge for the Owner's share of any Assessment made against the Owner or his or her share of any Regular or Special Assessment made against the Owner's Lot by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Area or Common Facilities or by the abandonment or non-use of the Owner's Lot.

(e) Designation of Cost Centers. The Association shall have the power and authority to designate Lots, Parcels and Common Areas within the Development as Cost Centers for purposes of expense accounting and the equitable allocation of Regular Assessments, in accordance with Section 4.02(b)(ii), below. A Cost Center is likely to be designated when one of the following occurs: (i) the maintenance or use of a particular Improvement or maintenance area within the designated Cost Center is fully or partially restricted to Owners of Lots located within the area designated as a "Cost Center," or (ii) when certain Owners of Lots within a designated Cost Center are receiving services from the Association that are in addition to, or significantly greater than, the services provided to other Owners or residents. Ordinarily, a Cost Center shall be established whenever it is reasonable to anticipate that any Owner or group of Owners will derive as much as ten percent (10%) more than Owners in general in the value of a common service(s) supplied by the Association.

The Cost Centers established at the time of recordation of this Declaration are identified in Exhibit "B".

(f) Prohibition of Excessive Assessments. In accordance with Civil Code section 1366.1, the Association shall not impose or collect an Assessment or fee that exceeds the amount necessary to defray the costs for which the Assessment or fee is imposed. This limitation is not intended, however, to restrict the Board's discretion in the discharge of its duty to prepare the annual budget of the Association, including the exercise of reasonable discretion in the estimation of reserve funding requirements in accordance with Civil Code sections 1365 and 1365.5.

Section 4.02. Regular Assessments.

(a) Regular Assessments Generally. Not less than thirty (30) nor more than ninety (90) days prior to the beginning of the Association's fiscal year, the Board shall determine the estimated Common Expenses of the Association for that fiscal year and distribute a copy of the Association's operating budget to the Members. Establishing the Common Expenses of the Association shall be an element of the budgeting process described in Article XII of the Association Bylaws. Subject to the Member approval requirements for certain Assessment increases, such estimated amount shall be assessed against all Owners as the Regular Assessment for that fiscal year (the "Aggregate Regular Assessment Amount"). If the Board fails to establish the Regular Assessment for any fiscal year, then the Aggregate Regular Assessment Amount for that fiscal year shall be established in accordance with the budget last approved by the Board or by the Department of Real Estate, as the case may be.

(b) Components of The Regular Assessment; Cost Centers.

(i) General Assessment Component. The Common Expenses of the Association exclusive of Common Expenses budgeted to any Cost Center (the "General Assessment Component") shall be allocated among and charged to all the Owners of Lots according to the allocation formula set forth in subparagraphs (b) (ii) of this Section.

(ii) Cost Center Assessment Component. When a Cost Center is established, the expenses of operating, maintaining and replacing the included Improvements or maintenance areas (including, without limitation, Reserve contributions and expenses for insurance and management, utility, legal, accounting and patrol services) shall be borne solely or disproportionately by the Owners of the Lots within the designated Cost Center ("Cost Center Assessment Component").

Unless otherwise provided in a Supplemental Declaration, the Cost Center Assessment Component shall be allocated equally among all Lots located within the Cost Center.

(c) Establishment of Regular Assessment; Member Approval Requirements for Certain Assessment Increases.

Unless Member approval is required as a prerequisite to the imposition of an increase in the annual Regular Assessment as stated in this subparagraph (c), the total Common Expenses estimated in the Association's budget (less projected income from sources other than Assessments) shall become the Aggregate Regular Assessment Amount for the next succeeding fiscal year. During the first fiscal year in which Regular Assessments are imposed, the maximum authorized Regular Assessments shall be determined by reference to the Regular Assessments disclosed in the budget of the Association filed with the Department of Real Estate at the time the Regular Assessments commence.

Subject to Section 4.05, below, ("Emergency Assessments"), the Association shall not levy, for any fiscal year, an annual Regular Assessment per Lot which is more than twenty percent (20%) greater than the Regular Assessment levied in the immediately preceding fiscal year (the "Maximum Authorized Regular Assessment") without the prior approval of the Members in accordance with Section 4.08, below. Furthermore, any increase in the Regular

Assessment shall require member approval in accordance with Section 4.08, below, if the Board of Directors fails to comply with California Civil Code section 1365(a) by distributing a budget or budget summary to the Members not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the Association's fiscal year (see Section 12.05 of the Bylaws).

If an increase of more than twenty percent (20%) in the amount of the Regular Assessment for any Lot or Lots (over the prior year's Regular Assessment for those Lots) results solely from increases in the Cost Center Assessment Component of the Regular Assessment for such Lots, the required approval shall be of Members whose Lots are located within the Cost Center.

(d) Commencement Date for Regular Assessments. Regular Assessments shall commence as to each Lot within a Phase upon the earlier to occur of (i) the date specified in a Notice of Commencement of Regular Assessments, Recorded by the Declarant with respect to the Phase (which date shall be after to the date of Recordation of this Declaration); or (ii) to the first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot in the Phase to a person other than the Declarant. Each Lot in the subject Phase shall thereafter be subject to its share of the then established annual Regular Assessment. The first annual Regular Assessment shall be pro rated, if necessary, according to the number of months remaining in the fiscal year established in the Association's Bylaws.

(e) Allocation of Regular Assessment.

(i) Association Common Expenses. The total estimated Common Expenses, determined in accordance with subparagraph (a), above, shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Lots within the Development owned by the assessed Owner to the total number of Lots subject to Assessment so that each Lot bears an equal share of the total Regular Assessment.

(f) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member of the Association. The Assessment roll shall show, for each Lot, the name and address of the Owner of Record, all Regular, Special and Special Individual Assessments levied against each Owner and his or her Lot, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by Section 2.05(c), above, shall be conclusive upon the Association and the Owner of such Lot as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of such statement in favor of all persons who rely thereon in good faith.

(g) Mailing Notices of Assessments and Related Financial Disclosures. Accompanying the budget information that is provided to the Members pursuant to subparagraph (a), above, the Association shall distribute to each Member: (i) the written notice that is required to be distributed pursuant to Civil Code section 1365.1 (the notice providing Members with general information regarding assessments, foreclosure rights, payment of assessments and

payment plans); (ii) the form required by Civil Code section 1365.2.5 that provides summarized information regarding the amount of the current assessment, additional assessments that have already been scheduled to be imposed or charged, and the calculation of reserve replacement needs and funding requirements; and (iii) the statement that is required by Civil Code section 1365(d) which describes the Association's policies and practices in enforcing lien rights or other legal remedies for the collection of delinquent assessment obligations. These budgets and disclosure documents shall be delivered to the Members by one of the methods authorized by Civil Code section 1350.7.

In addition, and in accordance with Civil Code section 1366(d), the Association shall provide notice by first-class mail to the Members of any increase in the Regular Assessment or Special Assessments not less than thirty (30) nor more than sixty (60) days prior to the increased Regular Assessment or Special Assessment becoming due.

(h) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.03(a)(i), below, for that year, shall be assessed against each Owner and his or her Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Board.

(i) Installment Payment of Assessment Obligations. The Regular Assessment made against each Owner shall be due and payable in advance to the Association in equal monthly quarterly installments on the first day of each month or on such other date or dates as may be established from time to time by the Association's Board of Directors. Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board.

Section 4.03. Special Assessments.

(a) Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth in subparagraph (b), below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Lots for the following purposes:

(i) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(ii) Capital Improvements. The Board may also levy Special Assessments for additional capital Improvements within the Common Area (i.e., Improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities). The Special Assessment power conferred hereunder is not

intended to diminish the Board's obligation to plan and budget for normal maintenance, and replacement repair of the Common Area or existing Common Facilities through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate insurance on the Common Area and existing Common Facilities in accordance with Article X, below.

(b) Special Assessments Requiring Membership Approval. The following Special Assessments require prior membership approval in accordance with Section 4.08, below: (i) any Special Assessments which, in the aggregate, exceed five percent (5%) of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied; and (ii) any Special Assessments imposed pursuant to subparagraph (a)(i) of this Section when the Board has failed to distribute a budget to the Members within the time specified in Section 4.02(a), above. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "emergency situation" as defined in Section 4.05, below.

(c) Cost Center Special Assessments. In the event that a Special Assessment is only needed to fund an extraordinary expense or new capital improvement within a Cost Center, the Board may levy a Special Assessment that is applicable solely to the Owners of Lots that are included in the Cost Center.

(d) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot (including the Declarant as to any unsold or retained Lots) in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(d), above. The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner. Cost Center Special Assessments shall be allocated solely to the Owners of Lots in the Cost Center.

Special Assessments for purposes described in subparagraph (a)(i) of this Section shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable to the Association in equal monthly installments during the remainder of the then current fiscal year. Special Assessments for purposes described in subparagraph (a)(ii) shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within thirty (30) days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

Section 4.04. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 4.03, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (i) through (iii) below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this Section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.06, below, and has been given a reasonable opportunity to comply

voluntarily with the Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses to: (A) accomplish the payment of delinquent Assessments; (B) perform any repair, maintenance or replacement to any portion of the Development that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion; or (C) otherwise bring the Owner and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, Court costs and reasonable attorneys fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(iii) Required Maintenance on Lots. If any Lot is maintained so as to become a nuisance, fire or safety hazard for any reason, the Association shall have the right to enter said Lot, correct the condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. Any entry on the property of any Owner by the Association shall be effected in accordance with Section 3.07(b), above.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in subparagraph (a) of this Section, such Special Individual Assessment shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to the affected Owner. The Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within thirty (30) days after the mailing of notice of the Assessment.

(c) Limitation on Right to Lien Lots For Special Individual Assessments. The right of the Association to collect delinquent Special Individual Assessments through the use of lien and foreclosure remedies is subject to the limitations set forth in Section 4.10(b)(ix), below. However Special Individual Assessments may be collected by the Association through the use of other legal processes, including, without limitation, an action in small claims court.

Section 4.05. Assessments to Address Emergency Situations.

(a) Authority of Board to Impose Emergency Assessments. The requirement of a membership vote to approve: (i) Regular Assessment increases in excess of twenty percent (20%) of the previous year's Regular Assessment; or (ii) Special Assessments which, in the aggregate, exceed five percent (5%) of the Association's budgeted gross expenses for the fiscal

year in which the Special Assessment(s) is/are levied, shall not apply to Assessments necessary to address emergency situations ("Emergency Assessments"). For purposes of this Section, an emergency situation is any of the following:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities where a threat to personal safety is discovered; or
- (iii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to Section 4.02(a), above; provided, however, that prior to the imposition or collection of an assessment under this subparagraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of assessment.

(b) Payment of Emergency Assessments. When levied by the Board the Emergency Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot (including the Declarant as to any unsold or retained Lots) in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(e), above. The Emergency Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner. An Emergency Assessment shall be due as a separate debt of the Owner and shall be payable in full to the Association within thirty (30) days after the mailing of the notice of the Emergency Assessment or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Emergency Assessment. If an Emergency Assessment is not paid on or before the due date, the Assessment may be enforced in the manner provided in Section 4.10, below.

Section 4.06. Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively: (a) to promote the recreation, health, safety and welfare of individuals residing within the Development; (b) to promote the enjoyment and use of the Development by the Owners and their families, tenants, invitees, licensees, guests and employees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Area and Common Facilities. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation of the Owner of the Lot against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns; provided, however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them. Subject to the limitations imposed by Section 4.04(c), above, limiting the right of the Association to impose a lien as a remedy for collecting most Special Individual Assessments, the Association shall also be entitled to collect delinquent Assessments through lien and foreclosure, as more particularly provided in Section 4.10, below.

Section 4.07. Exemption of Certain Portions of the Development From Assessments. The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of the Development dedicated and accepted by a local public authority;
- (b) The Common Area and Common Facilities; and
- (c) Any Lot owned by the Association.

Section 4.08. Notice and Procedure for Member Approval Pursuant to Sections 4.02 and 4.03. In the event that Member approval is required in connection with any increase or imposition of Assessments pursuant to Sections 4.02 and 4.03, the affirmative vote required to approve the increase shall be a Majority of a Quorum of the Members who are or may be liable for payment of the Assessment, as provided below ("eligible Members"). The quorum required for such membership action shall be a majority of the eligible Members, and the required affirmative vote shall be at least (i) in the case of an increase in the General Assessment Component, a Majority of a Quorum of the total membership of the Association; and (ii) in the case of an increase in a Cost Center Assessment Component, a Majority of a Quorum of the Members owning Lots within the Cost Center to which the Cost Center Assessment Component is attributable. The minimum quorum percentage for any vote pursuant to this Section shall be the attendance in person or by proxy, of eligible Members voting by written ballot comprising at least fifty percent (50%) of the total voting power of the eligible Members. Any vote on an increase in the Regular Assessment or on the imposition of a Special Assessment that requires approval of the Members must be conducted by use of a secret ballot and that balloting process shall be conducted using the same procedures for the casting of ballots in the election of directors pursuant to Section 7.05 of the Bylaws.

Section 4.09. Maintenance of Assessment Funds.

(a) Establishment and Maintenance of Association Bank Accounts. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in FDIC insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code section 1365.5 and Section 12.02 of the Bylaws. Any interest received on deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b), below.

(b) Expenditure of Assessment Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations.

(c) Separate Accounts; Commingling of Funds. Except as otherwise provided in subparagraph (d), below, to preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Association shall keep a separate accounting of all funds received by the Association in payment of each Assessment and of all disbursements made therefrom; provided, however, that receipts and disbursements of Special Assessments made pursuant to Section 4.03(a)(i), above, shall be accounted for together with the receipts and disbursements of Regular Assessments, and a separate accounting shall be maintained for each capital Improvement for which reserve funds for replacement are allocated.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

(d) Reserve Funds. As more particularly provided in Article XII of the Association Bylaws, the Association Board is required by law to periodically identify the major components of the Development that the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of thirty (30) years or less. In the capital reserve analysis process, the Board is also obligated to identify the probable remaining useful life of the components identified in the study and to estimate the cost of repair, replacement, restoration, or maintenance of the components during and at the end of their useful life. The information developed in this capital reserve replacement analysis is then to be used by the Board as a component of preparing the annual budget of the Association. The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or for litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short term cash flow requirements or other expenses if the Board has provided notice of the intent to consider the transfer in a notice of meeting, which shall be provided to the Members as specified in Civil Code section 1363.05. The notice shall include the reasons why the transfer

is needed, some of the options for repayment, and whether a special assessment may be considered. If the Board authorizes the transfer, the Board shall issue a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed, and describing when and how the monies will be repaid to the reserve fund.

The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the Board may, after giving the same notice required for considering a transfer, and upon making a finding supported by documentation that a temporary delay would be in the best interests of the Development, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this subparagraph (d). This Special Assessment is subject to the Member approval requirements of California Civil Code section 1366 and Section 4.03(b), above, if the aggregate amount of the Special Assessment exceeds five percent (5%) of the budgeted gross expenses of the Association for the year in which the Special Assessment is imposed. The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of that decision in the next available mailing to all Members pursuant to California Corporations Code section 5016, and of the availability of an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's principal office.

(e) Limitations on Association's Authority to Assign or Pledge Assessment Obligations. The Association may not voluntarily assign or pledge its right to collect payments or Assessments, or to enforce or foreclosure a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the Association. However, the restrictions imposed by this subparagraph (e) shall not restrict the right or ability of the Association to assign any unpaid obligations to a former Member to a third party for purposes of collection.

Section 4.10. Collection of Assessments; Enforcement of Liens. Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Special Assessments, Special Individual Assessments and Emergency Assessments shall be delinquent if not paid within the times prescribed in Sections 4.03(c), 4.04(b) and 4.05(b), respectively. When an Assessment becomes delinquent, the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law commencing thirty (30) days after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code sections 1366(c) and 1366.1 or comparable successor statutes. Once an assessment becomes delinquent, the Association may elect to one or both of the following remedies:

(a) Enforcement of An Owner's Personal Obligation to Pay Assessments. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the Assessment and in such action shall be entitled to recover the delinquent Assessment or Assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in subparagraph (b), below.

(b) Imposition and Enforcement of Assessment Lien and Limitations Thereon. Except as otherwise provided in subparagraph (b)(ix), below, with respect to the limitation on the imposition of liens for Special Individual Assessments, the Association may impose a lien against the Owner's Lot for the amount of the delinquent Assessment or Assessments, plus any reasonable costs of collection (including reasonable attorneys fees), late charges and interest by taking the following steps:

(i) Issuance of Delinquency Notice; Contents. At least thirty (30) days prior to recording a lien upon the Owner's Lot to collect a delinquent Assessment, the Association shall notify the Owner in writing by certified mail of the following (the "Delinquency Notice"):

(A) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the Lot has the right to inspect the Association records, pursuant to Section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR LOT IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

(B) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any.

(C) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection previously levied by the Association if it is subsequently determined that the Assessment was paid on time.

(D) The right of the notified Owner to request a meeting with the Board as provided in subparagraph (iv), below.

(E) The right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program pursuant to Civil Code section 1363.810, et seq.

(F) The right of the noticed Owner to request alternative dispute resolution with a neutral third party pursuant to Civil Code section 1369.510 et seq. before the Association may initiate foreclosure against the Owner's Lot, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure, rather than a non-judicial foreclosure.

(ii) Application of Payments. Any payments made by the Lot Owner toward the delinquent Assessment shall first be applied to the Assessments that are owed at the time the payment is made; and only after the Assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received the payment on behalf of the Association. The Association shall provide its Members with a mailing address for overnight payment of Assessments.

(iii) Pre-Lien Offer to Meet and Confer with the Owner. Prior to recording a lien for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code section 1363.810 et seq.

(iv) Rights of Owners to Propose Payment Plans. An Owner may also submit a written request to meet with the Board to discuss a payment plan for the delinquent assessment. This request must also be made within fifteen (15) days of the postmark of the Delinquency Notice. The Association shall provide the Owners with the standards for payment plans, if such standards have been adopted. So long as a timely request for a meeting has been tendered, the Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request for a meeting, unless there is no regularly-scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans shall not impede an Association's ability to record a lien on the Owner's Lot to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

(v) Association Assessment Lien Rights. Except as provided in subparagraph (ix), below (relating to Special Individual Assessments), the amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code section 1366 shall be a lien on the Owner's Lot from and after the time the Association causes to be recorded in the Office of the County Recorder a Notice of Delinquent Assessment, which shall state the amount of the Assessment and other sums imposed in accordance with Civil Code Section 1366, a legal description of the Owner's Lot against which the Assessment and other sums are levied, the name of the record owner of the Owner's Lot against which the lien is imposed. The itemized statement of the charges owed by the Owner that is required by subparagraph (b)(i)(B), of this Section 4.10 shall be recorded together with the Notice of Delinquent Assessment. The decision to record a lien for delinquent assessments shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an open meeting and the vote shall be recorded in the minutes of the meeting.

In order for the lien to be imposed by non-judicial foreclosure as provided in subparagraph (vii), below, the Notice of Delinquent Assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent

Assessment shall be signed by any officer of the Association or by the person designated by the Association for that purpose or if no one is designated, by the president of the Association. A copy of the recorded Notice of Delinquent Assessment shall be mailed by certified mail to every person whose name is shown as an Owner of the Lot in the Association's records, and the notice shall be mailed no later than ten (10) calendar days after Recordation. Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any notices, including Notices of Delinquent Assessments, required by Civil Code section 1367.1 to the secondary address that is specified.

(vi) Priority of Assessment Liens. A lien created pursuant to subparagraph (v), above or subparagraph (ix), below, shall be prior to all other liens recorded against the Owner's Lot subsequent to the Notice of Delinquent Assessment, except as described in Section 4.12, below.

(vii) Enforcement of Assessment Liens. Subject to the limitations of this Section 4.10(b) and in particular this subparagraph (vii), following the recording of a Notice of Delinquent Assessment, the Association's lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted pursuant to Civil Code section 2934a. Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trusts. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924c and 2924d.

The following specific limitations shall apply to the pursuit of foreclosure remedies:

(A) The decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an executive session and shall record the vote in the minutes of the next meeting of the Board that is open to attendance by the Members. The Board shall maintain the confidentiality of the Owner or Owners of the Lot by identifying the matter in the minutes by the parcel number of the property, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days prior to any public sale of the Lot in question.

(B) Prior to initiating a foreclosure for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code section 1363.810 et seq. or alternate dispute resolution with a neutral third party pursuant to Civil Code section 1369.510 et seq. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate judicial foreclosure, rather than non-judicial foreclosure.

(C) If the Board votes to commence foreclosure proceedings to collect delinquent assessments pursuant to this subparagraph (vii), the Board shall provide notice of that decision by personal service to an Owner of the Lot who occupies the Residence on the Lot or to

the Owner's legal representative. If the Owner does not occupy the Residence and Lot that are the subject of the foreclosure proceeding, the Board shall provide written notice to the Owner by first-class mail, postage prepaid, at the most current address for the Owner that is shown on the books of the Association. In the absence of written notification by the Owner to the Association, the address of the Owner's Lot may be treated as the Owner's mailing address.

(D) Debts for Assessments, regular or special may not be collected through the use of judicial or non-judicial foreclosure remedies until the delinquent assessment amount, exclusive of any accelerated assessments, late charges, fees, costs of collection, attorney's fees, and interest, equals or exceeds \$1,800.00 or the assessments are more than twelve (12) months delinquent. Delinquent Assessments in a smaller amount may not be collected through the use of foreclosure remedies, but may be collected through the use of any of the following other means: (aa) a civil action in small claims court; (bb) by recording a lien on the Owner's Lot (subject to the restrictions on foreclosure of that lien); or (cc) any other manner provided by law, other than judicial or non-judicial foreclosure. If the Association elects to record a lien for delinquent Assessments, subparagraphs (b)(iii) and (b)(v), above shall continue to apply. The limitations on the use of foreclosure remedies set forth in this subparagraph (B) do not apply to assessment collection actions against the Declarant in its capacity as an Owner when the Declarant's Assessment obligations are delinquent.

(viii) Foreclosed Owner's Rights of Redemption. A non-judicial foreclosure by the Association of an Owner's interest in his or her Lot to collect a debt for delinquent Assessments shall be subject to a right of redemption. The redemption period within which the Lot may be redeemed from a foreclosure sale under this subparagraph (viii) (which reflects Civil Code section 1367.4(c)(4)) ends ninety (90) days after the sale.

(ix) Limitation on Authority to Use Lien and Foreclosure Remedies to Collect Special Individual Assessments. For so long as any Lots within the Development are being sold under authority of a Department of Real Estate Public Report, a Special Individual Assessment or other monetary charge imposed by the Association: (A) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Area Improvements or landscaping for which the Member or the Member's guests or tenants were responsible; or (B) as a disciplinary measure for failure of a Member to comply with the Governing Documents (except for reasonable late payment penalties, interest, and other reasonable costs of collection authorized by Civil Code section 1366) may not be characterized nor treated as an Assessment that may become a lien against the Owner's Lot enforceable by the sale of the interest under Civil Code sections 2924, 2924b and 2924c.

Once the Association is no longer subject to the regulatory jurisdiction of the Department of Real Estate, the following categories of Special Individual Assessments may be collected through the use of lien and foreclosure remedies in accordance with subparagraphs (v) through (viii), above: (A) Special Individual Assessments or other monetary charges imposed by the Association as a means of reimbursing the Association for costs incurred in the repair of damage to Common Areas and Common Facilities for which the Member or the Member's guests or tenants were responsible; and (B) Special Individual Assessments imposed to recover late charges, reasonable costs of collection and interest assessed in accordance with Civil Code section 1366(e).

(x) Obligation to Record Lien Releases. If it is determined that a lien previously recorded against a Lot was recorded in error, the party who recorded the lien, within twenty-one (21) calendar days, shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission. If the determination that the lien was recorded in error is the result of dispute resolution meet and confer proceedings conducted pursuant to Civil Code section 1363.810 or alternative dispute resolution with a neutral third-party pursuant to Civil Code section 1369.510, the Association shall also be obligated to promptly reverse all late charges, fees, interest, attorney's fees, costs of collection, costs imposed for the issuance of the notices prescribed by Civil Code section 1367.1, and costs of recording the lien release and all costs incurred in the mediation or alternative dispute resolution process.

In addition, within twenty-one (21) days of the payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner a copy of the lien release or notice that the delinquent Assessment has been satisfied.

(xi) Effect of Failure to Adhere to Lien Restrictions. If the Association fails to comply with the procedures set forth in this Section 4.10(b) prior to recording a lien, the Association shall recommence the required notice process prior to recording a lien. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Lot Owner.

The provisions of this Section 4.10(b) are intended to comply with the requirements of Civil Code Sections 1367.1, 1367.4 and 1367.5, as in effect on January 1, 2007. If these sections of the Civil Code are amended or modified in the future in a way that is binding on the Association and causes this Section to be in conflict with applicable law, the provisions of this Section 4.10(b) automatically shall be amended or modified in the same manner by action of the Board of Directors without necessity of approval of the amendment by the Members so long as all Members are given a copy of the recorded amendment and the decision to approve the amendment is made at a duly noticed open meeting of the Board of Directors.

Section 4.11. Transfer of Lot by Sale or Foreclosure. The following rules shall govern the right of the Association to enforce its Assessment collection remedies following the sale or foreclosure of a Lot:

(a) Except as provided in subparagraph (b), below, the sale or transfer of any Lot shall not affect any Assessment lien which has been duly Recorded against the Lot prior to the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

(b) The Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest and costs of collection incurred prior to the sale or transfer of a Lot pursuant to a foreclosure or exercise of a power of sale by the holder of a prior encumbrance (but not pursuant to a deed-in-lieu of foreclosure). A "prior encumbrance" means any first Mortgage or

other Mortgage or lien Recorded against the Lot at any time prior to Recordation of the Association's Assessment lien (see Section 4.12, below).

(c) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale or otherwise shall relieve the new Owner of such Lot (whether it be the former beneficiary of the first Mortgage or other prior encumbrance or a third party acquiring an interest in the Lot) from liability for any Assessments which thereafter become due with respect to the Lot or from the lien thereof.

(d) Any Assessments, late charges, interest and associated costs of collection which are lost as a result of a sale or transfer of a Lot covered by subparagraph (b), above, shall be deemed to be a Common Expense collectible from the Owners of all of the Lots, including the person who acquires the Lot and his or her successors and assigns.

(e) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Association's right to maintain an action against the foreclosed previous Owner personally to collect the delinquent Assessments, late charges, interest and associated costs of collection incurred prior to and/or in connection with the sale or transfer.

Section 4.12. Priorities. When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Lot prior and superior to all other liens recorded subsequent to the Notice of Delinquent Assessment except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or other prior encumbrance.

Section 4.13. Unallocated Taxes. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.02, above, and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE V ARCHITECTURAL CONTROL

Section 5.01. Architectural Review Committee Approval of Improvements.

(a) Approval Generally. Prior to commencement of construction or installation of any Improvement within the Development (as the term "Improvement" is defined in Section 1.19, above), other than the initial construction of Residences and Common Area improvements by the Declarant, the Owner planning such Improvement must submit to the Association's Architectural Review Committee a written request for approval. Owners shall submit

applications in writing regarding all proposed Improvements on their Lot to the Architectural Review Committee. Each application shall be accompanied by two complete sets of construction plans, specifications, and plot plans. The plans shall show the location of all structures previously existing upon said Lot, location of proposed improvements, the composition and color of all exterior materials and any other information that the Committee may require so as to clearly indicate the proposed improvement and its effects on trees, landscaping, grading and drainage. In addition, applicants shall deliver two complete sets of working drawings and a plot plan as approved by the County Building Department to the Committee for their final approval prior to the commencement of construction. Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Committee shall base its decision on the criteria described in Section 5.06, below.

(b) Modifications to Approved Plans Must Also Be Approved. Once a proposed work of Improvement has been duly approved by the Architectural Review Committee, no material modifications shall be made in the approved plans and specifications therefore and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material affect on other aspects or components of the work, the Committee, in its discretion, may order the Owner and his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

In the event that it comes to the knowledge and attention of the Association, its Architectural Review Committee, or the agents or employees of either, that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 5.11, below, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement by "red tagging" the project until such time as proper Architectural Review Committee review and approval is obtained.

Section 5.02. Composition of the Architectural Review Committee..

(a) Composition of the Committee, Generally. The composition of the Committee will evolve during the development of the Covered Property, as follows:

(i) The Declarant may appoint all of the members of the Architectural Review Committee and all replacements until the first anniversary of the issuance of the first Public Report.

(ii) Beginning with the first anniversary of the issuance of the first Public Report, Declarant may appoint a majority of the members of the Architectural Review Committee. The remaining members of the Architectural Review Committee shall be appointed by members of the Association Board other than Declarant or Declarant's representative. The Committee shall be composed of at least three (3) but not more than five persons, who with the exception of Committee members appointed by the Declarant shall be Members of the Association.

(iii) At the earlier to occur of: (A) the closing of ninety percent (90%) of the Lots planned for the Development; or (B) the fifth (5th) anniversary of the original issuance of the original Public Report for the sale of Lots within the Development, the Committee shall become a committee of the Association and, all members of the Committee shall be appointed by the Board of Directors.

(b) Qualifications for Appointment. The appointees of the Declarant need not be Owners of Lots and do not need to possess any special qualifications of any type except such as the Declarant may, in its discretion, require. All persons appointed to the Architectural Review Committee by the Board must be Members of the Association whose memberships are in good standing, as defined in the Bylaws.

(c) Terms of Office of Committee Members. With the exception of those Architectural Review Committee members appointed by the Declarant and unless the Association implements a system of staggered terms for Committee members, all members of the Architectural Review Committee shall serve for one year terms, subject to the right of the Board to reappoint incumbent Committee members to consecutive terms of office. During the period when the Declarant has the authority to appoint a majority of the members of the Committee, the Declarant shall appoint one Committee person as chair. Thereafter, the Committee members shall appoint one Committee member as chairperson. All members shall serve until the expiration of the term for which they were appointed or until they resign or are replaced.

(d) No Compensation for Services; Reimbursement of Expenses. Neither the members of the Architectural Review Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. The Committee members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Architectural Review Committee functions. Requests for reimbursement shall be supported by adequate documentation and shall be submitted to, and approved by, the Board of Directors. Nothing herein shall limit the right of the Association or the Declarant from retaining the services of a person or persons as employees or independent contractors (including an architect and/or engineer) with responsibility for assisting the Committee in such matters as: (i) the day-to-day administration of the process of Architectural Review and approval, (ii) the intake and review of plans and specifications, (iii) communications with plan applicants, (iv) making recommendations to the Committee with respect to the approval, denial or modification of submitted plans and specifications, and (v) communications with Owners and contractors during the course of construction.

Section 5.03. Duties. It shall be the duty of the Architectural Review Committee to consider and act upon the proposals and plans for Improvements submitted to it pursuant to this Declaration, to adopt Architectural Rules pursuant to Section 5.05, below, to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by this Declaration.

Section 5.04. Meetings. The Architectural Review Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee members shall constitute an act by the Committee and the Committee shall keep and maintain a written record of all actions taken.

The Owner-Applicant shall be entitled to appear at any meeting of the Architectural Review Committee at which the Owner's proposal is scheduled for review and consideration. The Owner shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Reasonable notice of the time, place and proposed agenda for Architectural Review Committee meetings shall be communicated before the date of the meeting to any Owner-Applicant whose application is scheduled to be heard.

Section 5.05. Architectural Rules. The Architectural Review Committee may, from time to time and with approval of the Board of Directors, adopt, amend and repeal rules and regulations to be known as "Architectural Rules." The Architectural Rules shall interpret and implement the provisions hereof by setting forth: (a) any standards and procedures for Architectural Review Committee review; (b) guidelines for architectural design, the placement of any work of Improvement on a Lot, or color schemes, exterior finishes and materials and similar features which are recommended or required for use in connection with particular Improvement projects within the Development; (c) the criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see Section 5.16 (variances) below); and (d) the minimum requirements regarding the content of plans and specifications which must be submitted with respect to any request for Architectural Review and approval. The Architectural Rules may require that the submission of plans and specifications be accompanied by a reasonable fee. The Architectural Rules may also provide for a cash deposit procedure to help ensure proper and timely completion of works of Improvement in accordance with approved plans and specifications and to reimburse the Association for damage to roadways and other Common Facilities resulting from the Owner's construction project. Notwithstanding the foregoing, no Design Guideline shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Rules and this Declaration, the provisions of the Declaration shall prevail.

Among other things, in accordance with Civil Code section 1378(a)(1), the Architectural Rules shall provide a fair, reasonable and expeditious procedures that the Committee must follow when making decisions on submitted Improvement plans and projects. The procedures shall include prompt deadlines for various actions and a maximum time for response to an application, consistent with Section 5.07, below.

Section 5.06. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Architectural Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, exercised in good faith, makes the following findings regarding the proposed project:

- (a) The Owner's plans and specifications conform to this Declaration and to the Architectural Rules in effect at the time such plans are submitted to the Committee;
- (b) The Improvement will be in harmony with the external design of other structures and/or landscaping within the Development;
- (c) The Improvement, as a result of its appearance, location or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her property; and

(d) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Development and with the overall plan and scheme of development within the Development.

While it is recognized that the Architectural Review Committee's determination will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship and materials proposed for the Improvement project, the harmony of its exterior design, finished materials and color with that of other existing structures. The Committee may also take into consideration adverse experiences with the installation, functioning, or appearance of similar Improvements previously approved by the Committee. In spite of the discretion conferred on the Committee pursuant to this Article V, no decision of the Committee regarding a proposed Improvement project can be made or imposed that violates any governing provision of law (including, without limitation, the California Fair Employment and Housing Act) or a building code or other applicable law governing land use or public safety.

In approving a request for construction of an Improvement, the Architectural Review Committee may condition approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, noise abatement or similar mitigating conditions.

Section 5.07. Time Limits for Approval or Rejection; Right of Appeal to the Board.

(a) Approval or Disapproval by the Committee. Within thirty (30) days after submission of plans and specifications satisfying the requirements of the Architectural Rules, the Architectural Committee shall return one set of such plans to the applicant, with either written notice of approval or disapproval. If the proposed improvement is disapproved, the written decision of the Committee shall include both an explanation of why the proposed change was disapproved and a description of the procedure for reconsideration of the Committee's decision by the Board of Directors. If written suggestions of changes required for approval of the project accompany the returned set of plans, the applicant may implement such changes to the plans and within thirty (30) days resubmit plans incorporating such changes for approval to the Committee, which shall not unreasonably withhold its approval so long as the Owner has complied in all material respects with the requested changes. If no written notice of approval or disapproval is received by the applicant within thirty (30) days after the Owner's plans and specifications (or revisions thereto) are submitted to the Committee, the plans shall be deemed to have been approved as submitted.

(b) Right to Seek Reconsideration by the Board. Once the Architectural Review Committee is a committee that is solely under the direction and control of the Association's Board of Directors, if a proposed Improvement project is disapproved by the Committee and the applicant is unwilling to make changes to the plans and specifications that may be recommended by the Committee as a condition of approval, the applicant shall have the right to seek reconsideration of the Committee's decision by the Board of Directors. Unless otherwise requested by the member-applicant, the Board's hearing of the applicant's appeal shall be conducted in open session and in accordance with Civil Code section 1363.05. Any reconsideration by the Board does not constitute a process of dispute resolution within the

meaning of Civil Code section 1363.820, and therefore the obligations of common interest associations to provide fair, reasonable and expeditious dispute resolution procedures pursuant to Civil Code sections 1363.810-1363.840 do not expressly apply to the Board's hearing process, although the Association remains obligated to reach decisions regarding proposed Improvement projects in good faith and in the absence of arbitrary or capricious action.

Section 5.08. Time Limits for Approval or Rejection. Within thirty (30) days after submission of plans and specifications satisfying the requirements of the Architectural Rules, the Architectural Review Committee shall return one set of such plans to the applicant, with either written notice of approval or disapproval or with written suggestions of changes required for approval. If written suggestions of changes required for approval accompany the returned set of plans, the applicant may implement such changes to the plans and within thirty (30) days resubmit plans incorporating such changes for approval to the Committee, which shall not unreasonably withhold its approval so long as the Owner has complied in all material respects with the requested changes. If no written notice of approval or disapproval is received by the applicant within thirty (30) days after the Owner's plans and specifications (or revisions thereto) are submitted to the Committee, the plans shall be deemed to have been approved as submitted.

Section 5.09. Employment of Architect or Engineer. If at any time the Architectural Review Committee determines that it would be in the best interests of the Association and its Members for an applicant to employ an architect, licensed building designer or engineer to design or review any proposed Improvements or component thereof, the Committee shall advise the applicant in writing of its determination whereupon all plans and specifications so designated by the Architectural Review Committee must thereafter bear appropriate evidence of such preparation or review.

Section 5.10. Proceeding With Work. Upon receipt of approval from the Architectural Review Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and erection of the Improvement and excavation pursuant to said approval, said commencement to be, in all cases, within six (6) months from the date of such approval and the project shall be completed within the time established by the Committee for completion. If the Owner fails to comply with this paragraph, any approval given pursuant to this shall be deemed revoked unless the Architectural Review Committee, upon written request of the Owner made prior to the expiration of the initial six (6) month period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Architectural Review Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the project within the time specified in the extension request.

Section 5.11. Failure to Complete Work. If the Owner fails to complete an approved Improvement project within the completion deadline established by the Architectural Review Committee, the Committee shall notify the Board and the Owner of such failure, and the Board shall proceed in accordance with the provisions of sections 5.11(c) and (d) below as though the failure to complete the Improvement was a noncompliance with approved plans.

Section 5.12. Inspection of Work by Architectural Review Committee. Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

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

(b) Upon the completion of any work of Improvement for which Architectural Review Committee approval is required under this Section, the Owner shall give the Architectural Review Committee a written notice of completion.

(c) Within thirty (30) days thereafter, the Architectural Review Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approval plans. If the Architectural Review Committee finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the 30-day inspection period the Committee shall give the Owner a written Notice of Noncompliance detailing those aspects of the project that must be modified, completed or corrected. If the violation or nonconforming work is not corrected, the Association and its Architectural Review Committee shall have the rights and remedies set forth in Section 5.13 ("Enforcement"), below.

(d) If for any reason the Architectural Review Committee fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless the Owner knows of the noncompliance and intentionally misleads the Committee with respect thereto.

Section 5.13. Enforcement.

(a) In addition to other enforcement remedies set forth in this Declaration, the Architectural Review Committee shall have the authority to order an abatement ("red tag") of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Committee or if it does not conform to the plans and specifications submitted to and approved by the Committee. If an Improvement project is red tagged, the Owner and his or her contractor shall cease all construction activity until such time as the issue giving rise to the red tag order is resolved. The red tag notice shall clearly state the reasons why the abatement has been ordered.

(b) No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

(c) If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, or if the Owner feels that the project has been red tagged

without justification, the Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing shall be conducted in accordance with Section 13.06, below.

Section 5.14. Variances. The Architectural Review Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article or in any land use restrictions specified in Article VIII, below, to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided all of the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, any property use restriction that would otherwise be applicable under this Declaration, the Architectural Review Committee may, in its discretion, require the Owner seeking the variance to obtain the written consent of other Owners of Lots in the Development who either share a Party Wall with that Owner's Lot or who are within a prescribed radius of the requesting Owner's Lot.

(b) The Architectural Review Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) the requested variance will not constitute a material deviation from any restriction contained herein or that the variance proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a requirement land use restriction or minimum improvement standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or (iii) that the variance, if granted, will not result in a material detriment or create an unreasonable nuisance with respect to any other Lot or Common Area within the Development.

Section 5.15. Compliance Certificate. Within thirty (30) days after written demand is delivered to the Architectural Review Committee by any Owner, the Architectural Review Committee shall provide the requesting Owner with a certificate, executed by any two of its members, certifying (with respect to any Lot owned by the applicant Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner comply with this Declaration; or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on the Committee's compliance certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, the Committee, the Declarant, all Owners and any persons deriving any interest through them.

Section 5.16. Limitation on Liability. Neither the Declarant, the Association, its Architectural Review Committee nor any member thereof shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any Improvement project, whether or not pursuant to approved plans, drawings and specifications; (c) the development of any Lot within the Development; or (d) the execution and filing of a

Notice of Noncompliance pursuant to Section 5.11(c), above, or a compliance certificate pursuant to Section 5.15, above, whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as he or she possessed at the time the act or omission occurred.

Section 5.17. Declarant Exemption. The Architectural Review Committee shall have no authority, power or jurisdiction over Lots or other parcels within the Covered Property owned by Declarant until such time as Declarant conveys title to the Lot to an Owner other than the Declarant.

Section 5.18. Compliance With Governmental Regulations. Review and approval by the Architectural Review Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Lot Owner who desires to construct, install, or modify the Improvement.

ARTICLE VI MINIMUM IMPROVEMENT STANDARDS

Unless a variance is requested from, and granted by, the Architectural Review Committee in accordance with Section 5.14, above, Improvements constructed on any Lot shall conform to the following minimum improvement standards:

Section 6.01. Approval by Architectural Review Committee. No Improvement shall be erected, altered or placed on any Lot until building plans, specifications and a plot plan showing the location of the proposed Improvement(s) on the Owner-applicant's Lot has been submitted to the Architectural Review Committee for review and approval in accordance with Article V, above.

Section 6.02. Solar Heating Systems. Subject to limitations imposed by California law, the Architectural Review Committee shall be entitled to adopt, as part of the Architectural Rules, reasonable regulations regarding the installation of solar heating systems. These rules may include limitations on placement and design of such systems to the extent necessary to avoid an unsightly appearance from neighboring Lots or Common Area.

Section 6.03. Colors and Exterior Finishes. Unless otherwise approved by two-thirds of all Owners, no change shall be made to the exterior colors or finish materials (including, without limitation roofing materials) from those originally installed or used by the Declarant in the construction of Residences within the Development. It is likely that some exterior colors or finish materials (including roofing materials) will become obsolete over time or that improved products or materials will become available. Accordingly, nothing herein shall be construed so as to prohibit or prevent the use of any alternative colors or materials so long as the original color scheme and exterior appearance of the Residences and other improvements in the Development are retained and the alternative color or materials are approved by the Architectural Review Committee.

Section 6.04. Antennas and Similar Devices. No outside television antenna, aerial, satellite dish or similar device for the transmission or reception of television, radio, satellite, or other signals or any kind are prohibited, except:

(a) The Declarant and the Association shall have the right, without obligation, to erect, place or install and maintain any such apparatus for the benefit of all or a portion of the Development.

(b) Antennas or satellite dishes that are one meter or less in diameter or diagonal measurement which are designed to receive video programming services via multi-point distribution services, including multi-channel multipoint distribution services, instructional television fixed services and local multipoint distribution services (collectively "Permitted Device[s]") may be erected, placed or installed on a Lot, provided that:

(i) Due to the design and close proximity of Residences any Permitted Device shall be placed in the least conspicuous location on the roof of the Residence at which an acceptable quality signal can be received and the Device shall be screened from view of streets and any neighboring Lot. The location of the Permitted Device and the method screening the Device must be approved by the Architectural Review Committee.

(ii) Other reasonable restrictions which do not significantly increase the cost of installation of a Permitted Device or significantly decrease its efficiency or performance, including, without limitation, screening material, location or complimentary-color painting of the Permitted Device, may be imposed as part of the Architectural Rules. In no event can the Association or the Architectural Review Committee impose a pre-installation design review process so long as the Owner is installing a Permitted Device.

Section 6.05. Exterior Lighting and Fixtures. No Owner or resident shall have the right to install additional exterior lighting within the Development. This restriction shall not apply to seasonal decorative lighting, so long as the lights are removed promptly following conclusion of the seasonal event.

Section 6.06. Window Coverings. Window Coverings shall be limited to conventional blinds, drapes, valances, curtains, shades or other window treatments (collectively "Window Coverings"). The side or surface of Window Coverings facing the exterior of Residences shall be black/white, beige or natural wood. In no event shall paper, cardboard, foil, sheets, blankets or brightly colored fabrics be used as Window Coverings.

Section 6.07. Balconies, Patios and Entry Porches. The following restrictions shall apply to the use and improvement of balcony, patio and entry porch areas:

(a) The installation of any tiles or flooring material on the balconies, patios or entry porches is strictly forbidden, as it will alter drainage patterns. Carpet, artificial turf or other material that can trap water next to the surface of the balconies, patios or entry porches is also prohibited.

(b) Existing drainage patterns on balconies, patios or entry porches must be maintained and kept free of debris and free flowing. Changing the drainage pattern may cause damage to the home.

(c) Potted plants must have a tray placed beneath the pot to prevent water spilling onto the balconies, patios or entry porches. Such trays, and any other device designed to hold water, must be raised above the surface of the balconies, patios or entry porches in order to allow sufficient airflow beneath such tray or device.

(d) Potted plants shall not be placed in a position on the balconies, patios or entry porches which will block any drains or obstruct drainage patterns.

(e) Balcony, patio or entry porch furnishings must be in good condition and must be complimentary to the exterior color scheme of the Residence. Furniture in a state of disrepair (i.e. torn cushions, rusting frames, faded or torn umbrellas) is prohibited. Furnishings must be equipped with protective leg caps or other devices to prevent damage to the floor of the balconies, patios and entry porches. Additionally, none of these furnishings or other improvements shall be nailed, bolted or otherwise attached to the floor, walls or any portion of the balconies, patios and entry porches.

(f) No hanging screens, drying laundry, plants, banners, flags, wind chimes, bird feeders or other objects may be hung from a balcony, patio or entry porch.

(g) No owner shall use their balcony, patio or entry porch for storage purposes, including, without limitation, the storage of bicycles.

(h) All balconies, patios and entry porches must be kept clean and tidy.

(i) Balcony, patio and entry porch furnishings and pots must be submitted to the Architectural Review Committee for review and approval in accordance with Article V, above.

ARTICLE VII ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES

Section 7.01. Common Areas, Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas.

(a) **Maintenance of the Common Areas.** The Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Areas, Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas of the Development. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall create any excavation or fill or change, the natural or existing drainage of any portion of the Common Area, Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas. In addition, no person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area, the Auto

Court Areas, Pedestrian Courtyard Areas or the Walkway Areas without express approval of the Association.

(b) Maintenance of Fence Screening Transformer. The Association shall also maintain (including any necessary repainting or staining), repair and replace the fence along the eastern boundary of Lot 23 that has been required by the Sacramento Municipal Utility District to screen the District's transformer equipment. Any repair or replacement will be with material that meets SMUD's non-combustibility standards.

(c) Association Maintenance Manual. In the event that the Declarant prepares and provides the Association with an Association Maintenance Manual applicable to the repair and maintenance of Common Areas and Common Facilities, the Association shall be obligated to comply with all of the maintenance obligations, recommendations and schedules set forth in the Manual. However the Board of Directors shall be authorized, from time to time, to make appropriate revisions to the Association's Maintenance Manual based on the Board's review thereof in order to update the Association Maintenance Manual to reflect current industry maintenance practices and recommendations, so long as such changes do not reduce the useful life or functionality items to which the Maintenance Manual pertains. So long as the Declarant owns any Lots in the Development, the Declarant shall also be entitled to make recommendations to the Board of Directors for the revision or supplementation of the Association Maintenance Manual.

(d) Commencement of Maintenance of Common Areas. Notwithstanding any conveyance of Common Areas to the Association, the Association's responsibility to maintain the Common Areas shall not begin until the later of the following events: (i) inspection and approval of such Common Areas by the Association, not to be unreasonably withheld or delayed, or (ii) commencement of Regular Assessments for Lots in the Development. Prior to the commencement of the Association's maintenance responsibilities, such maintenance shall be the responsibility of the Declarant. Notwithstanding the foregoing, if the contractors or subcontractors of Declarant are contractually obligated to maintain the landscaping or other Common Facility improvements within the Common Areas, the Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. The maintenance performed by the contractors or subcontractors of the Declarant shall not postpone the commencement of Regular Assessments pursuant to this Declaration nor entitle the Declarant to claim any offset or reduction in the amount of such Assessments.

Section 7.02. Owner Maintenance Responsibilities.

(a) Maintenance Obligations, Generally. Each Owner shall be responsible for the maintenance and repair of his or her Residence and Lot.

(b) Restrictions on Landscaping and Exterior Alterations. No planting or gardening shall be done on any Lot, and there shall be no exterior alteration of the appearance of Residences in order to preserve the external harmony and uniformity of appearance of Residence structures within the Development.

(c) Owner Maintenance to Reduce the Possibility of Mold Contamination. In order to reduce the presence of molds, fungi, spores, pollens, other botanical substances, or other allergens within the Common Areas of the Project (collectively, "Mold"), Owners shall perform each of the following maintenance protocols with respect to their Residences on a regular basis: (i) inspect the Residence (both exterior and interior) not less frequently than once each quarter to check for water leaks or other breaches of the watertight integrity of the Unit and for the presence of Mold; (ii) if any water leaks and/or Mold are detected, immediately take appropriate corrective steps to repair the leak and/or remove the Mold; (iii) maintain proper ventilation (particularly in bathrooms) and humidity levels in the Unit to reduce the risk of Mold growth; (iv) periodically inspect refrigerator condensation pans, air conditioners (if applicable), and any other water-retaining appliances for the presence of Mold; (v) avoid carpeting or similar types of floor covering in bathrooms that may be conducive to Mold growth; (vi) replace heating and air conditioning filters not less frequently than quarterly or as recommended by the appliance manufacturer; and (vii) take such other prudent steps as may be appropriate to prevent Mold growth or eliminate any existing Mold in the Owner's Unit.

(d) Owner Maintenance Manuals. The Association shall maintain at its principal offices and provide to each Owner upon request a Maintenance Manual prepared by the Declarant which pertains to the Maintenance Obligations of Owners under the Governing Documents with respect to Lots and Residences in the Development. The Association shall have the right to charge the requesting Owner a fee for the Maintenance Manual equal to the actual cost to the Association of providing a copy to the Owner. By accepting a deed to any Lot in the Development, each Owner acknowledges and agrees that the Owner is required to comply with all of the recommended Maintenance Obligations and schedules set forth in the Maintenance Manual and each Owner is further obligated to provide a copy of the Maintenance Manual to any successor purchaser of the Owner's Lot.

Section 7.03. Association Recovery of Costs of Certain Repairs and Maintenance.

(a) Association Maintenance Caused by Owner Negligence. If the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder, is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants or invitees, and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Section 4.04, above.

(b) Owner Defaults in Maintenance Responsibilities. If an Owner fails to perform maintenance or repair functions on the Owner's Lot for which he or she is responsible, the Association may give written notice to the offending Owner with a request to correct the failure within fifteen (15) days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association may exercise its rights under Section 3.07(b), above, to enter the Owner's Lot and perform the repair or maintenance, so long as the Owner has been given notice and the opportunity for a hearing in accordance with 13.06, below.

Section 7.04. Cooperative Maintenance Obligations. To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners

shall cooperate with the Association and the agents and maintenance personnel of the Association in the prosecution of its maintenance activities, including, without limitation, the provision of reasonable rights of access for Association maintenance personnel over Lots in the Development. In addition, although there are no true party walls in the Development (i.e., walls or roofs of adjacent Residences that have been constructed immediately along a common boundary line), adjacent Residences have been designed and constructed with a separation between the side wall of adjacent Residences of from six (6) to eight (8) inches and roof and exterior facades of Residences have been improved with materials that cover the six to eight inch separation between the side walls of Residences so as to impart the exterior appearance of attached townhome Residences. In the event that any Owner needs to have access to his or her roof or side wall that is adjacent to a neighboring Residence for purposes of maintenance, repair or reconstruction, the Owner of the neighboring Residence shall be obligated to reasonably cooperate with the Owner (or the Owner's contractor) needing or desiring access so that the necessary maintenance or repair work can be completed as efficiently and effectively as possible. For purposes of such work, neighboring Owners shall have reciprocal non-exclusive rights of access, ingress and egress to the area between the side walls of adjacent Residences and roofs for purposes of maintenance, repair and reconstruction of the walls adjacent to the common boundary line and an easement to accommodate any foundation and/or roof or eaves encroachment as depicted in the original design, plans and specifications that were the basis for the original construction of the Residence or Residences on said Lot or Lots. The Owner (and his or her contractor) that is accessing the area between the adjacent Residences shall be obligated to restore the roof or façade materials along the separation to their condition and appearance as originally constructed by the Declarant.

Any Owner performing maintenance or repair work in the area between two Residences shall indemnify and hold harmless the neighboring Owner from and against any damage that results to the neighboring Owner's Residence as a result of the work performed by the Owner or his or her contractor. Except in the case of an emergency threatening immediate damage or injury to persons or property, no maintenance or repair work involving or necessitating access to the roofs or space between Residences shall be initiated without at least forty-eight (48) hours' prior notice to the adjacent Owner and the occupant(s) of the adjacent Residence (if the adjacent Residence is not occupied by its Owner). Further, maintenance and repairs to the roofs or space between the Residences shall be conducted between the hours of 8 A.M. and 6 P.M., only. The Board shall have the right to establish and enforce additional rules and regulations regarding the performance of maintenance to roofs and spaces between Residences.

No Owner shall attach anything to the outside of the wall of his or her Residence that is adjacent to a common boundary line with an adjacent Residence that will protrude across the boundary line into the adjoining Lot, and the Owner of the adjoining Lot upon which such a wall is situated without the consent and permission of the Owner of the adjoining Lot and Residence.

ARTICLE VIII

PERMITTED AND RESTRICTED USES OF PROPERTY WITHIN THE DEVELOPMENT

In addition to the restrictions established by law or by Association Rules promulgated by the Board of Directors (consistent with this Declaration), the following restrictions are hereby imposed upon the use of Lots, Common Areas and other parcels within the Development:

Section 8.01. Single Family Residential Use. The use of the individual Lots in the Development is hereby restricted to Single Family Residential Use, as defined in Section 1.33, above; provided, however, that Lots and Residences owned by the Declarant may be used as models and sales offices for the purpose of selling the Residences and Lots within the Development until all of the Lots owned by the Declarant are sold. In no event shall a Residence be occupied by more individuals than permitted by applicable zoning laws or governmental regulations.

Section 8.02. Lots. Each Lot shall be conveyed as a separately designated and legally described fee simple estate subject to this Declaration.

Section 8.03. Interior Improvements. No Owner shall undertake any activity or work with respect to the Owner's Residence that will impair the structural soundness or integrity of another Residence or impair any easement or hereditament that are appurtenant to Lots in the Development.

Section 8.04. Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Lot, Common Area or the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas, nor shall anything be done within the Development which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including, but not limited to, barking dogs, the operation of excessively noisy stereo amplifier systems, television systems, or power tools to emanate from an Owner's Lot or from activities within the Common Area or the Auto Court Area, Pedestrian Courtyard Areas, or Walkway Areas which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the Common Area. Notwithstanding the foregoing, Owners and residents are advised that Residences in the Development are in close proximity, one to the other, and that noises and sounds associated with normal, recurring life activities and social interaction are to be expected and reasonably tolerated.

Section 8.05. Household Pets. The following restrictions regarding the care and maintenance of pets within the Development shall be observed by each Owner and resident:

(a) No more than two (2) common household pets may be kept in any Residence in the Development and under no circumstances shall any pet be kept, bred or maintained for commercial purposes. This limitation on the number of household pets shall not apply to fish in an aquarium or to caged birds maintained within a Residence.

(b) Dogs shall only be allowed within the Common Area or in the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas when they are leashed and otherwise under the supervision and restraint of their Owners.

(c) No household pet shall be left chained or otherwise tethered in front of a Lot (including, without limitation, on any porch) or in the Common Area, Auto Court Areas,

Pedestrian Courtyard Areas and Walkway Areas. Pet owners shall be responsible for the prompt removal and disposal of pet wastes deposited by their pets in the Development.

(d) Each person bringing or keeping a pet in the Development shall be solely responsible for the conduct of the owner's pets. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet.

(e) The Board of Directors shall have the right to establish and enforce additional rules and regulations defining in a uniform and nondiscriminatory manner and imposing standards for the reasonable control and keeping of household pets in, upon and around the Development to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Development by the other Owners and residents.

Section 8.06. Signs. No signs whatsoever (including, but not limited to, commercial, signs) which are visible from any adjacent street or neighboring Residence shall be erected or maintained on any Lot except:

- (a) signs required by legal proceedings;
- (b) no more than one identification sign for individual Residences;
- (c) no more than one sign advertising a Residence "for sale" or "for lease". Such signs shall only be displayed in the front window of the Residence and may not exceed 18" x 24" in size;
- (d) other signs, such as open house or garage sale signs, or signs advising of the existence of security or surveillance services, or "no solicitation" signs, the nature, size, number, and location of which have been approved in advance and in writing by the Architectural Review Committee or are in accordance with written guidelines which may be developed and approved by the Architectural Review Committee;
- (e) signs of the Declarant located on any Lot, on any property owned by the Declarant, on any Common Area or on any other portion of the Development; provided, however, that once a Lot has been sold by the Declarant to a third party, no signs permitted by this subparagraph (e) may be erected or maintained on the Lot without the consent of its Owner;
- (f) signs posted by the Association within any portion of the Common Area
- (g) political and ballot measure signs, subject to such reasonable regulations as to the size, placement and the duration of display of such signs as may be set forth in the Association Rules ; and
- (h) the apartment unit (commonly referred to as a "granny flat" or "studio") of residences (Lots 8, 9, 20, and 21) is permitted one sign advertising activity allowed pursuant to Section 8.07, below; provided, however that sign may not exceed 18" X 24" in size, sign must be

professionally made, and sign location and design to be approved in advance and in writing by the Architectural Review Committee.

Section 8.07. Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Residence, garage or out building or in any portion of any Lot without the prior written approval of the Board; provided, however, the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents or the Declarant activities in connection with the development, sale and marketing of the Property. Furthermore, no restrictions contained herein shall be construed in such a manner so as to prohibit any Owner from: (a) maintaining his or her personal library in his or her Residence; (b) keeping his or her personal business records or accounts therein; (c) handling his or her personal or professional telephone calls or correspondence therefrom; (d) engaging in other activities related to the resident's business profession that can be conducted from a Residence using computers and other technology, so long as the home or business activities described in this (a) through (f) do not generate traffic, noise, or involve other employees or contractors in the Residence; (e) leasing or renting his or her Residence in accordance with Section 2.04, above; (f) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization; or (g) conducting business as allowed pursuant and in accordance with the City's Home Occupation Permit Regulations. The uses described in (a) through (g), above, are expressly declared to be customarily incidental to the principal residential use and not in violation of this Section 8.07 or of Section 8.01 above.

Section 8.08. Garbage. No rubbish, trash, or garbage shall be allowed to accumulate on Lots. Any trash that is accumulated by an Owner outside the interior walls of a Residence shall be stored entirely within appropriate covered disposal containers and facilities located within designated garbage areas within the Common Areas. The trash bins that are located on Parcels A and B shall be available for use by all residents of the Development. However, because the trash disposal facilities of the Development are limited, any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises, or by holiday decorations, or during the construction of modifications and Improvements) shall be removed from the Development to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection or disposal of garbage and refuse in a manner inconsistent with this Section.

Section 8.09. Storage. Storage of personal property on any Lot shall be entirely within enclosed Residences. Carports shall be limited to the parking of vehicles. No personal property shall be stored in the carport areas, unless the items are stored in overhead storage devices. The location and size of the overhead storage devices must be approved by the Architectural Review Committee in accordance with Article V, above, prior to use and installation. The Association shall have the authority to regulate what items are or are not allowed to be stored in the overhead storage devices.

Section 8.10. Basketball Standards. No basketball standards or fixed sports apparatus shall be attached to any Residence or carport or erected on any Lot or within the Common Area.

Section 8.11. Machinery and Equipment. No power tools, machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private Residence or appurtenant structures within the Development.

Section 8.12. Diseases and Pests. No Owner shall permit any thing or condition to exist upon his or her Lot which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

Section 8.13. Parking and Vehicle Restrictions. Because spaces for vehicle parking within the Development are quite limited, the following restrictions on the parking of vehicles shall be strictly observed and enforced:

(a) Garages. The Residences constructed on Lots 6, 7, and 10 through 14, 15 through 19, 22 and 23 each have a single garage that has a depth that is adequate to park one standard-size passenger vehicle. All garages shall be maintained in a neat and orderly condition and garage doors shall be kept in a closed position except as necessary to permit ingress and egress of vehicles or to clean or work in the garage. Garages are to be used for the parking of vehicles and trucks that are of a size that can fit entirely within the garage bay, with the garage door closed. Garages shall not be converted to living quarters, work shops or storage areas if such uses will preclude the parking of one vehicle in the garage.

(b) Carport Spaces. The Residences constructed on Lots 1 through 5, 8, 9, 20, 21 and 24 through 28 do not have garages. Instead, those Residences have been assigned a carport parking space on Parcels A and B as set forth in Exhibit "A". No resident other than the Owner or tenant of the Residence that has been assigned a particular parking space shall park in that assigned space (no guest parking). No carport spaces shall be used for any purpose other than the parking of one licensed, operable and well maintained standard size or compact passenger vehicle. Carports shall be maintained in a neat and orderly condition and shall be kept free of debris and engine oil. Maintenance of the surfaces of the carport pavement will be a responsibility of the Association. Without limiting the generality of the foregoing restrictions on storage, but in addition thereto, no Owner or resident shall place or install in the carport area any trash container, any type of material or personal property (including tools or recreation equipment), any flammable or toxic materials (including gas cans or oil cans), and nothing shall be attached to the carport walls, such as cabinets, hangers, or pictures and any storage of personal property in a carport shall be limited to overhead storage devices approved by the Architectural Review Committee in accordance with Article V, above and Section 8.09, above. In the event that an Owner fails to properly maintain his or her carport area, the Association shall have a right of entry to clean the carport and charge the Owner for that work as a Special Individual Assessment. The purpose of these carport restrictions are to preserve a uniform and high quality aesthetic appearance to the carport areas of the Development.

(c) Prohibition on Major Vehicle Maintenance or Repair. No motor vehicle shall be constructed, reconstructed or repaired within the Development and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored in the Development; provided, however that the provisions of this section shall not apply to emergency vehicle repairs.

(d) Association's Authority to Tow Improperly Parked Vehicles. The Board shall have the authority to tow, at the Owner's expense, any vehicle parked or stored in violation of this section. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.

(e) Authority for Adoption of Additional Parking Rules. The Board shall have the authority to promulgate such further rules and restrictions regarding parking and vehicles within the Development as may be deemed prudent and appropriate.

Section 8.14. Activities Affecting Insurance. Nothing shall be done or kept on any Lot or within the Common Area which will increase the rate of insurance relating thereto without the prior written consent of the Association and no Owner shall permit anything to be done or kept on his or her Lot or the Common Area which would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Residence or any part of the Common Area.

Section 8.15. Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of any architectural or property use infraction that does not necessitate immediate corrective action under Section 13.06, below, the Owner or tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or tenant of his or her right to be heard on the matter.

ARTICLE IX EASEMENTS

Section 9.01. Encroachment Easements. Each Lot is hereby declared to have an easement over adjoining Lots and Common Area for the purpose of accommodating any encroachment due to roof overhang and fences or walls which are built in accordance with the original design, plans and specifications of the Declarant, and due to engineering errors, errors in original construction, settlement or shifting of the building, or similar causes. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of the Owner shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurs due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and is repaired or rebuilt, the Owners of each adjoining Lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

Section 9.02. Side Wall and Roof Maintenance Easements. Each Owner shall have an easement for access to, and repair and maintenance of, the exterior wall and roof of the Owner's Residence in accordance with Section 7.04, above.

Section 9.03. Vehicle and Pedestrian Easements. Each Owner and the Association shall have and is hereby granted a nonexclusive easement for vehicular and pedestrian ingress and egress purposes over and along the Auto Court Areas of the Development and for pedestrian ingress and egress purposes over and along the Pedestrian Courtyard Areas, Walkway Areas, and Common Areas of the Development, as shown on the Subdivision Map.

Section 9.04. Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Common Areas, Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas of the Development for ingress, egress, installation, replacing, repairing and maintaining all utilities including, but not limited to, water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities within the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on any portion of the Development except as initially designed and approved by the Declarant or thereafter approved by the Association's Board of Directors. The easements provided for in this Section shall in no way affect any other recorded easement in the Development.

Section 9.05. Maintenance Easements. An easement is hereby granted to the Declarant and the Association, their officers, agents, employees, and to any management company selected by the Declarant or the Association to enter in or to cross over the Common Area and the Auto Court Areas, Pedestrian Courtyard Areas and Walkway Areas of any Lot to perform the Association's duties of maintenance and repair of the Common Area or Common Facilities provided for herein, subject to the limitations imposed by Section 3.07(b), above.

Section 9.06. Rights of Declarant Incident to Construction or Necessary Repairs. An easement is reserved by and granted to Declarant for access, ingress, and egress over, in, upon, under, and across the Common Area including, but not limited to, the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's construction of improvements within any portion of the Development; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his or her family members, guests, or invitees, to or from that Owner's Lot, or any Recreational Facility completed upon the Common Area.

Declarant and Declarant's agents, successors and assigns shall have the right, pursuant to this easement over and upon the Common Areas of the Development and the exterior and roofs of Residences in the Development, as may be reasonably necessary for the purpose of completing or making repairs to Residences and/or Common Area improvements, and for the purpose of discharging any other obligation of the Declarant or exercising any other special Declarant right, whether arising under the Davis-Stirling Common Interest Development Act

(California Civil Code section 1350 et seq.) or reserved for the benefit of the Declarant in this Declaration or the Bylaws.

For a period of ten (10) years following the recordation of this Declaration, the Declarant, its agents, successors and assigns, shall have a right to inspect the Common Areas and Residence building structures of the Development, and the Association's records regarding inspections and maintenance of the those elements and improvements within the Development that the Association is obligated to repair, maintain, or replace. This easement shall extend in favor of the Declarant, its agents, employees and contractors for purposes of performing any repair or warranty work that is the responsibility of the Declarant.

Section 9.07. Other Easements. Each Lot and its Owner, the Association and the Declarant, as the case may be, is hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Development and each Lot as shown on the Subdivision Map.

Section 9.08. Priority of Easements. Wherever easements granted to the County are, in whole or in part, coterminous with any other easements, the easements of the County shall have and are hereby granted priority over said other easements in all respects.

ARTICLE X INSURANCE

Section 10.01. Types of Insurance Coverage. The Association shall, at the discretion of the Board of Directors, purchase, obtain and maintain, with the premiums therefor being paid out of Common Funds, the following types of insurance, if and to the extent they are available at a reasonable premium cost:

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

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

Such policy or the endorsement made a part thereof shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in

accordance with the provisions of Article XI, below, as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

(b) Public Liability and Property Damage Insurance. To the extent such insurance is reasonably obtainable, a policy of comprehensive public liability and property damage insurance naming as parties insured the Association, each member of the Association Board of Directors, any manager, the Owners and occupants of Lots, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Area and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than Two Million Dollars (\$2,000,000.00) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location and use.

(c) Director's and Officer's Liability Insurance. To the extent such insurance is reasonably obtainable, the Association shall maintain individual liability insurance for its directors and officers providing coverage for negligent acts or omissions in their official capacities. The minimum coverage of such insurance shall be at least One Million Dollars (\$1,000,000.00).

(d) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this Section, demolition insurance, flood insurance, and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than one hundred percent (100%) of each year's estimated annual operating expenses and shall contain an endorsement of any person who may serve without compensation.

Section 10.02. Coverage Not Available. In the event any insurance policy, or any endorsement thereof required by Section 10.01, above, is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage herein above described. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.

Section 10.03. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

Section 10.04. Trustee. All insurance proceeds payable under Section 10.01, above, and subject to the rights of the Mortgagees under Article XIV, below, may, in the discretion of the Board of Directors, be paid to a trustee to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank in the County that agrees in writing to accept such trust.

Section 10.05. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 10.01, above. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 10.06. Distribution to Mortgagees. Subject to the provisions of Article XIV, below, any Mortgagee has the option to apply insurance proceeds payable on account of a Lot in reduction of the obligation secured by the Mortgage of such Mortgagee.

Section 10.07. Policies Obtained by the Declarant. It is contemplated that the Declarant may contract for the insurance coverage contemplated by this Article prior to or concurrently with obtaining financing for the development of the Development, and any such obligations or commitments for the payment of premiums or expenses with respect thereto shall become an obligation of the Association, shall be treated as a Common Expense, and shall be paid out of the Common Funds as provided herein.

Section 10.08. Annual Review of Association Insurance and Disclosure to Members. The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three (3) years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners' associations operating in similar common interest developments in the greater Sacramento region. In accordance with California Civil Code section 1365(e), annually the Association shall distribute to its Members a summary of the Association's property, general liability, and flood insurance (if any), such distribution to be made within sixty (60) days prior to the beginning of the Association's fiscal year.

Section 10.09. Board's Authority to Revise Insurance Coverage. The Board shall have the power and right to deviate from the insurance requirements contained in this Article X in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Article X, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least (30) days prior to the effective date of the reduction. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available; or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or the Members fail to approve any assessment increase needed to fund the insurance premiums.

Section 10.10. Insurance of Residences. Each Owner shall be solely responsible for insuring his or her Residence and Lot and any personal property located therein or thereon. The Association shall have no liability or responsibility for the adequacy of such insurance.

ARTICLE XI DAMAGE OR DESTRUCTION

Section 11.01. Common Facilities; Bids and Determination of Available Insurance Proceeds. In the event any Common Facilities are ever damaged or destroyed, then, and in such event as soon as practicable thereafter, the Board of Directors shall: (a) obtain bids from at least two reputable, licensed contractors, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Facilities to substantially the same condition as they existed prior to the damage and the itemized price asked for such work; and (b) determine that amount of all insurance proceeds available to the Association for the purpose of effecting such repair, reconstruction and restoration.

Section 11.02. Common Facilities; Sufficient Insurance Proceeds. Subject to the provisions of Section 11.01, above, if, in the event of damage to or destruction of any portion of any Common Facility, the insurance proceeds available to the Association are sufficient to cover the costs of repair, reconstruction and restoration, then the Association may cause such facilities to be repaired, reconstructed and restored in substantially the same condition in which they existed prior to the loss.

Section 11.03. Common Facilities; Insurance Proceeds Insufficient in an Amount Exceeding Five (5%) Percent of Association's Budgeted Common Expenses. In the event that any Common Facility is totally or substantially damaged or destroyed or, in the event of damage to or destruction of only a portion of the Common Facilities, the insurance proceeds available to the Association are insufficient in an amount exceeding five (5%) percent of the Association's budgeted gross expenses for the year in which the loss occurs, so as to require a Special Assessment to cover the estimated cost of repair, reconstruction and restoration, then the proposal for imposition of the Special Assessment shall be presented to the owners for approval in accordance with Sections 4.03 and 4.08, above. The proposition shall be presented to the Owners in a form which permits them to choose between (i) funding the Special Assessment to repair, reconstruct and restore the damaged or destroyed Common Facilities and specially assess all Owners for such additional funds as may be needed for such purpose; or (b) not to repair, reconstruct or restore the damaged or destroyed Common Facilities, but rather to utilize the insurance proceeds available for such reconstruction, together with any other sums otherwise available to the Association for such purpose, to demolish and remove the damaged or destroyed Improvements from the Common Area and to level and landscape the sites thereof and apply any balance of such proceeds and/or funds as the Members holding such voting power and their first mortgagees may determine.

Section 11.04. Damage or Destruction of Residences.

(a) Obligation to Rebuild. If all or any portion of any Residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Residence to rebuild, repair or reconstruct said Residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

(b) Architectural Review Committee Approval. Any Owner who has suffered damage shall apply to the Architectural Review Committee for approval of plans for the

reconstruction, rebuilding, or repair of his or her Residence. Application for such approval shall be made in writing, together with full and complete plans, specifications, working drawing and elevations showing the proposed reconstruction and the end result thereof. The Architectural Review Committee shall grant such approval only if the design proposed by the Owner would result in a finished Residence in harmony with the exterior design of other Residences in the Development.

(c) Time Limitation for Reconstruction. The Owner or Owners of any damaged Residence(s) and the Architectural Review Committee shall be obligated to proceed with all due diligence hereunder, and the Owner(s) shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within six (6) months after the damage occurs, unless an extension of these time limitations is obtained from the Architectural Review Committee in accordance with Section 12.08, below.

ARTICLE XII CONDEMNATION

If all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots or Parcels, shall be payable to the Association as trustee for all Owners and mortgagees according to the loss or damages to their respective interest in the Common Area. The Association, acting through its Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation, settlement and litigation of the issues with respect to the taking and compensation affecting the Common Area. Each Owner hereby designates and appoints each Association as his or her attorney-in-fact for such purposes.

ARTICLE XIII BREACH AND DEFAULT

Section 13.01. Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by the Declarant, any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

Section 13.02. Nuisance. Without limiting the generality of the foregoing section 13.01, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 13.03. Attorneys' Fees. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any procedure to enforce the Governing Documents or a party's rights arising under the Governing Documents. Such enforcement procedures include an action brought in any Court of competent jurisdiction as well as any alternative dispute resolution procedure implemented pursuant to the Governing Documents or pursuant to California Civil Code sections 1354 and 1369.510-1369.580 (as such sections may be renumbered or revised from time to time). In any enforcement procedure, such as mediation in which there is no agreement between all of the parties that attorneys will represent them, recoverable costs are limited to attorneys' fees and costs incurred in providing the notices required under such statute.

Section 13.04. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 13.05. Failure Not a Waiver. The failure of the Declarant, any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Declarant, the Association or the Board, or any of its officers or agents.

Section 13.06. Rights and Remedies of the Association.

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

The decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement pursuant to California Civil Code sections 1354 and 1369.590 or otherwise by law.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). In the event a fine schedule is adopted (and whenever a change in a previously adopted

schedule is made), the Board shall distribute the schedule to the Members by personal delivery or first class mail. Prior to imposition of a fine, the Board shall comply with the procedures for noticed to the Member and an opportunity for a hearing before the Board in accordance with Civil Code section 1363(h) and subparagraph (d), below. Once imposed, a fine or penalty may be collected as a Special Individual Assessment, subject to the limitation on the use of lien and foreclosure remedies stated in Section 4.10(b)(ix), above.

(c) Definition of "Violation". A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Area at the cost of the responsible Owner.

(d) Limitations of Disciplinary Rights.

(i) Generally. The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Association's actions satisfy the due process requirements of subparagraph (iii), below.

(ii) Monetary penalties imposed by the Association. (A) for failure of a Member to comply with the Governing Documents; (B) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area or Common Facilities allegedly caused by a Member; or (C) in bringing the Member and his or her Lot into compliance with the Governing Documents, may not be characterized nor treated as an Assessment which may become a lien against the Member's Lot enforceable by a sale of the Lot in nonjudicial foreclosure; provided, however, that this limitation on the Association's lien rights shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in the Association's efforts to collect delinquent Assessments.

(iii) Notice and Hearing Requirements for Disciplinary Actions. No disciplinary action, penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least ten (10) days prior notice by personal delivery or first-class mail, that the Board of Directors will be meeting to consider imposing such discipline. The notice shall include, at a minimum, the date, time, and place of the meeting, the nature of the alleged violations for which the Owner may be disciplined, and a

statement that the Owner has a right to attend and address the Board at the hearing. The Board shall meet in executive session if requested by the Owner.

If disciplinary action is taken, the Board shall notify the accused Owner, in writing, either by personal delivery or first-class mail, of the Board's decision within fifteen (15) days following conclusion of the hearing.

In accordance with Civil Code section 1363(h), disciplinary action shall not be effective against an Owner unless the Board fulfills the requirements of this Section. The Association shall also adopt hearing and disciplinary procedures that comply with the requirements set forth in Civil Code section 1363.830.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (B) a traffic or fire hazard; (C) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (D) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within five (5) days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing, a written request therefor shall be delivered to the Association no later than five (5) days following the date when the fine is levied.

The hearing shall be held no more than fifteen (15) days following the date of the disciplinary action or fifteen (15) days following receipt of the accused Owner's request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing.

At the hearing, the accused shall be given the opportunity to be heard, including the right to present evidence and to present or question witnesses. The Board shall notify the accused Owner, in writing, of the Board's decision within five (5) business days following conclusion of the hearing. In no event shall the effective date of any disciplinary action commence sooner than five (5) days following conclusion of the hearing unless: (i) the hearing merely affirms summary disciplinary action initiated pursuant to the immediately preceding paragraph; or (ii) earlier commencement is necessary to preserve the quiet enjoyment of other residents or to prevent further damage to, or destruction of, the Lots or any portion thereof.

(e) Notices. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any

method reasonably calculated to give actual notice; provided, however, that if notice is given by mail it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.

(f) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings, so long as such rules meet the minimum requirements of sections 1363(h) and 1363.810-1363.850 of the Civil Code. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

Section 13.07. Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association by resolution of the Board. Prior to the filing of any court action seeking declaratory or injunctive relief to interpret or enforce the Governing Documents (including either such action coupled with a claim for monetary damages not in excess of Five Thousand Dollars (\$5,000)), the Association shall first comply with the provisions of California Civil Code sections 1369.510 – 1369.580 relating to alternative dispute resolution. The Association's own notice and hearing procedures may be drafted to satisfy these statutory requirements.

Section 13.08. Assessment Collection Actions. The notice and hearing procedures set forth in Section 13.06 shall not apply to any actions by the Association or its duly authorized agents to collect delinquent assessments. Assessment collections shall be subject to Section 4.10, above, and any other notice, hearing and/or dispute resolution requirements or procedures as may be specifically applicable by law to Association assessment collection efforts.

Section 13.09. Dispute Resolution Procedure (Declarant Disputes).

(a) Claims and Disputes Subject to this Section. Any claim, dispute or other controversy between the Association and/or any Owner(s) and the Declarant or any director, officer, shareholder, partner, employee or agent of the Declarant (collectively the “the Declarant” for purposes of this Section 13.09 relating to: (i) deficiencies in the original construction, design, specifications, surveying, planning, landscaping, supervision, testing or observation of construction by the Declarant, its employees, agents and contractors (individually and collectively “Defect Claims”); or (ii) claims relating to breach of contract, fraud or misrepresentation (“Other Declarant Claims”; Defect Claims and Other Declarant Claims being collectively referred to as “Claims”) shall be subject to the dispute resolution procedures and arbitration procedures set forth in this Section 13.09. Any and all communications by and between the parties, whether written or oral, which are delivered by the parties or their attorneys or other representatives in an effort to settle the Claim shall be considered communications undertaken in the course of effecting a settlement or compromise and as such shall not be admissible as the admission on the part of any representative or agent of that party to be utilized for any such purpose in any action or proceeding.

The Declarant, the Association and each Owner covenant that each shall forbear from commencing any litigation without complying with the procedures described in this Section 13.09. If either the Association and/or Owner or the Declarant breaches the foregoing covenant,

the other party may obtain an appropriate order compelling the breaching party to comply with the procedures described in this Section 13.09. Notwithstanding the foregoing, any party may file a lawsuit and take such other action as may be necessary in order to toll the running of any applicable statute of limitations, provided that the party immediately shall stay any further proceedings under the legal action and shall comply with the provisions of this Section 13.09. The provisions of this Section 13.09 shall not apply to any action taken by the Association to enforce delinquent assessments for which the Declarant is liable. Assessment collection actions in which the Declarant is the defaulting party shall be governed by Section 4.10, above.

(b) PRE-ARBITRATION DISPUTE RESOLUTION PROCEDURES. WITH RESPECT TO DEFECT CLAIMS, INCLUDING, WITHOUT LIMITATION, ANY CLAIMS OR DISPUTES PURSUANT TO CALIFORNIA CIVIL CODE SECTION 895 ET SEQ., AS HEREAFTER AMENDED (WHICH RELATES TO DEFECTS IN RESIDENTIAL HOME CONSTRUCTION), SHALL BE SUBJECT TO THE NON-ADVERSARIAL PROCEDURES SET FORTH IN CALIFORNIA CIVIL CODE SECTION 910 THROUGH 938 PRIOR TO THE INITIATION OF ANY ARBITRATION OR SMALL CLAIMS COURT PROCEEDING AGAINST THE DECLARANT. IN ADDITION, NOTHING CONTAINED HEREIN SHALL BE DEEMED A WAIVER OR LIMITATION OF THE ASSOCIATION'S RIGHTS UNDER THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 1375-1375.1 (THE CALDERON LAW). ONLY IN THE EVENT THAT THESE PROCEDURES ARE NOT SUCCESSFUL IN RESOLVING THE CLAIM SHALL THE PARTIES BE OBLIGATED TO PROCEED WITH ARBITRATION IN ACCORDANCE WITH SUBPARAGRAPH (d), BELOW.

(c) CUSTOMER SERVICE AND WARRANTY PROGRAMS. IF THE OWNER HAS A CUSTOMER SERVICE PROGRAM OR WARRANTY PROGRAM IN EFFECT TO RESPOND TO OWNER COMPLAINTS REGARDING MATTERS THAT ARE IDENTIFIED AS DEFECT CLAIMS, IN SUBPARAGRAPH (A) ABOVE, OWNERS SHALL ENDEAVOR TO RESOLVE THOSE CLAIMS WITH THE DECLARANT THROUGH THE NORMAL CUSTOMER SERVICE PROCEDURES SET FORTH IN THE CUSTOMER SERVICE PROGRAM, FIT AND FINISH WARRANTY, OR IN ANY CONTRACTUAL, WARRANTY, OR OTHER BUILDER-GENERATED DOCUMENT AND ANY CLAIMS NOT RESOLVED PURSUANT TO SUCH PROGRAM OR PROCEDURE SHALL BE SUBMITTED TO ARBITRATION PURSUANT TO SUBPARAGRAPH (d), BELOW.

(d) AGREEMENT TO ARBITRATE. IT IS AGREED THAT ANY "OTHER DECLARANT CLAIMS", AS DEFINED IN SUBPARAGRAPH (a) ABOVE, AND ANY "DEFECT CLAIMS" THAT ARE NOT RESOLVED PURSUANT TO THE NON-ADVERSARIAL, PRE-ARBITRATION PROCEDURES SET FORTH IN SUBPARAGRAPH (b), ABOVE, ("CLAIMS") BETWEEN THE ASSOCIATION AND/OR OWNER AND THE DECLARANT SHALL BE RESOLVED BY BINDING ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT (TITLE 9 OF THE UNITED STATES CODE).

(i) 2-10 HOME BUYERS WARRANTY. THE ARBITRATION PROVISIONS HEREIN SHALL CONTROL OVER ANY PROVISIONS SET FORTH IN THE 2-10 HOME BUYERS WARRANTY.

(ii) RULES APPLICABLE TO ALL CASES. THE ARBITRATION WILL BE DETERMINED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

(iii) QUALIFICATIONS OF ARBITRATORS. THE ARBITRATOR SHALL BE NEUTRAL AND IMPARTIAL AND EITHER A RETIRED JUDGE OR A MEMBER OR FORMER MEMBER OF THE CALIFORNIA STATE BAR WITH AT LEAST FIFTEEN (15) YEARS EXPERIENCE AS A PRACTICING LAWYER IN CONSTRUCTION AND REAL ESTATE.

(iv) APPOINTMENT OF ARBITRATOR. THE ARBITRATOR TO PRESIDE OVER THE CLAIM SHALL BE SELECTED IN ACCORDANCE WITH THE AAA RULES, BUT NO LATER THAN SIXTY (60) DAYS AFTER A NOTICE OF CLAIM IS FILED.

(v) EXPENSES. ALL FEES CHARGED BY AAA AND THE ARBITRATOR SHALL BE ADVANCED BY THE DECLARANT. IF THE DECLARANT IS THE PREVAILING PARTY IN THE ARBITRATION, THE ARBITRATOR MAY, IN HIS OR HER DISCRETION AND ONLY TO THE EXTENT PERMITTED BY LAW AND THE AAA RULES, DIRECT THE ASSOCIATION AND/OR OWNER ASSERTING THE CLAIM TO REIMBURSE THE DECLARANT ALL OR PART OF THE AAA FEE AND ARBITRATOR'S FEE ADVANCED BY THE DECLARANT.

(vi) VENUE. THE VENUE OF THE ARBITRATION SHALL BE SACRAMENTO COUNTY, UNLESS THE ASSOCIATION AND/OR OWNER AGREE IN WRITING TO ANOTHER LOCATION.

(vii) PRELIMINARY PROCEDURES. IF STATE OR FEDERAL LAW REQUIRES THE ASSOCIATION AND/OR OWNER ASSERTING THE CLAIM OR THE DECLARANT TO TAKE STEPS OR PROCEDURES BEFORE COMMENCING AN ACTION IN COURT, THEN THE ASSOCIATION AND/OR OWNER OR THE DECLARANT MUST TAKE SUCH STEPS OR FOLLOW SUCH PROCEDURES, AS THE CASE MAY BE AND AS STATED IN SUBPARAGRAPH (c), ABOVE, BEFORE COMMENCING THE ARBITRATION.

(viii) PARTICIPATION BY OTHER PARTIES. THE ASSOCIATION AND/OR OWNER ASSERTING THE CLAIM AND THE DECLARANT SHALL BOTH BE ENTITLED TO HAVE ALL NECESSARY AND APPROPRIATE PARTIES INCLUDED AS PARTIES TO THE ARBITRATION.

(ix) RULES OF LAW. THE ARBITRATOR MUST FOLLOW CALIFORNIA SUBSTANTIVE LAW (INCLUDING STATUTES OF LIMITATIONS). HOWEVER, STRICT CONFORMITY WITH THE RULES OF EVIDENCE IS NOT REQUIRED, EXCEPT THAT THE ARBITRATOR SHALL APPLY APPLICABLE LAW RELATING TO PRIVILEGE AND WORK PRODUCT. THE ARBITRATOR SHALL BE

AUTHORIZED TO PROVIDE ALL RECOGNIZED REMEDIES AVAILABLE AT LAW OR EQUITY FOR ANY CAUSE OF ACTION.

(x) ADDITIONAL RULES APPLICABLE TO CERTAIN CASES. IN ANY ARBITRATION IN WHICH A CLAIM OF THE ASSOCIATION AND/OR OWNER OR THE DECLARANT EXCEEDS \$250,000 IN VALUE, THE FOLLOWING ADDITIONAL RULES WILL SUPPLEMENT THE AAA RULES AND GOVERN IN THE EVENT OF A CONFLICT BETWEEN THE FOLLOWING RULES AND THE RULES SET FORTH ABOVE, THE AAA RULES, OR BOTH.

(A) QUALIFICATIONS OF ARBITRATOR. IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH (ii), ABOVE, THE ARBITRATOR SHALL BE A RETIRED JUDGE OF THE CALIFORNIA SUPERIOR COURT, A CALIFORNIA COURT OF APPEAL, OR THE CALIFORNIA SUPREME COURT.

(B) RULES OF LAW. THE CALIFORNIA EVIDENCE CODE SHALL APPLY.

(C) WRITTEN DECISION. WITHIN THIRTY (30) DAYS AFTER THE HEARING IS CLOSED, THE ARBITRATOR MUST ISSUE A WRITTEN DECISION. IF EITHER THE ASSOCIATION AND/OR OWNER ASSERTING THE CLAIM OR THE DECLARANT REQUESTS IT, THE ARBITRATOR MUST ISSUE A REASONED AWARD.

(xi) FINAL AND BINDING AWARD. THE DECISION OF THE ARBITRATOR OR, IF AN APPEAL IS HEARD, THE DECISION OF THE APPEAL ARBITRATORS, SHALL BE FINAL AND BINDING. A PETITION TO CONFIRM, VACATE, MODIFY OR CORRECT AN AWARD OF THE ARBITRATORS MAY BE FILED IN ANY COURT OF COMPETENT JURISDICTION IN SACRAMENTO COUNTY, BUT THE AWARD MAY BE VACATED, MODIFIED OR CORRECTED ONLY AS PERMITTED BY THE FEDERAL ARBITRATION ACT.

(xii) SEVERABILITY. IN ADDITION TO AND WITHOUT LIMITING THE EFFECT OF ANY GENERAL SEVERABILITY PROVISIONS OF THIS AGREEMENT, IF THE ARBITRATOR OR ANY COURT DETERMINES THAT ANY PROVISIONS OF THIS SUBPARAGRAPH (d) ARE UNENFORCEABLE FOR ANY REASON, THAT PROVISION SHALL BE SEVERED AND THE PROCEEDINGS AGREED TO IN THIS SUBPARAGRAPH (d) SHALL BE CONDUCTED UNDER THE REMAINING ENFORCEABLE TERMS OF THE PARAGRAPH.

ARTICLE XIV PROTECTION OF MORTGAGEES

Section 14.01, Assessment Lien Subordinated. Any lien created or claimed under the provisions of Article IV, above, shall be subject and subordinate to the lien of any first Mortgage given in good faith and for value. No such Mortgagee who acquires title to any Lot by judicial foreclosure or by exercise of power of sale contained in the Mortgage shall be obligated to cure

any breach of this Declaration by a former Owner of such Lot or shall be liable for any unpaid Assessments made against the Lot which accrued prior to the date the Mortgagee acquired such title. No lien created or claimed under the provisions of Section 4.10(b), above, shall in any way defeat, invalidate or impair the rights of any Mortgagee under any such Recorded Mortgage.

Section 14.02. Amendment of This Declaration. Except where an amendment has been approved in accordance with Section 14.12, below, no amendment of this Declaration shall affect any of the rights of the holder of any Mortgage described in Section 14.01, above, which is made in good faith and for value, if such Mortgage is Recorded and notice of the delivery and Recording thereof is given to the Association prior to the Recording of such amendment.

Section 14.03. Default by Owner; Mortgagee's Right to Vote. In the event of a default by any Owner under a Mortgage encumbering such Owner's Lot, the Mortgagee under such Mortgage shall, upon: (a) giving written notice to the defaulting Owner; (b) Recording a Notice of Default in accordance with California Civil Code section 2924; and (c) delivering a copy of such Recorded Notice of Default to the Association, have the right to exercise the vote of the Owner at any regular or special meeting of the Association held only during such period as such default continues.

Section 14.04. Breach; Obligation After Foreclosure. No breach of any provision of this Declaration by the Declarant, the Association or any Owner shall impair or invalidate the lien of any Recorded Mortgage made in good faith and for value and encumbering any Lot. The Declarant, the Association or their successor and assigns shall be obligated to abide by all of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes provided for in this Declaration as it may be amended from time to time with respect to any person who acquires title to or any beneficial interest in any Lot through foreclosure, trustee's sale or otherwise.

Section 14.05. Exchange of Information. The Association shall, at the written request of any Mortgagee, insurer or guarantor, notify such party of:

- (a) Any condemnation or casualty loss that affects either a material portion of the Development or the Lot(s) securing the Mortgage;
- (b) Any delinquency of sixty (60) days or more in the payment of Assessments or charges owed by the Owner(s) of the Lot(s) securing the Mortgage.
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) Any proposed action of the Association that requires the consent of a specified percentage of Eligible Mortgagees (see Section 14.12(a), below, for definition of "Eligible Mortgagee").

To be entitled to receive this information, the Mortgagee, insurer or guarantor must send a written request to the Association, stating both its name and address and the number or address of the Lot(s) securing the Mortgage.

Any Mortgagee of any Lot is hereby authorized to furnish to the Board of Directors, upon written request by the Board therefor, the amount of any unpaid balance of any indebtedness secured by a lien of a Mortgage and the amount and due date of any delinquent payment or payments of such indebtedness.

Section 14.06. Certain Restrictions Affecting the Association. Notwithstanding any other provisions of this Declaration, without the prior written consent of at least sixty-seven percent (67%) of the Owners or sixty-seven percent (67%) of the first Mortgagees, such percentage to be based upon the total of number of Lots so mortgaged, with each such Mortgagee entitled to one vote for each Lot, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area or any Improvements thereon (except that the granting of any easement for public utilities, or for other public purposes consistent with the intended use of the Development, shall not be deemed a "transfer" as that term is used in this subparagraph (a));

(b) Change the method provided for in this Declaration of determining the Assessments or other charges which may be assessed against an Owner or the method of allocating distributions of hazard insurance proceeds of condemnation awards;

(c) By act or omission, change, waive or abandon the scheme of maintenance and repair of the Development, or the enforcement thereof, as provided for in this Declaration;

(d) Fail to maintain fire and extended coverage insurance on the Common Facilities in the amount and against the risks provided for in Section 10.01; and

(e) Use any insurance proceeds received as a result of the loss or damage to the Common Facilities for any purpose other than the repair, replacement or reconstruction of such Common Facilities.

Section 14.07. Right of First Mortgagees to Make Certain Payments and Right of Reimbursement Therefor. The holders of first Mortgages on the Lots shall have the right (but not the obligation), jointly or singly: (a) to pay taxes or other Assessments or charges which are in default and which may or have become a lien or charge against the Common Facilities; (b) to pay overdue premiums on casualty insurance policies for the Common Facilities; and (c) to secure and pay for new casualty insurance coverage on the Common Facilities upon the lapse of any such policy, in the amount and against the risks provided for in Section 10.01, above. Any first Mortgagee making such payment shall be entitled to immediate reimbursement therefor from the Association. Upon the request of any first Mortgagee, the Association shall, by separate instrument, signed by the president or any vice president and the secretary, evidence its agreement to the provisions of this Section as the same affects the Mortgage held by such Mortgagee.

Section 14.08. Right to Examine Books and Records of the Association. All Mortgagees, insurers and guarantors of any Mortgages on any Lot shall have the right, upon written request to the Association, to:

(a) Examine current copies of the Governing Documents and the Association's books, records and financial statements during normal business hours;

(b) Require the Association to provide an audited statement for the preceding fiscal year: (i) at no expense to the requesting entity when the Development consist of fifty (50) or more Lots; and (ii) at the requesting entity's expense when the Development consist of fewer than fifty (50) Lots and no audited statement is available; and

(c) Receive written notice of all membership meetings and designate a representative to attend all such meetings.

Section 14.09. Notices to First Mortgagees. The Association shall furnish to the holder of any first Mortgage on any Lot or on the Common Area, upon written request by the first Mortgagee, thirty (30) days prior written notice of: (a) abandonment or termination of the Association; (b) the effective date of any proposed material amendment to the Declaration; (c) the effectuation of any decision by the Association to terminate professional management, if any, and assume self-management of the Development; (d) any condemnation or eminent domain proceeding; and (e) any extensive damage to or destruction of any Improvements located in or on the Common Area.

Section 14.10. Superiority of Mortgage to Condemnation Proceeds. If any Lot, or portion thereof, or the Common Area, or any portion thereof, is made the subject of any condemnation or eminent domain proceeding, the lien of any first Mortgage shall be prior and superior to the claims of the Owners of said Lots or Common Area with respect to any distribution of the proceeds of any condemnation award or settlement.

Section 14.11. Superiority of Mortgage to Insurance Proceeds. In the event of any substantial damage to or destruction of the Improvements on any Lot, or on any part of the Common Area, the lien of any first Mortgage shall be prior and superior to the claims of the Owners of said Improvements with respect to any distribution of any insurance proceeds relating to such damage or destruction.

Section 14.12. Approval of Material Amendments or Termination.

(a) Material Amendments. In addition to the approvals required by Section 18.01 and Section 18.02, below, Eligible Mortgagees who represent at least fifty-one (51%) percent of the votes of Lots that are subject to Mortgages held by Eligible Mortgagees must approve any amendment to this Declaration of a material nature. An Eligible Mortgagee is the beneficiary of a first Mortgage who has requested the Association to notify it of any proposed action that requires the consent of a specified percentage of Eligible Mortgagees. A change to any of the following would be considered as material:

- (i) voting rights;
- (ii) assessments, assessment liens or the priority of assessment liens;
- (iii) reserves and responsibility for maintenance, repair and replacement of the Common Area;

- (iv) convertibility of Lots into Common Area and vice versa;
- (v) annexation or deannexation of property to or from the Development;
- (vi) insurance or fidelity bonds;
- (vii) leasing of Lots;
- (viii) imposition of any restrictions on an Owner's right to sell or transfer his or her Lot;
- (ix) a decision by the Association to establish self-management when professional management had been required previously by the Governing Documents or by an Eligible Mortgagee;
- (x) restoration or repair of the Development (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents;
- (xi) any action to terminate the legal status of the Development after substantial destruction or condemnation occurs; or
- (xii) any provisions that expressly benefit Mortgagees, insurers or guarantors.

(b) Termination. In addition to the approvals required by Section 18.01 and Section 18.02, below, Eligible Mortgagees who represent at least sixty-seven percent (67%) of the votes of Lots that are subject to Mortgages held by Eligible Mortgagees must approve any proposed termination of the legal status of the project for reasons other than substantial destruction or condemnation of the Development.

(c) Implied Approval. Each Eligible Mortgagee which receives notice of a proposed amendment or termination of this Declaration by certified or registered mail, with a "return receipt" requested, shall be deemed to have approved the amendment or termination if the Eligible Mortgagee fails to submit a response to the notice within thirty (30) days of receiving the notice.

Section 14.13. Quality of Future Improvements. All intended Improvements in the Development shall be consistent with the Improvements previously installed in the Development in terms of quality of construction. The requirements of this section are solely for the benefit of and may be enforced only by the Federal National Mortgage Association.

Section 14.14. Declaration to Conform With Mortgagee Requirements. It is the intent of this Article that this Declaration, the Articles of Incorporation, the Bylaws and the Development in general shall now and in the future meet all requirements of any institutional Mortgagee intending to secure its Mortgage by a Lot or necessary to purchase, guarantee, insure or subsidize any Mortgage of a Lot by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Veterans' Administration.

ARTICLE XV DECLARANT PRIVILEGES AND EXEMPTIONS

Section 15.01. Interest of the Declarant; Material Actions Requiring Declarant Approval.

The Property that is first subjected to this Declaration constitutes a portion of the Development, which Declarant is causing to be developed. Each Owner of a Lot which is part of the Development acknowledges by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest to be protected with regard to assuring compliance with and enforcement of, the covenants, conditions, restrictions and reservations contained in this Declaration and any amendments thereto and any Supplemental Declarations recorded pursuant to this Declaration. Notwithstanding any other provisions of the Governing Documents, until such time as the Declarant no longer owns any Lots in the Development, the following actions, before being undertaken by the Members or the Association, shall first be approved in writing by the Declarant:

(a) **Specified Approvals.** Any amendment or action requiring the approval of the Declarant pursuant to this Declaration, and any amendment or action requiring the approval of first Mortgagees pursuant to this Declaration (the Association shall provide the Declarant with all notices and other documents to which a Mortgagee is entitled pursuant to this Declaration, provided that the Declarant shall be furnished with such notices and other documents without making written request);

(b) **Special Assessments.** The levy of a Special Assessment for the construction of new facilities by the Association not originally included in the Common Areas;

(c) **Service/Maintenance Reductions.** Subject to section 4.02 (c), above, regarding limitations on Regular Assessment increases without Member approval, any significant reduction of Common Area maintenance or other services or entering into contracts for maintenance or other goods and services benefiting the Association or the Common Area at contract rates which are fifteen percent (15%) or more below the reasonable cost for such maintenance, goods or services; or

(d) **Architectural Rules.** Any supplement or amendment to the Architectural Rules, including Architectural Rules applicable to a particular Phase within the Development (see section 5.05, above).

Section 15.02. Exemptions From Restrictions Otherwise Applicable. Nothing in the Governing Documents shall limit and no Owner or the Association shall do anything to interfere with the right of the Declarant, either directly or through their respective agents and representatives, to subdivide, re-subdivide, sell, resell, rent or re-rent any portion of the Development, or the right of the Declarant to complete excavation, grading, construction of Improvements or other development activities to and on any portion of the Development owned by the Declarant or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as the Declarant deems advisable in the course of development of

the Development so long as any Lot or any portion of the Development is owned by the Declarant. Such right shall include, but shall not be limited to, carrying on by the Declarant and their respective agents and representatives of such grading work as may be approved by the County or other agency having jurisdiction, and erecting, constructing and maintaining within the Development such structures, signs and displays as may be reasonably necessary for the conduct of its business of completing the work and disposing of the same by sale, lease or otherwise. Each Owner, by accepting a deed to a Lot, hereby acknowledges that any construction or installation by the Declarant may impair the view of such Owner, and hereby consents to such impairment.

Section 15.03. Rights to Use Common Areas and Common Facilities in Connection With Development and Sales Activities. The Declarant may enter upon the Common Area, for the benefit of the Declarant or for the benefit of portions of the Development, to complete the development, improvement and sale of Lots and the construction of any landscaping or other Improvement to be installed on the Common Area. The Declarant shall also have the right of nonexclusive use of the Common Areas and the Common Facilities, without charge, for sales, display, access, ingress, egress, exhibition and occasional special events for promotional purposes, which right the Declarant hereby reserves; provided, however, that such use rights shall terminate on the date on which the Declarant no longer owns any Lots within the Development. Such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein and all direct costs and expenses associated with the Declarant sales and promotional activities (including, without limitation, any costs or expenses required to clean or repair any portion of the Common Area that are damaged or cluttered in connection with such activities) shall be borne solely by the Declarant and any other sponsor of the activity or event. The rights reserved to the Declarant by this Section shall extend to any employee, sales agents, prospective purchasers, customers and/or representatives of the Declarant.

Section 15.04. Amendment of Plans. Subject to approval, as necessary, by the County, the Declarant may, from time to time as it deems fit, amend its plans for the Overall Development, combine or split Lots, and apply for changes in the Entitlement Documents, changes in zoning, use and use permits for any property within the Development.

Section 15.05. Right to Enforce Architectural Review and Approval Requirements. For so long as the Declarant has the right to appoint any members of the Architectural Review Committee, the Declarant shall have the right to initiate action to correct or prevent any activity, condition or Improvement that is not in substantial compliance with approved plans and specifications to the same extent as the Association if: (a) the Committee has issued a Notice of Noncompliance; and (b) the Association, after having a reasonable opportunity to do so, is unable or unwilling to initiate enforcement action. In the event that such action is initiated by the Declarant and it is later determined by an arbitrator or a court of competent jurisdiction that the Owner of the subject Lot was, in fact, proceeding in violation of the approved plans and specifications, any reasonable costs incurred by the Declarant in initiating enforcement action, including reasonable attorneys fees, which are not the subject of an award of fees and/or costs against the offending Owner, may be charged to the Association as a Common Expense.

Section 15.06. Termination of Any Responsibility of the Declarant. In the event the Declarant conveys all of its rights, title and interest to any partnership, limited liability company,

individual or individuals, corporation or corporations, in and to the property comprising the Development, and the acquiring person or entity is designated as a successor Declarant as to all the property conveyed, then and in such event the Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant. This Article shall not terminate any responsibility of the Declarant for acts or omissions occurring prior to the conveyance to such partnership, individual or individuals, corporation or corporations. However, this shall not limit the Declarant's right to enter into a contract or agreement dealing with such acts or omissions provided the contract or agreement is enforced by the Declarant, if necessary.

Section 15.07. No Amendment or Repeal. So long as the Declarant owns any Lots within the Development, the provisions of this Article may not be amended or repealed without the consent of the Declarant.

ARTICLE XVI NOTICES

Section 16.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

- | | |
|------------------------|---|
| If to the Declarant: | Loftworks Sutter Townhomes Partners, LP;
Attention: Mark Friedman, 1530 J Street, Suite 200,
Sacramento, CA 95814 (or to such other address as
the Declarant may from time to time designate in
writing to the Association) |
| If to any Owner: | To the street address of his or her Lot or to such
other address as he or she may from time to time
designate in writing to the Association. |
| If to the Association: | Sutter Brownstones Association, at the principal
office of the Association (or to such other address
as the Association may from time to time designate
in writing to the Owners). |

Section 16.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-Owners of any Lot, to any general partner of a partnership that is the Owner of Record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Lot, shall be deemed delivered to all such co-Owners, to such partnership, or to such corporation as the case may be.

Section 16.03. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four (4) days after deposit in the United States mail in the County.

ARTICLE XVII NO PUBLIC RIGHTS IN THE DEVELOPMENT

Nothing contained in this Declaration shall be deemed to be gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

ARTICLE XVIII AMENDMENT OF DECLARATION

Section 18.01. Amendment Before Close of First Sale. Before the close of escrow for the first sale of a Lot in the Development to a purchaser other than the Declarant, this Declaration may be amended or revoked in any respect by the execution of an instrument amending or revoking the Declaration signed by the Declarant and any Mortgagee of record, provided the consent or approval of the Commissioner of the California Department of Real Estate is first obtained to the extent required by California law. The amending or revoking instrument shall make appropriate reference to this Declaration and shall be Recorded.

Section 18.02. Amendment After Close of First Sale.

(a) Member Approval Requirements. Subject to any additional approval requirements as may be applicable pursuant to subparagraph (b), below, after the close of escrow for the first sale of a Lot in the Development to a purchaser other than the Declarant, this Declaration may be amended or revoked in any respect by the vote or assent by written ballot of the holders of not less than fifty-one percent (51%) of the voting rights of each class of Members. If a two-class voting structure is no longer in effect in the Association because of the conversion of Class B membership to Class A membership, as provided in the Association's Bylaws, any amendment will require the vote or assent by written ballot of both: (i) fifty-one percent (51%) of the total voting power of the Association; and (ii) the vote of fifty-one percent (51%) of the total voting power held by Members other than the Declarant. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

(b) Other Required Approvals.

(i) Mortgagee Approvals. Any amendments affecting the provisions listed in Section 14.12, above, require Mortgagee approval in accordance with that Section.

(ii) Declarant Approvals. The following provisions of this Declaration may only be amended with the prior approval of the Declarant: 1.15, 1.21, 1.22, 3.11, 5.02, 5.16, 9.06, 13.09, Article XV and this subparagraph (b)(ii).

(iii) City Approvals. Any provisions of this Declaration that reflect Conditions of Approval for the Development imposed by the City or any provisions governed by City Ordinances may only be amended or rescinded with the prior consent of the City.

Section 18.03. Department of Real Estate. An amendment to this Declaration, Bylaws, or other governing instruments of the Association shall require immediate notification of the California Department of Real Estate in accordance with Business & Professions Code section 11018.7 and section 2800 of the Commissioner's Regulations so long as the Development, or any portion thereof, are subject to an outstanding Final Subdivision Public Report.

Section 18.04. Effective Date of Amendment. The amendment will be effective upon the Recording of a Certificate of Amendment, duly executed and certified by the president and secretary of the Association, setting forth in full the amendment so approved and that the approval requirements of subsection (a) or (b) above have been duly met. If the consent or approval of any governmental authority, Mortgagee, or other entity is required under this Declaration to amend or revoke any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

Section 18.05. Business and Professions Code Section 11018.7. All amendments or revocations of this Declaration shall comply with the provision of California Business and Professions Code section 11018.7 to the extent said section is applicable.

Section 18.06. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

ARTICLE XIX GENERAL PROVISIONS

Section 19.01. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Lots and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Declarant, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of sixty (60) years from the date of the recording of this Declaration. After the expiration of the initial term, the same shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial 60-year term or any such 10-year extension period, a written instrument, approved by Owners entitled to vote and holding at least a majority of the voting power of the Association terminating the effectiveness of this Declaration, is Recorded.

Section 19.02. Termination of Any Responsibility of Declarant. In the event Declarant shall convey all of its rights, title and interest in and to the Property to any partnership, individual

or individuals, corporation or corporations, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations shall be obligated to perform all such duties and obligations of the Declarant.

Section 19.03. Statutory References. In the event that any statute in this Declaration, whether stated by code and number, or named by body of law, is amended, repealed, renumbered, or renamed, all references to such statute or body of law shall refer to the amended, repealed, renumbered, or renamed statutory provisions.

Section 19.04. Construction.

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Development as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.

(e) Exhibits. All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

(f) References to State Statutes. Any references in this Declaration to State Statutes shall be to the referenced statute as in effect on the date that this Declaration is Recorded in the Official Records of the County. In the event that any referenced statute is subsequently amended or superseded, all such references shall thereupon mean and refer to the referenced statute as so amended, modified or superseded, so long as the amended statute continues to regulate or pertain to the same subject matter.

(g) Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule of law, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be: (a) those which would be used in determining the validity of the challenged interest; plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 19.05. Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth in a recorded instrument with the County Recorder, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

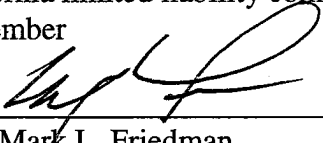
Dated: 4/22/08, 2008.

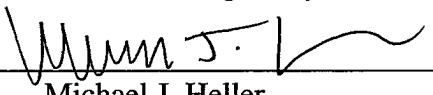
DECLARANT:

LOFTWORKS SUTTER TOWNHOMES PARTNERS, LP,
a California limited partnership

By: Loftworks Sutter Townhomes, LLC,
a California limited liability company
Its: General Partner

By: Loftworks, LLC,
A California limited liability company
Its: Sole Member

By: 
Mark L. Friedman
Its: Authorized Signatory

By: 
Michael J. Heller
Its: Authorized Signatory

State of California)

) ss

County of SACRAMENTO

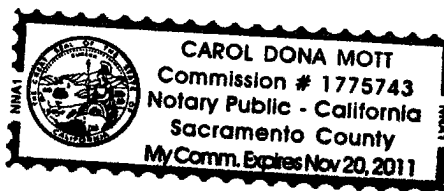
On 4/22, 2008, before me, CAROL DONA MOTT, Notary Public, personally appeared MARK L. FREEMAN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

[Signature] (Seal)
NOTARY PUBLIC



State of California)

) ss

County of SACRAMENTO

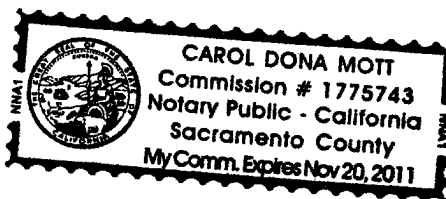
On 4/22, 2008, before me, CAROL DONA MOTT, Notary Public, personally appeared MONZEL W. FLEET, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

[Signature] (Seal)
NOTARY PUBLIC



CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned beneficiary under that certain Deed of Trust recorded October 20, 2006 in Book 20061020, Page 552, Official Records of Sacramento County, California, affecting the property in the foregoing Declaration, does hereby consent and join in the recordation of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sutter Townhomes and agrees that the lien of the deed of trust shall be junior and subordinate and subject to said Declaration.

Dated April 24, 2008.

LIENHOLDER:

SUTTER HEALTH SACRAMENTO SIERRA REGION, A CALIFORNIA NON-PROFIT,
PUBLIC BENEFIT CORPORATION.

BY [Signature]
Its VP & CFO

STATE OF California)

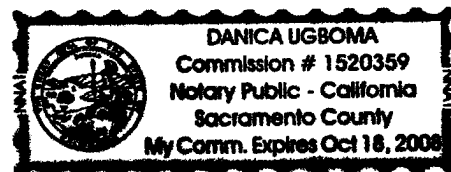
COUNTY OF Sacramento) ss

On April 24, 2008, before me, Danica Ugboma, Notary Public, in and for said State and County, personally appeared Jeffrey Spreague who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

[Signature: Danica Ugboma] Notary Public



CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned beneficiary under that certain Deed of Trust recorded October 20, 2006 in Book 20061020, Page 551, Official Records of Sacramento County, California, affecting the property in the foregoing Declaration, does hereby consent and join in the recordation of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sutter Townhomes and agrees that the lien of the deed of trust shall be junior and subordinate and subject to said Declaration.

This document shall also serve as written request by the undersigned pursuant to Section 14.05 of the Declaration that the notices described in Section 14.05 of the Declaration be provided to the undersigned at the following address: Union Bank of California, 18300 Von Karman Avenue, Suite 200, Irvine, CA 92612, Attn: Commercial Real Estate Loan Administration.

Dated April 22, 2008.

LIENHOLDER:

UNION BANK OF CALIFORNIA, N.A.

By [Signature]
Its VICE PRESIDENT

STATE OF California

COUNTY OF Sacramento) SS

On April 22 2008, before me, Susan M. Haas, Notary Public, in and for said State and County, personally appeared Tim Womeldorf who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Susan M. Haas

Notary Public



EXHIBIT “A”

Assignment of Covered Parking Spaces

{See Attached}

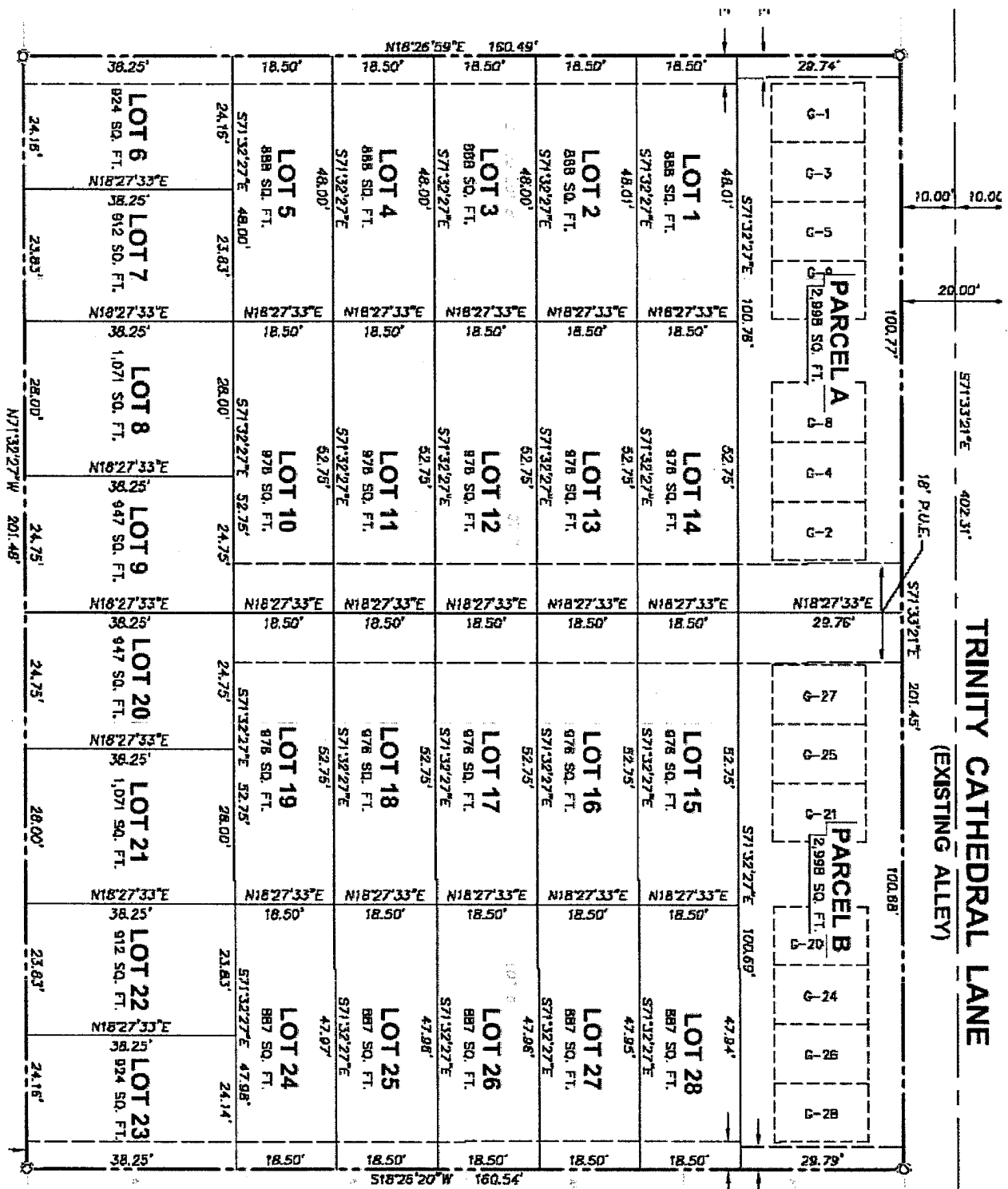


EXHIBIT "B"

DESIGNATION OF COST CENTERS

For purposes of the fair and equitable allocation of Assessments, Common Expenses incurred by the Association for the maintenance, repair, and eventual replacement of the carport structures located on Lots A and B are hereby designated as a Cost Center for the benefit of Lots 1 through 5, inclusive, Lots 8, 9, 20, 21, inclusive and Lots 24 through 28, inclusive. The Common Expenses incurred by the Association with respect to the Lots A and B carport improvements shall be allocated equally among and assessed equally against such Lots.