

RECORDING REQUESTED BY:

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

 135.00

WHEN RECORDED, MAIL TO:

2007000571778 02:36pm 09/19/07

HARLE, JANICS & KANNEN (JSH)
575 Anton Blvd., Suite 460
Costa Mesa, CA 92626

106 207 D02 44
0.00 0.00 0.00 0.00 129.00 0.00 0.00 0.00

(Space Above for Recorder's Use)

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
GALERIE HOMEOWNERS ASSOCIATION**

Not For Escrow Purposes

AMENDED AND RESTATED
 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
 FOR
 GALERIE HOMEOWNERS ASSOCIATION

TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE NO.</u>
ARTICLE I	2
1. Definitions	2
1.1. ARC	2
1.2. Articles	2
1.3. Assessment, Annual	2
1.4. Assessment, Capital Improvement	2
1.5. Assessment, Reconstruction	2
1.6. Assessment, Special	2
1.7. Association	3
1.8. Association Maintenance Areas	3
1.9. Association Maintenance Funds	3
1.10. Beneficiary	3
1.11. Board or Board of Directors	3
1.12. Budget	3
1.13. Bylaws	3
1.14. City	3
1.15. Common Area	3
1.16. Common Expenses	4
1.17. Community	4
1.18. Covenant	4
1.19. Declaration	4
1.20. Deed of Trust	4
1.21. Dwelling Unit	4
1.22. Family	4
1.23. FHA	4
1.24. FHLMC	5
1.25. Fiscal Year	5
1.26. FNMA	5
1.27. GNMA	5
1.28. Improvement	5
1.29. Lot	5
1.30. Manager	5
1.31. Member, Membership	5
1.32. Mortgage	5
1.33. Mortgagee, Mortgagor	6

1.34. Notice and Hearing.....	6
1.35. Owner.....	6
1.36. Person.....	6
1.37. Record, File, Recordation.....	6
1.39. Residence.....	6
1.40. Resident.....	6
1.40. Restrictions.....	6
1.41. Rules and Regulations.....	6
1.42. VA.....	6
ARTICLE II.....	7
2. Owners' Property Rights.....	7
2.1. Owners' Easements of Enjoyment.....	7
2.2. Easements for Vehicular/Pedestrian Traffic.....	7
2.3. Easements for Public Service Use.....	8
2.4. Easements for Water and Utility Purposes.....	8
2.5. Easement-Association Maintenance Areas.....	8
2.6. Easements for Clustered Mailboxes.....	8
2.7. Use of Common Area Recreational Facilities.....	8
2.8. Waiver of Use.....	8
ARTICLE III.....	8
3. Galerie Homeowners Association.....	8
3.1. Organization of Association.....	8
3.2. Duties and Powers.....	9
3.3. Membership.....	9
3.4. Transfer.....	9
ARTICLE IV.....	9
4. Voting Rights.....	9
4.1. Classes of Voting Membership.....	9
4.2. Voting Rights.....	9
ARTICLE V.....	10
5. Jurisdiction of Association.....	10
ARTICLE VI.....	11
6. Covenant for Maintenance Assessments.....	11
6.1. Creation of Assessment Obligation.....	11
6.2. Maintenance Funds of Association.....	12
6.3. Purpose of Annual Assessments.....	12

6.4.	Limitations on Annual Assessment Increases.....	12
6.5.	Capital Improvements.....	14
6.6.	Uniform Rate of Assessment.....	14
6.7.	Annual Assessments.....	14
6.8.	Exempt Property.....	15
ARTICLE VII		15
7.	Nonpayment of Assessments; Remedies.....	15
7.1.	Nonpayment of Assessments; Remedies.....	15
7.2.	Notice of Delinquent Assessment.....	15
7.3.	Foreclosure Sale.....	16
7.4.	Curing of Default.....	16
7.5.	Cumulative Remedies.....	16
7.6.	Mortgage Protection.....	16
7.7.	Priority of Assessment Lien.....	17
7.8.	Receivers.....	17
ARTICLE VIII		17
8.	Architectural Control.....	17
8.1.	Members of Committee.....	17
8.2.	Review of Plans and Specifications.....	18
8.3.	Meetings of the ARC.....	19
8.4.	No Waiver of Future Approvals.....	19
8.5.	Compensation of Members.....	19
8.6.	Inspection of Work.....	19
8.7.	Scope of Review.....	20
8.8.	Variance.....	20
8.9.	Maintenance and Repair.....	21
8.10.	Appeals.....	21
ARTICLE IX		21
9.	Maintenance and Repair Obligations.....	21
9.1.	Maintenance Obligations of Owners.....	21
9.2.	Maintenance Obligations of the Association.....	22
9.3.	Party Walls.....	22
9.4.	Damage to Common Area by Owners.....	23
9.5.	Damage to Dwelling Units; Reconstruction.....	23
9.6.	Inspection.....	23

ARTICLE X	24
10. Use Restrictions	24
10.1. Single Family Residence.	24
10.2. Business or Commercial Activity.	24
10.3. Nuisances.....	24
10.4. Signs.	25
10.5. Parking and Vehicular Restrictions.	25
10.6. Animal Restrictions.	25
10.7. Trash.	26
10.8. Temporary Buildings.	26
10.9. Common Area Facilities.	26
10.10. Antennae.	26
10.11. Drilling.....	26
10.12. Further Subdivision.	27
10.13. Drainage.....	27
10.14. Water Supply Systems.	27
10.15. View Obstructions.	27
10.16. Inside Installations.	27
10.18. Solar Energy Systems.	27
ARTICLE XI	28
11. Damage and Condemnation.	28
ARTICLE XII	29
12. Insurance.	29
12.1. Casualty Insurance.	29
12.2. Insurance Obligations of Owners.	29
12.3. Waiver of Subrogation.....	30
12.4. Liability and Other Insurance.	30
12.5. Notice of Expiration Requirements.	31
ARTICLE XIII	31
13. General Provisions	31
13.1. Enforcement of Restrictions.	31
13.2. Severability.	33
13.3. Term.....	33
13.4. Interpretation.....	33
13.5. Termination and Amendment.	33
13.6. No Public Right or Dedication.	34
13.7. Constructive Notice and Acceptance.....	34
13.8. Easements.	34
13.9. Notices.	35

13.10. Nonliability and Indemnification.....35
13.11. Priorities and Inconsistencies.37
13.12. Mergers or Consolidations.....37
13.13. Additional Provisions.37
13.14. Notice of Airport in Vicinity.37

Not For Escrow Purposes

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
GALERIE HOMEOWNERS ASSOCIATION**

THIS AMENDED AND RESTATED DECLARATION is made by GALERIE HOMEOWNERS ASSOCIATION, a California nonprofit corporation ("Association").

P R E A M B L E:

A. The Association is the association of owners of real property ("Community") in the City of Anaheim, County of Orange, State of California, described as follows:

Lots 1 to 55, inclusive, of Tract No. 8104, as shown on a Subdivision Map, Filed in Book 320, Pages 20 to 24, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 64, inclusive, of Tract No. 8140, as shown on a Subdivision Map, Filed in Book 337, Pages 24 to 26, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

Lots 1 to 72, inclusive, of Tract No. 8141, as shown on a Subdivision Map, Filed in Book 342, Pages 41 to 43, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

B. The Community is subject to a Declaration of Covenants, Conditions and Restrictions, which was Recorded on May 1, 1973, in Book 10673, Page 439 *et seq.*, and amended by document Recorded in Book 11017, Page 839 *et seq.* (collectively, the "Original Declaration"), both of Official Records of Orange County, California.

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

D. The Association hereby declares that the Community shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes contained in this Declaration, all of which are for the purpose of enhancing and protecting the value, attractiveness and desirability of the Community, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Community or any portion

thereof. The covenants, conditions, restrictions, rights, reservations, easements and equitable servitudes set forth herein shall (1) run with and burden the Community and shall be binding upon all Persons having or acquiring any interest in the Community or any part thereof, their heirs, successors and assigns; (2) inure to the benefit of every portion of the Community and any interest therein; and (3) inure to the benefit of and be binding upon each Owner and each Owner's successors in interest.

ARTICLE I

1. Definitions.

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

1.1. ARC.

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

1.2. Articles.

Articles means the Articles of Incorporation of the Association.

1.3. Assessment, Annual.

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

1.4. Assessment, Capital Improvement.

Capital Improvement Assessment means a charge which the Board may levy against the Owners and their Lots, representing a portion of the cost to the Association for installation or construction of any capital Improvement on any of the Common Area or Association Maintenance Areas. Such charge shall be levied in the same proportion as Annual Assessments.

1.5. Assessment, Reconstruction.

Reconstruction Assessment means a charge which the Board may levy against the Owners and their Lots, representing a portion of the Association's cost for reconstruction of any Improvements on the Common Area and Association Maintenance Areas. Such charge shall be levied in the same proportion as Annual Assessments.

1.6. Assessment, Special.

Special Assessment means a charge against a particular Owner directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the Restrictions, or a reasonable fine or penalty assessed by the Board, plus interest and other charges on such Special Assessments as provided for herein.

1.7. Association.

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

1.8. Association Maintenance Areas.

Association Maintenance Areas means (a) the exterior paint on Dwelling Units, (b) the roofs of all Dwelling Units, and (c) with respect to those fences that separate Lots from Common Area, the paint on the side of the fence that faces the Common Area. For purposes of this Section 1.8, "roofs" consist of the top tiles, intermediate felt layments and the plywood sheeting below the layments. All other attachments, supports and connections are not included in the meaning of "roofs." For purposes of this Section 1.8, "roofs" also includes (i) external decks that are part of the original construction of a Dwelling Unit and located over enclosed, active living areas of a Dwelling Unit (external decks not located over enclosed, active living areas are not "roofs" for purposes of this Section 1.8), and (ii) the roofs over room additions and enclosures that are constructed pursuant to and in accordance with Association and/or ARC approval and that match original architectural materials and current Association roofing specifications. The Association's responsibility is limited to the foregoing Association Maintenance Areas and the Common Area. It is not responsible for maintenance and repair of any other areas or items.

1.9. Association Maintenance Funds.

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

1.10. Beneficiary.

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

1.11. Board or Board of Directors.

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

1.12. Budget.

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

1.13. Bylaws.

Bylaws means the Bylaws of the Association.

1.14. City.

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

1.15. Common Area.

Common Area means all real property and Improvements which are owned by the Association. The Common Area includes Lots 54 and 55 of said Tract No. 8104, Lots 63 and 64 of said Tract No. 8140, and Lot 72 of said Tract No. 8141.

1.16. Common Expenses.

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

1.17. Community.

Community means all of the real property described in Paragraph A of the Preamble to this Declaration. The Community is a "common interest development" and a "planned development" as defined in Sections 1351(c) and 1351(k), respectively, of the California Civil Code.

1.18. Covenant.

Covenant means an agreement, convention, or promise of two or more parties, by deed in writing, signed, and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done, or stipulates for the truth of certain facts.

1.19. Declaration.

Declaration means this instrument.

1.20. Deed of Trust.

Deed of Trust means a Mortgage.

1.21. Dwelling Unit.

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

1.22. Family.

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

1.23. FHA.

FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and any department or agency of the United States government which succeeds to FHA's function of insuring notes secured by Mortgages on residential real estate.

1.24. FHLMC.

FHLMC means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970, and its successors.

1.25. Fiscal Year.

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

1.26. FNMA.

FNMA means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and its successors.

1.27. GNMA.

GNMA means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and its successors.

1.28. Improvement.

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

1.29. Lot.

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

1.30. Manager.

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

1.31. Member, Membership.

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

1.32. Mortgage.

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

1.33. Mortgagee, Mortgagor.

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

1.34. Notice and Hearing.

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

1.35. Owner.

Owner means the Person or Persons holding fee simple interest of record to any Lot. The term "Owner" includes a seller under an executory contract of sale but excludes Mortgagees.

1.36. Person.

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

1.37. Record, File, Recordation.

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

1.38. Residence.

Residence means a Lot.

1.39. Resident.

Resident means a person who resides in a Dwelling Unit.

1.40. Restrictions.

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

1.41. Rules and Regulations.

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

1.42. VA.

VA means the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to VA's function of issuing guarantees of notes secured by mortgages on residential real estate.

ARTICLE II

2. Owners' Property Rights.

2.1. Owners' Easements of Enjoyment.

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

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

2.2. Easements for Vehicular/Pedestrian Traffic.

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

2.3. Easements for Public Service Use.

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

2.4. Easements for Water and Utility Purposes.

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

2.5. Easement-Association Maintenance Areas.

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

2.6. Easements for Clustered Mailboxes.

Each Owner and the United States Postal Service have nonexclusive easements of access, ingress and egress over those Lots where clustered mailboxes are located for purposes of depositing, delivering and retrieving mail to and from such clustered mailboxes.

2.7. Use of Common Area Recreational Facilities.

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

2.8. Waiver of Use.

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

ARTICLE III

3. Galerie Homeowners Association.

3.1. Organization of Association.

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

3.2. Duties and Powers.

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

3.3. Membership.

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

3.4. Transfer.

The Membership of any Owner may not be transferred, pledged or alienated in any way, except upon the transfer or encumbrance of such Owner's Lot, and then only to the transferee or Mortgagee of such Lot. A prohibited transfer is void and will not be reflected upon the books and records of the Association. A Member who has sold his Lot to a contract purchaser under an agreement to purchase may delegate his Membership rights to the contract purchaser. The delegation must be in writing and must be delivered to the Board before the contract purchaser may vote. The contract seller shall remain liable for all charges and assessments attributable to the contract seller's Lot which accrue before fee title to the Lot is transferred. If an Owner fails or refuses to transfer his Membership to the purchaser of such Owner's Lot upon transfer of fee title thereto, the Board may record the transfer upon the Association's books. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser will not be entitled to vote at Association meetings. The Association may levy a reasonable transfer fee against a new Owner and such Owner's Lot (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the Association's records. Such fee may not exceed the Association's actual cost involved in changing its records.

ARTICLE IV

4. Voting Rights.

4.1. Classes of Voting Membership.

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

4.2. Voting Rights.

All voting rights are subject to the Restrictions. Members are entitled to one (1) vote for each Lot in which they hold the interest required for Membership. When more than one (1) Person holds such interest or interests in any Lot ("co-owner"), all such co-owners are Members and may attend Association meetings, but only one (1) such co-owner shall be entitled to exercise the vote to which the Lot is entitled. Co-owners owning the majority interests in a Lot may designate in

writing one (1) of their number to vote. Fractional votes are not allowed, and the vote for each Lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation has been revoked, the vote for the Lot shall be exercised as the co-owners owning the majority interests in the Lot agree. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the corresponding voting co-owner is acting with his co-owners' consent. No vote may be cast for any Lot if the co-owners owning the majority interests in such Lot cannot agree to said vote. The nonvoting co-owner or co-owners are jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Restrictions are binding on all Owners and their successors.

ARTICLE V

5. Jurisdiction of Association.

The Association has:

- (a) The power and duty to maintain, repair and otherwise manage the Common Area and Association Maintenance Areas in accordance with Articles VI and IX hereof.
- (b) The power and duty to maintain any private sewer systems and any private storm drains or drainage facilities within the Common Area in accordance with Articles VI and IX hereof.
- (c) The power and duty to obtain, for the benefit of the Community, all commonly metered water, gas and electric services, and the power but not the duty to provide for refuse collection and cable or master television service.
- (d) The power and duty to grant easements and rights of way over or fee interests in portions of the Common Area, to the extent any such grant is reasonably required for utilities and sewer facilities to serve the Common Area and the Lots, or for purposes of conformity with the as-built location of Improvements; provided that no such fee interest may be granted except pursuant to a Recorded lot line adjustment approved by the requisite governmental entity if such a lot line adjustment is required by law.
- (e) The power but not the duty, without the consent of any Owners, to grant or quitclaim easements, licenses or rights of way in, on or over the Common Area for purposes consistent with the intended use of the Community as a planned residential development.

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

(g) The power but not the duty to employ or contract with a professional Manager to perform all or any part of the Association's duties and responsibilities, and the power to delegate its powers to committees, officers and employees.

(h) The power but not the duty, after Notice and Hearing, to enter upon any Lot, without being liable to any Owner except for damage caused by such entry, in order to (i) enforce by peaceful means the provisions hereof, or (ii) maintain or repair any Lot if for any reason the Owner thereof fails to perform such maintenance or repair as required by this Declaration. The cost of such enforcement, maintenance and repair shall be a Special Assessment enforceable as set forth herein. The Owner shall promptly pay all amounts due for such work, and the costs and expenses of collection may be added, at the option of the Board, to the amounts specially assessed against such Owner. If an emergency occurs, such entry upon a Lot by or on behalf of the Board shall be permitted without Notice and Hearing.

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

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

(k) The power but not the duty to enter into contracts with Owners or other persons pursuant to which the Association would maintain and repair Improvements within the Community and elsewhere which the Association is not otherwise required to maintain, so long as such contract provides for reimbursement of the Association for the costs of providing such maintenance.

ARTICLE VI

6. Covenant for Maintenance Assessments.

6.1. Creation of Assessment Obligation.

Each Owner shall pay to the Association (a) Annual Assessments, (b) Capital Improvement Assessments, (c) Special Assessments, and (d) Reconstruction Assessments; such assessments to be established and collected as provided herein. The Association may not levy or collect any Annual Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment that exceeds the amount necessary for the purpose or purpose for which it is levied.

All such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, are a charge and continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, is also the personal obligation of the Person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments may not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser.

6.2. Maintenance Funds of Association.

The Board shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all monies paid to the Association and from which disbursements shall be made, as provided herein, in the Association's performance of functions hereunder. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (a) an Operating Fund for current Common Expenses, (b) an adequate Reserve Fund for capital Improvements, replacements, painting and repairs of the Common Area and Association Maintenance Area Improvements (which would not reasonably be expected to recur on an annual or more frequent basis), and for payment of deductible amounts for insurance policies which the Association obtains as provided in Article XII hereof, and (c) any other Funds which the Board may establish to the extent necessary hereunder. Nothing contained herein precludes the establishment of additional Maintenance Funds by the Association, so long as the amounts assessed, deposited into, and disbursed from any such Fund are designated for purposes authorized by this Declaration.

6.3. Purpose of Annual Assessments.

Annual Assessments shall be used to satisfy Common Expenses as provided herein and in the Bylaws. The Assessments shall be used exclusively to (a) promote the Owners' health, safety, recreation and welfare, (b) improve and maintain the Common Area and Association Maintenance Areas, and (c) discharge any other Association obligations under the Declaration. All amounts deposited into the Maintenance Funds must be used solely for the common benefit of all of the Owners for purposes authorized by this Declaration. Disbursements from the Reserve Fund shall be made by the Board only for the purposes specified in this Article VI and in Section 1365.5(c) of the California Civil Code. Disbursements from the Operating Fund shall be made by the Board only for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used.

6.4. Limitations on Annual Assessment Increases.

The Board shall levy Annual Assessments as follows:

- (a) Maximum Authorized Annual Assessment. The Board may levy Annual Assessments which exceed the Annual Assessments for the immediately preceding Fiscal Year only as follows:

(i) If the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must either (A) have distributed the Budget for the current Fiscal Year in accordance with Section 1365(a) of the California Civil Code, or (B) obtain the approval of Members casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Members are represented ("Increase Election")

(ii) If the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must obtain the approval of Members casting a majority of votes in an Increase Election.

Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 6.4(c).

(b) Supplemental Annual Assessments. If the Board determines that the Association's important and essential functions may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current Fiscal Year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limitations described in Sections 6.4(a) above and (c) below, the Board may levy a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Lot.

(c) Emergency Situations. For purposes of Sections 6.4(a) and 6.5, an "Emergency Situation" is any one (1) of the following:

(i) An extraordinary expense required by an order of a court;

(ii) An extraordinary expense necessary to repair or maintain the Community or any portion thereof for which the Association is responsible where a threat to personal safety in the Community is discovered; and

(iii) An extraordinary expense necessary to repair or maintain the Community or any portion thereof for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Prior to the imposition or collection of an assessment pursuant to this Subparagraph (iii), the Board shall adopt 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 resolution shall be distributed to the Members with the Notice of Assessment.

6.5. Capital Improvements.

The Board may levy, in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year only to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital Improvement or such other addition upon the Common Area or Association Maintenance Areas including fixtures and personal property related thereto. No Capital Improvement Assessments in any Fiscal Year which, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceed five percent (5%) of the Association's budgeted gross expenses for such Fiscal Year, may be levied without the vote or written consent of Members casting a majority of votes at an Increase Election. Notwithstanding the foregoing, the Board may levy in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year which exceeds five percent (5%) of the Association's budgeted gross expenses for such Fiscal Year if such levy is necessary for addressing an Emergency Situation as defined in Section 6.4(c).

6.6. Uniform Rate of Assessment.

Annual Assessments, Capital Improvement Assessments and Reconstruction Assessments shall be assessed equally against all Owners and their Lots. The Association may, subject to the provisions of Section 9.5 and Article XI hereof, levy Special Assessments against selected Owners who have caused the Association to incur special expenses due to willful or negligent acts of Owners, their tenants, families, guests, invitees or agents. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency as the Board determines.

6.7. Annual Assessments.

The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any change in the amount of any Annual Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due. The due dates shall be established by the Board. The Association shall, upon a reasonable charge, furnish a certificate signed by an Association officer or agent setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

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

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

6.8. Exempt Property.

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

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

ARTICLE VII

7. Nonpayment of Assessments; Remedies.

7.1. Nonpayment of Assessments; Remedies.

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

7.2. Notice of Delinquent Assessment.

No Notice of Delinquent Assessment may be Recorded against an Owner's Lot unless the notification requirements set forth in Section 1367.1(a) of the California Civil Code have been satisfied. No action may be brought to enforce any assessment lien herein unless at least thirty (30) days has expired following the date a Notice of Delinquent Assessment is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot, and a copy thereof has been Recorded by the Association. Such Notice of Delinquent Assessment must recite (a) a good and sufficient legal description of any such Lot, (b) the record Owner or reputed Owner thereof, (c) the amount claimed (which may at the Association's option include interest and late charges on the unpaid assessment as described above, plus reasonable attorneys' fees and

expenses of collection in connection with the debt secured by said lien), (d) the Association's name and address, and (e) in order for the lien to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. Recordation of the Notice of Delinquent Assessment creates a lien on the Lot as provided in Section 1367 of the California Civil Code. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent and said lien is prior to any declaration of homestead. The lien continues until paid or otherwise satisfied.

7.3. Foreclosure Sale.

A sale to foreclose an Association lien may be conducted by the Board, its attorneys or other persons authorized by the Board in accordance with the provisions of Sections 2924, 2924a, 2924b, 2924c and 2924f of the California Civil Code, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages, or in any other manner permitted by law. The Association, through duly authorized agents, may bid on the Lot at foreclosure sale, and acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of the Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner.

7.4. Curing of Default.

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

7.5. Cumulative Remedies.

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

7.6. Mortgage Protection.

No lien created under this Article VII, nor any breach of this Declaration, nor the enforcement of any provision hereof defeats or renders invalid the rights of the Beneficiary under any Recorded first Deed of Trust (meaning any deed of trust with first priority over other deeds of trust) upon a Lot made in good faith and for value. After a Beneficiary or some other Person obtains title to a Lot by judicial foreclosure or by means set forth in a Deed of Trust, the Lot shall remain subject to the Declaration and the payment of all installments of Assessments accruing after the date the Beneficiary or other Person obtains title.

7.7. Priority of Assessment Lien.

Mortgages Recorded before a Notice of Assessment have lien priority over the Notice of Assessment. Sale or transfer of any Lot does not affect the assessment lien except that the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage extinguishes the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer relieves such Lot from lien rights for any assessments thereafter becoming due. No Person who obtains title to a Lot pursuant to a judicial or nonjudicial foreclosure of the first Mortgage is liable for the share of the Common Expenses or assessments chargeable to such Lot which became due prior to the acquisition of title to the Lot by such Person. Such unpaid share of Common Expenses or assessments is a Common Expense collectible from all of the Owners including such Person.

7.8. Receivers.

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

ARTICLE VIII

8. Architectural Control.

8.1. Members of Committee.

The Architectural Review Committee, referred to herein as the "ARC," shall be comprised of three (3) or more members, as determined by the Board. The Board may appoint and remove all of the members of the ARC. ARC members must be Members. Board members may also serve as ARC members. The Board has the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Community.

8.2. Review of Plans and Specifications.

The ARC shall consider and act upon all plans and specifications submitted for its approval under this Declaration and perform such other duties as the Board assigns to it, including inspection of construction in progress to assure conformance with plans approved by the ARC. No construction, installation or alteration of an Improvement, including landscaping, in the Community may be commenced or maintained until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the ARC; provided, however, that any Improvement may be repainted without ARC approval so long as the Improvement is repainted the identical color which it was last painted. Without limiting the generality of the foregoing, the provisions of this Article VIII apply to the construction, installation and alteration of solar energy systems, as defined in California Civil Code Section 801.5, subject to the provisions of California Civil Code Section 714, the City Building Code, applicable zoning regulations, and associated City ordinances. The Owner submitting the plans and specifications ("Applicant") shall obtain a written, dated receipt therefor from an authorized ARC agent. Until changed by the Board, the address for submission of such plans and specifications is the Association's principal office. An Applicant, by submitting plans and specifications, represents and warrants to the ARC and to the Association that the plans and specifications submitted by the Applicant do not violate any governing provision of law, including without limitation the Fair Employment and Housing Act (California Government code Section 12900 *et seq.*), building codes and other applicable laws governing land use and public safety.

The ARC shall approve plans and specifications submitted for its approval only if it determines that (a) the installation, construction or alterations contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Community as a whole, (b) the appearance of any structure affected thereby will be in harmony with the surrounding structures, (c) the installation, construction or alteration thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Area and Association Maintenance Areas or the enjoyment thereof by the Members, and (d) the maintenance thereof will not become a burden on the Association. The ARC may condition its approval of proposals or plans and specifications for any Improvement upon any of the following: (1) the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Community as a result of such work, (2) such changes therein as it deems appropriate, (3) the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (4) the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (5) the Applicant's agreement to reimburse the Association for the cost of such maintenance, (6) the Applicant's agreement to complete the proposed work within a stated period of time, or (7) the Applicant carrying insurance naming the Association as additional insured adequate, in the ARC's reasonable judgment, to protect the Association against any claims related to the Improvements, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Board may also issue rules or guidelines setting forth procedures for the submission of plans for approval, requiring a fee to accompany each application for approval, or stating additional factors which it will consider in reviewing submissions. The Board may provide that the amount of such fee be uniform, or that it be determined in any other reasonable manner, such as by the

reasonable cost of the construction, alterations or installation contemplated. The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior material and colors. The ARC may postpone review of any plans submitted for approval until it receives all required plans and specifications. The ARC shall transmit its decision and the reasons therefor in writing to the Applicant at the address set forth in the application for approval within thirty (30) days after the ARC receives all materials required. If the Applicant's application is disapproved, the ARC's notice of decision sent to the Applicant shall include a description of the procedure for reconsideration of the decision by the Board. Any application submitted pursuant to this Section 8.2 shall be deemed approved unless the ARC transmits written disapproval or a request for additional information or materials to the Applicant within thirty (30) days after the date the ARC receives all required materials. The Applicant shall meet any review or permit requirements of the City prior to making any construction, installation or alterations permitted hereunder. The Applicant shall provide the ARC with a copy of the City's final inspection report reflecting City approval of the completed Improvements within thirty (30) days after issuance of such City approval. Failure to timely provide the ARC with such copy of City approval shall cause the ARC's approval to be withdrawn, and the Association may require the Applicant to dismantle the Improvements.

8.3. Meetings of the ARC.

The ARC shall meet as necessary to perform its duties. The ARC may, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC except the granting of variances pursuant to Section 8.8. In the absence of such designation, the vote or written consent of a majority of the ARC constitutes an act of the ARC.

8.4. No Waiver of Future Approvals.

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

8.5. Compensation of Members.

The ARC's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

8.6. Inspection of Work.

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

(a) Time Limit. The Owner shall notify the ARC of completion of the Work within five (5) days of such completion. The ARC's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate thirty (30) days after the ARC has received written notice from the Owner that the Work has been completed. If the ARC fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

(b) Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days from the date of notification from the ARC, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a Noncompliance. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board may proceed in accordance with Section 5(h) or Section 13.1 hereof.

8.7. Scope of Review.

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

8.8. Variance.

The ARC may authorize variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by a majority of the ARC, and become effective upon Recordation. The Board must approve any variance recommended by the ARC before any such variance becomes effective. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance does not waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor does it affect the Owner's obligation to comply with all applicable governmental ordinances affecting the use of his Lot and Dwelling Unit.

8.9. Maintenance and Repair.

Except as otherwise provided in this Declaration, the Owner of a Lot where an Improvement is installed or constructed (a) is solely responsible for maintaining, repairing and replacing such Improvement unless the Association enters into an agreement with such Owner (which agreement must be Recorded) pursuant to which the Association assumes such responsibility, (b) shall reimburse the Association for any damage or injury resulting from or arising in connection with the construction, installation, use or existence of such Improvement, the amount of which shall be subject to collection as a Special Assessment, and (c) shall indemnify, defend and hold the Association, its officers, the Board and the ARC harmless from and against all loss, damage or liability or claims or assertions thereof (including but not limited to attorneys' fees and costs) resulting from or arising in connection with the construction, installation, use or existence of the Improvement.

8.10. Appeals.

An Applicant whose application has been disapproved by the ARC may apply to the Board for reconsideration of the ARC's decision, in accordance with procedures for such reconsideration adopted by the Board. The Board's reconsideration of an ARC disapproval shall take place at an open meeting (*i.e.*, not in executive session).

ARTICLE IX

9. Maintenance and Repair Obligations.

9.1. Maintenance Obligations of Owners.

Each Owner shall, at the Owner's sole expense, subject to the provisions of this Declaration requiring ARC approval, maintain, repair, replace and restore all Improvements located on the Owner's Lot and the Lot itself (except for those portions of the Lot which constitute Association Maintenance Areas) in a neat, sanitary and attractive condition. Such maintenance responsibilities include, but are not limited to, replacement of glass areas of an Owner's Dwelling Unit and the repair and replacement of the internal and external telephone wiring, plumbing, cooling and heating systems and related mechanical and electrical equipment which serve such Owner's Lot. In addition, each Owner is responsible for maintenance, repair and replacement of any fence that separates such Owner's Lot from the Common Area (with the exception of the paint on that side of the fence that faces the Common Area, which paint is an Association Maintenance Area per Section 1.8 hereof). Each Owner is responsible for adopting an inspection and preventative program with regard to wood-destroying pests and other organisms with respect to such Owner's Lot and the Improvements thereon. In addition, each Owner whose Lot utilizes a private drainage system is responsible for its maintenance and repair. Each Owner whose Lot utilizes a sewer system lateral is responsible for the maintenance and repair of that portion of the lateral which exclusively serves his Lot. If any Owner permits any Improvement which such Owner is responsible for maintaining to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate this Declaration, then the Board may seek any remedies at law or in equity which it may have. In addition, the Board may, after Notice and Hearing, enter upon such Owner's Lot to make such repairs or to perform such maintenance and charge the cost thereof to the Owner as a Special Assessment.

9.2. Maintenance Obligations of the Association.

The Association shall maintain, paint, repair and replace the Common Area and Association Maintenance Areas and all Improvements thereon, including, but not limited to, all landscaping, slope plantings, private irrigation systems, sewers, storm drains, driveways, parking areas and recreational facilities, in a safe, sanitary and attractive condition and in good order and repair, and shall likewise provide for the commonly metered utilities serving the Common Area and the Association Maintenance Areas. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Area and Association Maintenance Areas. The Association may add or remove any landscaping Improvements to or from the Common Area and Association Maintenance Areas and shall ensure that the landscaping on the Common Area and Association Maintenance Areas is maintained free of weeds and disease. The Association is not responsible for the maintenance of any portions of the Common Area which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing Association obligations shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate. The Association shall not be liable for damage to real or personal property in the Community resulting from water which may leak or flow from outside of any Dwelling Unit or from any part of a residential structure, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, unless caused by the gross negligence of the Association, its officers, the Board or the Manager.

9.3. Party Walls.

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

(a) Sharing of Repair and Maintenance. Unless the Association is obligated to maintain the Party Wall pursuant to Section 9.2, the cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners of the Lots connected by such Party Wall. However, each Owner shall be solely responsible for repainting the side of any Party Wall facing his Lot.

(b) Destruction by Fire or Other Casualty. Unless covered by a blanket insurance policy maintained by the Association under Section 12.1 hereof, if a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Lot is affected thereby may restore it, and the Owner of the other Lot which is affected thereby shall contribute equally to the cost of restoration thereof without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

(c) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements or to deteriorate or require repair or replacement shall bear the whole cost of

furnishing the necessary protection against such elements or the necessary repairs or replacement.

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

9.4. Damage to Common Area by Owners.

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

9.5. Damage to Dwelling Units: Reconstruction.

If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, the Owner of such Lot shall rebuild, repair or reconstruct the Lot and the Dwelling Unit thereon in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Lot or Dwelling Unit and the ARC shall proceed with all due diligence, and the Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within nine (9) months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. A transferee of the Lot which is damaged or upon which is located a damaged Dwelling Unit shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, no such transferee may be required to commence or complete such reconstruction in less than thirty (30) days from the date such transferee acquired title to the Lot.

9.6. Inspection.

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

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

(a) a description of the condition of the Common Area and Association Maintenance Areas, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;

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

ARTICLE X

10. Use Restrictions.

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

10.1. Single Family Residence.

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

10.2. Business or Commercial Activity.

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

10.3. Nuisances.

No noxious or offensive activities may be carried on in the Community or on any public street abutting or visible from the Community. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Dwelling Unit and its contents, may be placed or used on any Lot. Noisy, unsightly, unusually painted or smoky vehicles, large

power equipment and large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), off-road motor vehicles or items which may unreasonably interfere with television or radio reception to any Lot, and objects which create or emit loud noises or noxious odors may not be located, used or placed in the Community or on any public street abutting the Community, or exposed to the view of other Residents without the Board's prior written approval. The Board is entitled to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner or Resident may (a) permit or cause anything to be done or kept in the Community or on any public street abutting the Community which may (i) increase the rate of insurance in the Community, (ii) result in the cancellation of such insurance, or (iii) obstruct or interfere with the rights of other Residents, or (b) commit or permit any nuisance as described in Chapter 6.44 of the City municipal code thereon or violate any law. Each Owner shall comply with all requirements of the local or state health authorities and with all other applicable governmental ordinances regarding occupancy and use of a Dwelling Unit. Each Owner is accountable to the Association and other Owners for the conduct and behavior of persons residing in or visiting his Lot. Any damage to the Common Area, personal property of the Association, Association Maintenance Areas or property of another Owner caused by such persons shall be repaired at the sole expense of the Owner of the Lot where such persons are residing or visiting.

10.4. Signs.

Subject to the provisions of California Civil Code Sections 712 and 713, no commercial sign, poster, display, billboard or other advertising device may be displayed on any portion of the Community or on any public street abutting or visible from the Community without the Board's prior written consent, except one (1) sign for each Lot, not larger than twenty inches (20") by twenty-six inches (26"), advertising the Lot for sale or rent. Only foot-inserted metal spike sign posts are permitted. Posting or displaying of (a) noncommercial signs and posters larger than nine (9) square feet in size, and (b) noncommercial flags and banners larger than fifteen (15) square feet in size, is prohibited unless approved by the Board in writing.

10.5. Parking and Vehicular Restrictions.

The Board shall, pursuant to Section 5(j) hereof and Section 4.3(k) of the Bylaws, adopt Rules and Regulations regarding parking in the Community.

10.6. Animal Restrictions.

No animals may be raised, bred or kept in the Community, except that dogs, cats, fish, birds and other usual household pets may be kept on Lots, provided that they are not kept, bred or maintained for commercial purposes, in unreasonable quantities, or in violation of the Restrictions. As used in this Declaration, "unreasonable quantities" ordinarily means more than two (2) pets per household; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The Board may limit the size of pets and may prohibit maintenance of any animal which, in the Board's opinion, constitutes a nuisance to any other Resident. Animals belonging to Residents, their guests and invitees must be either kept within an enclosure or on a leash held by a person capable of controlling the animal. Any Owner shall be liable to each and all remaining Owners, their families, guests, tenants and invitees, for

any unreasonable noise or damage to person or property caused by any animals brought or kept in the Community by such Owner or by such Owner's family, tenants or guests. Each Resident shall clean up after such Resident's animals which have used any portion of the Community or public street abutting or visible from the Community.

10.7. Trash.

No trash may be kept or permitted in the Community, or on any public street abutting or visible from the Community, except in sanitary containers located in appropriate areas screened from view, and no odor may be permitted to arise therefrom so as to render the Community or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers may be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). No exterior fires are permitted except barbecue fires contained within receptacles therefor and fire pits in enclosed areas and designed in such a manner that they do not create a fire hazard. No clothing, household fabrics or other unsightly articles may be hung, dried, or aired on or over any Lot in such a way as to be visible from any other Lot. No plants or seeds infected with noxious insects or plant diseases may be brought upon, grown or maintained in the Community.

10.8. Temporary Buildings.

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

10.9. Common Area Facilities.

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

10.10. Antennae.

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

10.11. Drilling.

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

10.12. Further Subdivision.

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

10.13. Drainage.

No one may interfere with or alter the established drainage pattern over any Lot unless an adequate alternative provision is made for proper drainage with the ARC's prior written approval. For the purpose hereof, "established" drainage means the drainage which existed at the inception of the Community as a planned development, and includes drainage from the Lots onto the Common Area and from the Common Area onto the Lots. No Owner may alter, modify, remove or replace any underground drainage Improvements located within such Owner's Lot without receiving prior written approval from the ARC. In connection with obtaining such approval, the Owner must submit a plan to the ARC for alternative drainage acceptable to the ARC.

10.14. Water Supply Systems.

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

10.15. View Obstructions.

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

10.16. Inside Installations.

Nothing may be done in any Dwelling Unit which will or may tend to impair the structural integrity of any building in the Community or which would structurally alter any such building except as otherwise expressly provided herein. No alteration, repair or replacement of wall coverings within the Dwelling Units may be performed if it will or may diminish the effectiveness of their sound control engineering. No window in any Dwelling Unit may be partially or completely covered, inside or outside, with aluminum foil, newspaper, paint, reflective tint or any other material the ARC deems inappropriate for such use.

10.17. Climate Control Systems.

Installation of external air conditioning units or evaporative coolers which are mounted on or extend above the roof of any Dwelling Unit is prohibited.

10.18. Solar Energy Systems.

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

10.19 Holiday Decorations.

Holiday decorations must be removed within ten (10) days after the applicable holiday; provided, however, that Christmas decorations must be removed no later than twenty-one (21) days after Christmas (i.e., January 15).

ARTICLE XI

11. Damage and Condemnation.

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

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

(b) Each Owner is liable to the Association for any damage to the Common Area or the Association Maintenance Areas not fully reimbursed to the Association by insurance proceeds (including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) which may be sustained due to the negligence or willful misconduct of said Owner or the persons deriving their right and easement of use and enjoyment of the Common Area from said Owner, or of such Owner's Family and guests. The Association may, after Notice and Hearing, (i) determine whether any claim shall be made upon the insurance maintained by the Association and (ii) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner or the persons for whom such Owner may be liable as described herein. If a Lot is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. After Notice and Hearing, the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against such Owner.

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

ARTICLE XII

12. Insurance.

12.1. Casualty Insurance.

The Board shall obtain and maintain fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements installed by the Association on the Common Area and the Association Maintenance Areas for the full replacement cost thereof without deduction for depreciation or coinsurance, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other real or personal property it owns against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The policies insuring the Common Area and the Association Maintenance Areas must be written in the name of, and the proceeds thereof must be payable to, the Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made. Subject to Article XI(b) hereof, the Association shall use insurance proceeds to repair or replace the property for which the insurance was carried. Premiums for all insurance carried by the Association are a Common Expense.

12.2. Insurance Obligations of Owners.

Each Owner is responsible for insuring his personal property and all other property and Improvements on such Owner's Lot for which the Association has not purchased insurance in accordance with Section 12.1 hereof. Each Owner is also responsible for carrying public liability insurance in the amount such Owner deems desirable to cover such Owner's individual liability for damage to person or property occurring inside such Owner's Dwelling Unit or elsewhere upon such Owner's Lot. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon the Board's request. If any loss intended to be covered by insurance carried by or on behalf of the Association occurs and the proceeds payable thereunder are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of such insurance to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

12.3. Waiver of Subrogation.

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

12.4. Liability and Other Insurance.

The Association shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it deems desirable, insuring against liability for bodily injury, death and property damage arising from the Association's activities or with respect to property the Association maintains or is required to maintain including, if obtainable, a cross-liability endorsement insuring against liability to each other insured. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, Board and Manager, against liability in connection with the Common Area and Association Maintenance Areas, the premiums for which are a Common Expense. The Board shall review all insurance policies at least annually and increase the limits in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board, the Association's officers and the Manager against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or any committee thereof. However, fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling Association funds, including, but not limited to, Association officers, directors, trustees, employees and agents and Manager employees, whether or not such persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the Association's or Manager's custody during the term of each bond. The aggregate amount of such bonds may not be less than one-fourth (1/4) of the Annual Assessments on all Lots in the

Community, plus reserve funds. In addition, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond coverage meeting the requirements for planned unit developments established by FNMA, GNMA and FHLMC, so long as any of them is a Mortgagee or an Owner of a Lot in the Community, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA and FHLMC, as applicable. The Association shall provide the Owners with information regarding the Association's insurance policies as required by California Civil Code Section 1365.

12.5. Notice of Expiration Requirements.

If available, each insurance policy the Association maintains must contain a provision that said policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice, and every other Person in interest who requests such notice of the insurer.

ARTICLE XIII

13. General Provisions.

13.1. Enforcement of Restrictions.

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

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

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

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

(b) Violations Identified by an Owner. If an Owner alleges that another Owner, his family, guests or tenants, is violating the Restrictions (other than nonpayment of any type of Assessment), the complaining Owner ("Complainant") must first submit the matter to the Board for Notice and Hearing before the Complainant may resort to alternative dispute resolution, as required by Sections 1369.510 through 1369.590 of the California Civil Code, or litigation for relief. Notwithstanding the foregoing, the Association has no obligation to pursue enforcement of an alleged violation if the

Complainant is not in "good standing." If the Association informs the Complainant that the Complainant is not in good standing, then the Complainant may proceed with alternative dispute resolution, as required by California Civil Code Sections 1369.510 through 1369.590, or litigation for relief with respect to the alleged violation. For purposes of this Section 13.1(b), a Complainant is not in "good standing" if (i) the Complainant is delinquent in the payment of any type of Assessment, or (ii) the Association has advised the Complainant that the Complainant is otherwise in violation of the Restrictions and such violation has not been remedied to the Association's reasonable satisfaction.

(c) Meet and Confer. If a dispute exists (as determined by the Board after Notice and Hearing) between the Association and any Owner involving their rights, duties or liabilities under the Davis-Stirling Common Interest Development Act codified at Section 1350 *et seq.* of the California Civil Code, the Nonprofit Mutual Benefit Corporation Law codified at Section 7110 *et seq.* of the California Corporations Code, or the Restrictions, then before proceeding to either alternative dispute resolution in accordance with Section 13.1(d) or litigation, a party shall invoke a dispute resolution procedure either (i) adopted by the Board pursuant to California Civil Code Section 1363.830, or (ii) if the Board fails to adopt a procedure pursuant to California Civil Code Section 1363.830, then in accordance with California Civil Code Section 1363.840.

(d) Alternative Dispute Resolution. If a dispute exists between or among (i) any Owner and another Owner, or (ii) the Association and any Owner, including any claim based on contract, tort, or statute, arising out of or relating to the rights or duties of the parties under the Restrictions (excluding disputes relating to the payment of any type of Assessments), if the disputing parties agree and subject to Sections 1369.510 through 1369.590 of the California Civil Code, the matter will be submitted to alternative dispute resolution so long as the requirements of Sections 13.1(a), (b) and (c) above have been met, if they are applicable.

(e) Legal Proceedings. Failure to comply with any of the terms of the Restrictions by an Owner, his family, guests, employees, invitees or tenants, is grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; provided, however, that the procedures established in Sections 1369.510 through 1369.590 of the California Civil Code and in Sections 13.1(a), (b), (c) and (d) above must first be followed, if they are applicable.

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

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

(h) Right to Enforce. The Board or any Owner (not at the time in default hereunder) may enforce the Restrictions as described in this Article, subject to Sections 1369.510 through 1369.590 of the California Civil Code. Each Owner has a right of action against the Association for the Association's failure to comply with the Restrictions. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

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

13.2. Severability.

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

13.3. Term.

This Declaration continues in full force unless a Declaration of Termination satisfying the requirements of an amendment to the Declaration as set forth in Section 13.5 is Recorded.

13.4. Interpretation.

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

13.5. Termination and Amendment.

(a) Notice of the subject matter of a proposed amendment to, or termination of, this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association at which a proposed amendment or termination is to be considered. The resolution can only be adopted by the vote, in person or by proxy, or written consent of Members representing not less than sixty-seven percent (67%) of the Association's voting power; provided that the specified percentage of the Association's voting power necessary to amend a specified Section or provision of this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision.

(b) The City may veto any amendment to this Declaration and veto or void any written agreement purporting to terminate this Declaration or any of the covenants herein if, in the reasonable opinion of the City, such amendment or written agreement would be detrimental to or have an adverse effect on the complete and proper maintenance of the Common Area. No amendment of this Declaration or written agreement purporting to terminate this Declaration or any of the comments herein shall be effective until thirty (30) calendar days following written notice thereof to the City in order to afford the City an opportunity to exercise its veto. If no veto has been exercised by the City within fifteen (15) calendar days of its receipt of written notice of such amendment or written agreement, said amendment or written agreement shall thereafter become effective.

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

13.6. No Public Right or Dedication.

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

13.7. Constructive Notice and Acceptance.

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

13.8. Easements.

Each Lot has appurtenant to it reciprocal, nonexclusive easements over the adjoining Lot or Lots for the control, maintenance and repair of the utilities serving such Lot. All of the real property in the Community and all of the Lots have reciprocal, nonexclusive easements over all Lots and the Common Area, for maintenance and repair of utility services, for drainage from the Lots of water resulting from the normal use of adjoining Lots, and for maintenance and repair of any Dwelling Unit. If any Dwelling Unit encroaches upon the Common Area and Improvements thereon as a result of original construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Community, a valid easement for minor encroachment exists. Each Lot on which there is constructed a Dwelling Unit along or adjacent to such Lot line shall have an easement appurtenant to such Lot over the Lot line to and over the adjacent Lot for the purpose of accommodating any natural movement or settling of any Dwelling Unit located on such Lot, any encroachment of any Dwelling Unit due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs and architectural features comprising parts of the original construction of any Dwelling Unit located on such Lot.

13.9. Notices.

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

13.10. Nonliability and Indemnification.

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

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

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

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

- (iii) The act or omission was performed in good faith;
- (iv) The act or omission was not willful, wanton or grossly negligent;

and

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

A Board member or Association officer who at the time of the act or omission was the developer of the Community or received direct or indirect compensation as an employee from the developer of the Community or from a financial institution that purchased a Residence at a judicial or nonjudicial foreclosure of a Mortgage is not a volunteer for purposes of this Section 13.10(b). The payment of actual expenses incurred by a Board member or Association officer does not affect the member's or officer's status as a volunteer for purposes of this Section 13.10(b).

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

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

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

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

Any determination of the Board required under this Section 13.10(c) must be approved by a majority vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, such determination may be made by the vote of a majority of a quorum of the Members voting at a meeting called for such purpose, provided that the person to be indemnified may not vote. Payments made hereunder shall include amounts paid and expenses incurred in settling any such action or threatened action. This Section 13.10(c) is intended to authorize payments and indemnification to the fullest extent permitted by applicable law. The entitlement to indemnification hereunder inures to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any person entitled to such indemnification.

13.11. Priorities and Inconsistencies.

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

13.12. Mergers or Consolidations.

Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community, together with the covenants and restrictions established upon any other property, as one (1) plan.

13.13. Additional Provisions.

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

13.14. Notice of Airport in Vicinity.

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

This Declaration is dated for identification purposes Aug 22, 2007

The undersigned officers of the Association hereby certify that this Declaration has been approved by all necessary parties pursuant to the Original Declaration.

GALERIE HOMEOWNERS ASSOCIATION, a
California nonprofit corporation

By: Allean L. Jones

Its: President

By: Shirley A. McCracken

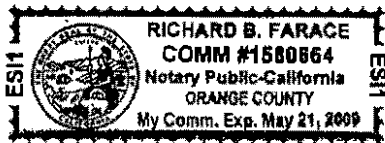
Its: Secretary/Treasurer

"Association"

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On AUGUST 22, 2007, before me, RICHARD B FARACE, Notary Public, personally appeared ALLEN LEE-JONES and SHARLEY A McCLACKED, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Richard B. Farace
Notary Public in and for said State

(SEAL)